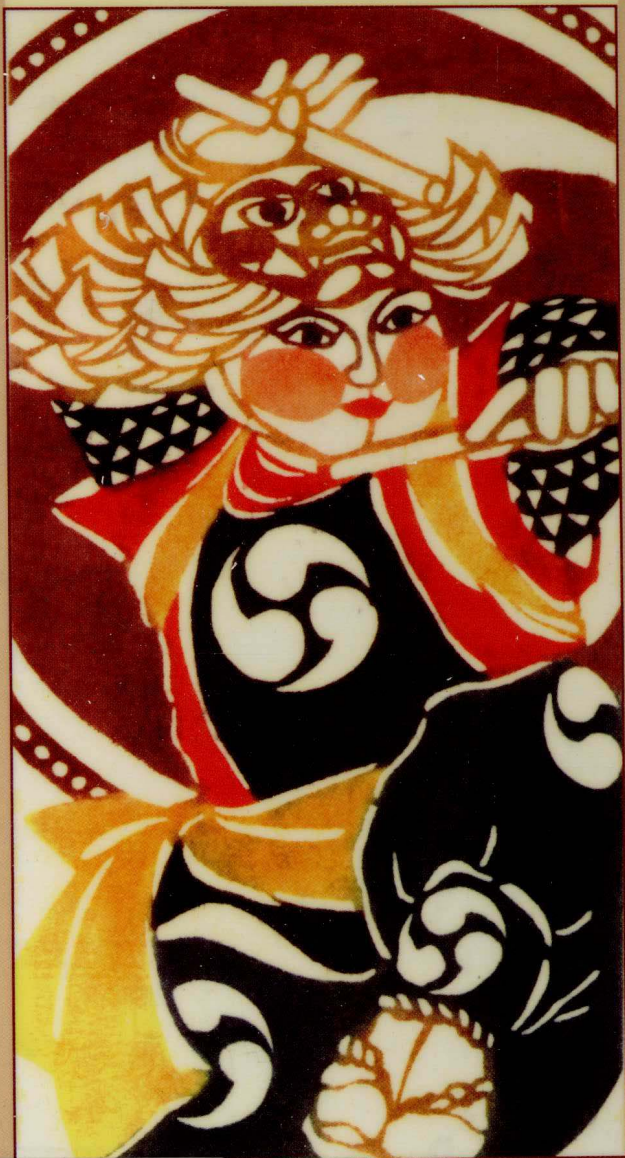


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Preface

Several decades ago, people who were interested in Japanese law outside Japan were limited to a small number of comparativists. Since then, with the internationalisation of the Japanese economy, interest in Japanese law has increased rapidly.

It is now fairly well known abroad that the Japanese legal system is based upon the Civil Law system with some influence from American law. However, when it comes to more specific issues, information on Japanese law available in foreign languages still seems to be limited. There are various areas of Japanese law where such information is almost non-existent. This book is intended to fill this void and provide an accurate knowledge of all relevant areas of Japanese law.

In this book, instead of emphasising peculiar aspects of Japanese law, I have endeavoured to illustrate the Japanese legal system as a fair and rational system based upon values shared by industrially developed countries. This is because it is my impression that, in the past, the uniqueness of Japanese law has been overstressed. This has led to a perception of Japanese law as a peculiar system in which, behind its modern facade, traditional values and rules still remain. The inclination of the Japanese to depict themselves as different and unique may have helped in developing this perception. However, in this day and age, when countries are making efforts to harmonise their laws in the face of intertwining economies, I have thought it might be better to place the emphasis elsewhere.

In every legal system, there is always a gap between statutes and their implementation. In order to study foreign law, one has to go beyond the statutes. This also applies to Japanese law, although there is no evidence that the gap is wider than in other jurisdictions. I have focused on how the courts interpret the law and solve specific problems, rather than summarising the statutes and reiterating the official or majority view. My intention here is to shed more light on case law, which is one of the primary sources of law, and illustrate how the Japanese legal system actually works.

I have three kinds of reader in mind. First, there are the people who are interested in comparative law or foreign law in general. In addition, the way the Japanese tackle problems in specific areas of law attracts the attention of specialists in other jurisdictions. For example, an expert in competition law in Europe might want to see how Japanese competition law operates. It is these people who are the primary target of this book.

Secondly, with the internationalisation of the Japanese economy in the past decades, more and more businessmen have come to be involved in business with Japanese companies. Naturally, this has contributed to the expansion of Japanese-related business by foreign law firms. Government officials and international organisations quite often come across issues related to Japanese law. This is particularly relevant when multilateral and bilateral trade talks are taking place. A good operating knowledge of Japanese law is crucial.

Thirdly, courses on Japanese law are given in the United States, Europe, U.K., Australia and some other places. This book will be useful as a textbook for these courses.

I am indebted to many people who have kindly supported me while writing this book. My special thanks are due to Professor Bernard Rudden of Brasenose College, Oxford, who, despite his heavy workload, scrupulously read the entire draft and made valuable comments. Without his encouragement and support, this book could never have been completed. I am also grateful to my colleagues at University College London, namely Professors Bob Hepple and Jeffrey Jowell, for their understanding and warm support.

I would like to add that my experience as a visiting professor at Cornell Law School in the United States in the past several years has contributed to adding some new dimensions to the book. In this respect, I am grateful to Dean Russell Osgood and his colleagues at the Law school. I am also indebted to my former colleagues at the Faculty of Law of the University of Tokyo, namely Professor Ichiro Kato, former president of the University of Tokyo, and my mentors, Professors Koya Matsuo and Junichi Murakami. I would like to thank Mr. Denzil Millichap, former assistant at University College London, for assisting me with an earlier version some years ago; and Mr. Shunichi Himeno, Managing Director of the International Business Law Institute, for providing me constantly with valuable information and material. I am much indebted to IBM Japan and the Matsushita Foundation for their generous assistance. I would also like to express my gratitude to the editors of Butterworths for their patience.

My very special thanks go to my wife Midori, who has supported me warmly all through the preparation of this book, and assisted me in sorting information and typing the manuscript.

This book is dedicated to my late grandfather, Professor Shozaburo Sugimura.

Hiroshi Oda
August 1992

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