# Legal Information-Basic Structure and Legal Issues-

# Legal Information: Basic Structure and Legal Issues

**Takato NATSUI**[1]

## Introduction

Let me introduce myself. I am Takato Natsui, professor at the Faculty of Law of Meiji University. I am visiting Yamagata City, the city of my alma mater, for the first time in 10 years. From Yamagata Station, I could see huge new buildings and was surprised to find the city totally urbanized.

I graduated from the Faculty of Humanities at Yamagata University in 1978. The department structure being different at that time, I was a law major at the Department of Economics. Though I was a law major, half of my course credits were in economics, and the remaining half in law. I mainly studied economic history and Hicks' economic theory. As for law, I studied Corporation Law under Professor Eiji Kakizaki, who specialized in Commercial Law.

I started to study for the National Legal Examination after graduating from the university. Following training at the Legal Training and Research Institute, I became a judge. Now, I am working as a university professor, after my retirement from the bench a few years ago.

Some of you are planning to take the bar exam, or other examinations for legal qualifications. I would like to give you, my junior fellows, one piece of advice based on my own experience; you will never pass an exam unless you have in your mind a clear image of your future. When I decided to take the bar exam, I did not set my goal at passing the exam. My goal was to become a judge. So, I thought about how much education I would need to become a judge. The bar exam is only one step in the process to become a judge, and you need to pass the exam as the first part of achieving this goal. Not once did I think that passing the exam was my final landing place. I aimed higher. Some of you are intending to take various certification exams. If, however, your sole purpose is to obtain good scores in your exams, you may lose your drive or encounter insurmountable walls. When you have a clear vision about what kind of work you want to do and how you want to live your lives, you will be able to hold on, even when you feel discouraged.

## Overview of Today's Lecture

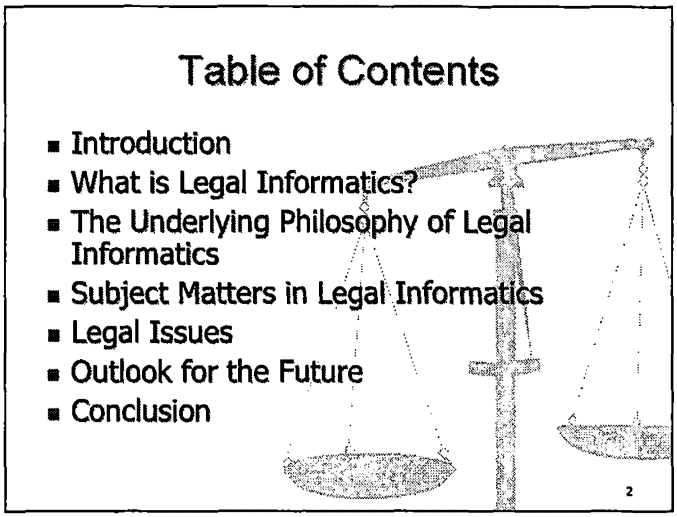
Today, I will give my lecture with the aid of Microsoft PowerPoint slides.

As shown in Slide 2, my speech will start with the topic "What is Legal Informatics?" followed by "The Underlying Philosophy of Legal Informatics," "Subject Matters in Legal Informatics," "Legal Issues," "Outlook for the Future," and the conclusion.

To begin with, I believe you need some explanation about what legal informatics is, so I would like to talk about my concept of legal informatics, and then introduce how legal informatics is

[1] See Curriculum Vitae in this Review.

viewed in some universities that provide courses named legal informatics. After that, I would like to explain the philosophy of legal informatics, based on my own ideas about legal informatics, as well as the subject matters of the discipline. I hope it will deepen your understanding of what creates legal issues when you see things from this angle. Lastly, I will present my own perspective regarding what issues legal informatics should, or need to, deal with in the future.



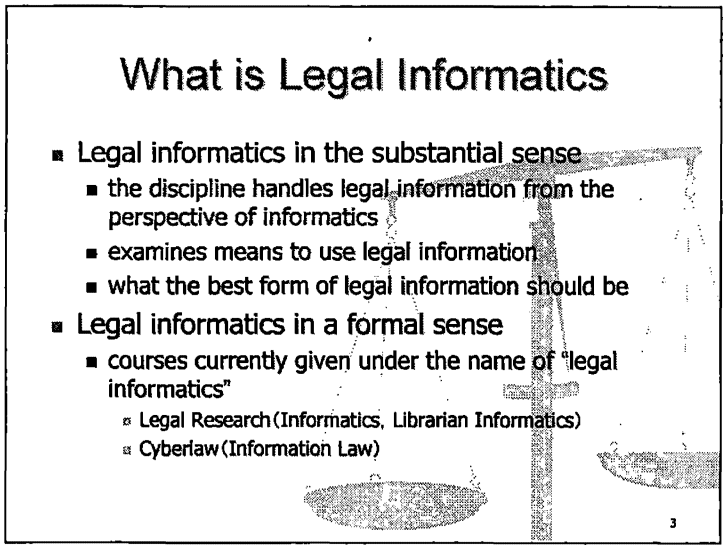

Slide 2; Table of Contents

**What is Legal Informatics?**

First of all, I would like to explain my idea about legal informatics. "Legal informatics in the substantial sense," as shown in Slide 3, indicates that the discipline handles legal information from the perspective of informatics.

There are many ways to understand informatics. The lecture I am giving now is one type of information source. The medium for information in use here is "sound." As you know, sound is a kind of air vibration. When I finish speaking, the air stops vibrating, and you will not hear anything anymore. Electronic mail messages you send and receive on your cellular phones remain for a certain period of time. The medium used in cellular phones, namely, computer memory, is more stable than sound, so the messages remain in your phone unless the magnetism dies out. However, all the information in the memory will probably be lost if it is exposed to a powerful magnet, which might also destroy the cell phone itself. Something printed on paper is much more stable than that, and lasts about 2,000 years when properly maintained. Still, it can and will be reduced to ash in a fire. I believe that the longest-lasting medium in history is the clay tablets unearthed in Mesopotamia. Even after several thousands of years when today's computer civilization perishes, some legible clay tablets will be dug up somewhere in the region. In contrast, mail messages on your cellular phones will probably become illegible in less than five years due to model changes. You might think you are living in a very

stable world, but in fact, you are in a quite impermanent world. Each moment you live might be as transient as my voice, which is nothing but vibrations of air.




Slide 3; What is Legal Informatics

However, what is important is not the media by which information is conveyed, but rather, the content of the information itself. Some of you might be interested in what I am talking about now, and some might be feeling bored. You find my lecture either interesting or boring based on the content of my talk. Perhaps, no one here will be intrigued with my lecture on the grounds that I have a pleasant voice.

In short, what matters with information is its content, and media is nothing more than a means for conveying the content.

From the standpoint of legal informatics, which examines the basic structure of legal information, law is perceived to be a kind of information. Also, legal information seen as information can be approached from two aspects, the form and the content. So, it could be said that legal informatics is close to philosophy or logic, or more like psychology, rather than belonging to legal studies. However, since the discipline handles legal information as its subject matter, you do not understand what it is that you are studying, without having knowledge, experience and some basic ideas or philosophy about legal studies. About half of what is handled in legal informatics is related to jurisprudence.

Next, what does it mean when we say that legal informatics "examines means to use legal information," as is printed on the slide?

Law is one of the rules of society, and one with a special nature.

For example, assume you decided to hold a get-together with your university circle members. This is a promised appointment, so you have made up a rule there. If you should break the

rule dictating that the members get together at a restaurant at a specific time on a specific date, you would be subject to sanction (penalty) from the other members, who would not invite you to a get-together next time. You would deserve the ostracism as you and the others made up the rule together. However, such a rule being no more than a promise about a get-together, you would be able to change the rule anytime, just by saying something like "Let's cancel the party as some of us cannot make it," or "We are on a tight budget, so let's go to a cheaper restaurant." It is a rule that can be changed anytime.

In contrast, law is a rule that should be observed in the strictest way, and you can be punished if you break the law. Also, changing an existing law is rather laborious, as any change in a law requires an amendment bill to be submitted and approved in the Diet. Even when attempting to change a law that you believe unconstitutional, you would have to spend years to have it reach the Supreme Court to finally have it be adjudged void. Law is a rule that cannot be easily changed.

To put it the other way around, law is one of the most significant rule systems in society. Thus, I believe it is of great importance to consider how to describe such significant rules and how to store or record these rules.

Pursuing this idea further, we would eventually have to study what kind of legal information is needed and what the best form of legal information should be.

All of you have seen the Compendium of Laws. Should there be a freshman who could understand all the provisions written in that book, I would praise that student to the skies, but this is totally unthinkable. I am a legal professional, working as a practicing lawyer while teaching law at a university. Nonetheless, a number of legal texts put me at a loss as to how to interpret the logical structure or the meaning, although I understand each single word written there or each sentence in a grammatical sense. Quite a few statutory texts are difficult to understand even after contemplating them at length. Even when I try to clarify my questions by asking government officials in charge of legislation, they often refuse to give me sufficient explanation, giving me nonsensical answers like "I've forgotten that." So, some legal texts are unclear to professionals, as well. Leaving things as they are is a controversial issue, and I will discuss that in more detail later.

What I have talked about so far is the idea of legal informatics in a substantial sense as I perceive the situation right now.

Now, with Slide 3 titled "Legal informatics in a formal sense," I would like to introduce two types of courses currently given under the name of "legal informatics" at other universities. In many universities, a subject presented as "legal informatics" is deemed to cover what legal informatics is, but it is only a nominal definition. In reality, quite a few universities only teach how to search for legal information in their "legal informatics" courses. They put students in a computer room and teach them how to find a specific text in a certain law, using various databases of judicial precedents or statutes. They call it a "lecture" when it is nothing more than what is offered at so-called "PC School." The second type deals with what is covered in the fields of cyber law or information law. Generally speaking, cyber law, while not having a clear-cut definition, is law related to the Internet. It examines legal issues unique to the Internet, such as intellectual property rights on the Internet or hacking problems. Also, Information Law studies law related to information, including that concerning

telecommunications. It is not uncommon that students are studying cyber law or information law in a course named legal informatics. This is what legal informatics is, by its formal definition.

**Legal Informatics in a Substantial Sense**

I myself teach a course titled "Legal Informatics" at Meiji University, and it is focused on dealing with legal informatics in a substantial sense.

My lecture series at the university covers what might have been taught in a course of Constitutional Law, in the past. Topics such as how to secure voting rights (the right to participate in politics) or what it means when one says that "sovereignty resets with the people," were originally taught as part of Constitutional Law. The Constitution is a system established about 100 or 200 years ago. At that time, there were no computers. Also, all constitutions around the world are based on the belief that every individual country is an independent and self-contained entity. This is true for the constitution of the United States, and the constitution of Japan. They just dictate, "Sovereignty rests with the people," not envisaging anything beyond that. However, in today's world (now popularly termed the "borderless world,") where many things inter-relate regardless of borders, we cannot turn a blind eye to the constitutions or laws of other countries. Of course, one can choose to make a self-contained argument or assumption, but people often get involved, without their knowing, with various problems arising beyond their national borders.

Let me give you an example. I am using the Hotmail service of Microsoft (MSN.) When I do nothing to prevent it, hundreds of spam mail messages flood my Hotmail account. Half of those messages seem to be a part of some fraudulent business, promising things such as "This will build up your muscles," or "You will be an instant millionaire, if you send your application to us." If they were coming from sources in Japan, various legislations in Japan that prohibit misrepresentation or misleading advertisement could be applied to punish or regulate such sources. However, most of the spam mail delivered to a Hotmail account is sent from the United States. The United States does have some regulations for such mail, but if I wanted to have senders of spam mail punished, I would have to go all the way to the Untied States spending several hundreds of thousands of yen, and stay there for a few months, just to file a suit. This would be too much of a burden for me. So, I just have to let them do what they are doing. Many people do care about this situation, though. Legal professionals have to think, then, about what should be done. That is our responsibility.

**Philosophy of Legal Informatics**

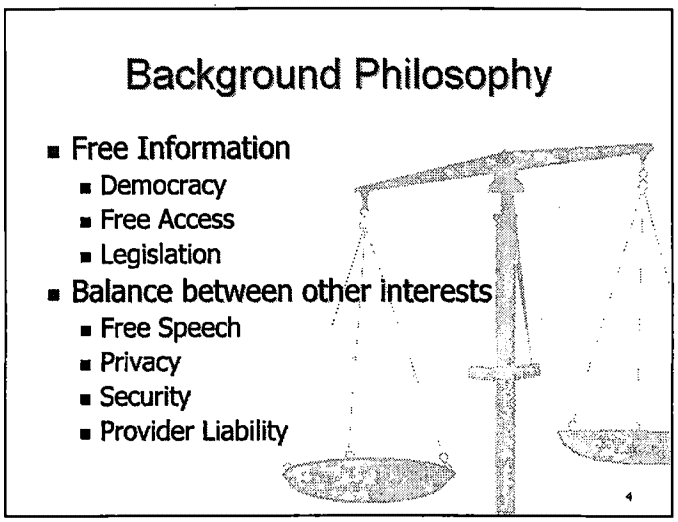
My concept of legal informatics is based on a certain philosophy.

For example, assume you are to study what should be researched and how this should be approached in a borderless world. First of all, if you do not have your own value system, you will not be able to judge what is good and what is bad. In a world where conventional concepts, such as

sovereignty resting with the people, do not function as criteria of judgment, it is important to determine what you should use for your own criteria.

I believe that there exist a certain number of rules that can be accepted, or should be accepted, in any country or by any group of people. Such rules can be a foundation when you devise your own criteria. After much trial and error throughout the history of mankind over thousands of years, some things have been proved, historically, not to be acceptable. In contrast, some things, which we are unsure about, have managed to survive.

For example, nobody has been able to prove whether "democracy" is a truly right principle – it might be a total fallacy. However, it is believed to be better than totalitarianism or dictatorship. That is why I would like to employ democracy as the foundation of my philosophy.




Slide 4; Background Philosophy

Democracy is based on several principles. The most important principle is "freedom of information," as I have written down on Slide 4.

Now, assume you became the leader of a circle, and you had the responsibility to decide on the activities of this group for the next year. If you were allowed to decide on your own, you would just develop a schedule of activities by yourself, and that would be that. It would be very easy. But generally, you have to discuss an activity plan with other officers of the circle and then seek approval for the plan from circle members. Then, when the other members have agreed, the plan can be adopted. That is the common process. People who are in a position to take on leadership and to make decisions usually have all pertinent information about the circle, but the rank and file members do not always have as much information as the leaders do. Still, if they are not given enough information, they will feel at the mercy of the executive group. When the leader gives a satisfactory report, saying something like "Our tight budget, due to this and that, does not allow us to do more activities than specified in this plan," they will understand, or if not, propose new decisions. They might suggest collecting more

money from the members which they might raise by finding part-time jobs. Lack of information would not only lead to discontent among the members, but also prevent them from being able to make the best choice.

I believe this pattern can be applied not only to members of a student circle but also to all the larger groups of society. The decisions of people who are provided with all the necessary information would be better than those made by people who are not privy to sufficient information. Even when given enough information, people will not necessarily make the right decisions, but a society where members are given more free access to information is sure to be in a better position to make better choices.

In the United States, access to information in this way has long been believed to constitute a right under the Constitution. Also, four or more laws ensuring freedom of information have been established to make sure that this point is clear. Particularly, information held by the government is considered to have been generated by the tax money its people pay. This seems completely logical. Public officials are living on the taxpayer's money. I, too, was living on taxpayer's money when I was working as a judge. Nobody is happy to pay taxes. People are compelled to pay tax, and public officials are making a living on the money people reluctantly hand out. But tax money is definitely not intended to be an asset to individual public officials. It should be an asset to the taxpayers. This idea is commonly accepted in the Untied States and in advanced countries in Europe.

Thus, it is and should be believed that the taxpayers should be able to access and learn about what has been produced with their tax dollars. However, this way of thinking is not so common in Japan.

Although the situation has changed since September 11 2002, in the several times before that when I visited the United States, citizens were allowed to visit the Oval Office to look at the inside. They even had a chance to touch a chair former President Clinton had used. The underlying idea was that people should be provided with an opportunity to inspect, at any time, whether their tax money was properly used, because their tax money was used to construct and maintain the White House, as well as to provide salaries for all the staff working there. Depriving people of such an opportunity would be considered undemocratic.

In judging whether a country is democratic or not, the degree of free access allowed to public institutions can be used as a good indicator. I believe that this clearly shows if the country is a democratic society or not.

In my opinion, Japan cannot be called a democratic country, in the true sense, as such freedom of access is not generally granted.

Such being the situation, I would like to show in detail that securing freedom of information is one of the basic philosophies of legal informatics. As I have already explained, law is a most important rule in our daily life, so knowing under which rules we are living is a basic human right. Therefore, establishing a right of access to legal information should be one of the primary objectives of legal informatics.

Furthermore, if we consider legal informatics as one field of academic study, it is, in itself, a part of the movement to advocate a right of access to the public. Also, based upon insight and

knowledge gained through such various examinations and studies, an ideal process of establishing future law should be taken into consideration as part of the philosophy of legal informatics.

**Balance with Other Interests**

Meanwhile, there are other kinds of freedom or interests important to human beings. Humans are very complicated beings and human society, comprised of such complicated beings, is ever more complicated. Each individual has his or her own wish about how things should, or should not be. Some people might want to be indifferent to what is happening around them. Everyone is very different. Also, human beings are affected by their ever-changing moods. What bothers them at a certain time may not matter at all, on another occasion. Humans are unstable beings. So, the pursuit of freedom of information might sometimes conflict with other interests, and ignoring the rights of others could lead to the total collapse of the democracy we are aiming to achieve.

I will illustrate this point further, step by step along with Slide 4, showing some practical examples.

**Balance between Right of Access and Freedom of Expression**

First, let's look at freedom of expression. For example, approving unconditional right of access means allowing access to any information, like what you are thinking or what you are going to write, for example. If someone were to say to you, "You are going to write this and that," or "You are intending to say this or that" when you were about to express yourself, you would feel discouraged about speaking up and feel like putting restraint on yourself.

Such restraint is called "prior restraint." When such restraint is imposed by government power, it will lead to censorship. So, granting unconditional right of access alone could lead to suppression on people trying to express themselves.

Guaranteeing freedom of speech is a fundamental principle in any democratic society. The idea is to encourage debate and different opinions, so as to adopt the best ones among them. Imposing a prior restraint on what someone is trying to express would distort this principle. You would have your right of access guaranteed, but would not be able to freely express your opinion. So, we need to draw a line somewhere, to keep the right balance between freedom of access and freedom of information.

**Balance between Right of Access and Privacy**

The next thing to consider is privacy, as shown in the slide. The previous discussion also applies to our personal lives. If unlimited access to all information were permitted, the right of access

would force its way into our own homes. Then, what you do not want others to see might be disclosed, or your own private space might be invaded. So, "adjustment of privacy" is also necessary.

Actually, protection of privacy carries with it quite a few problems.

For example, the Japanese Diet has deliberated on the privacy protection bill, which aims at protecting "personal information." Here, "personal information" is defined as information that helps identify attributes of a particular individual. Thus, information that does not include personal identification information does not constitute personal information, in a theoretical sense. Is it really so, though? When you use a credit card to buy a commodity, the barcode information does not involve personal identification information in itself, but the user information on the credit card is instantly linked to the information about the commodity. Such linking of information is called "data matching" or "data mining." The data generated in that way is obviously personal information, and thus, will be subject to protection by the current bill. However, the current bill does not prohibit the act of data matching itself. It can be safely said that the main objective of the bill is to make businesses properly handle privacy information they collected, while still allowing them to freely collect such information. I find some inconsistency there. Of course, most corporations would not be able to carry on their businesses, should collection of private information be uniformly banned. Here, freedom of access to customer information on the side of corporation runs counter to the right of privacy of the individual. This is a highly difficult problem.

**Right of Access and Security**

The next point is security. Security is not a matter of concept; it needs to be actually implemented. Implementation means having security measures function on a practical level.

For example, when you use a computer system in the university, the Information Center or a similar institution usually manages security measures so that the system will be protected from computer virus or hacking by outside attackers.

Some of the security information should be disclosed; namely, basic information and policies as to what the system can or cannot do. I believe a user's right of access to that kind of information should be protected.

However, should all the detailed information regarding programs or devices implemented in the system be disclosed, it would be like telling attackers where vulnerability that can be effectively attacked exists. So, information about some of the programs or devices implemented in the system cannot be disclosed.

Also, the name of a security person cannot be disclosed in some cases. Were a person in charge of security to be bribed, regrettably, the whole system would be exposed to potential takeover. The identity of the administrator should be kept secret, when need be.

Therefore, access to any information should sometimes be able to be restricted, for security reasons.

**Democracy in Network Society**

Now, you might be wondering why security comes up in a talk about democracy. It is related to the fact that one of the characteristics of the modern world is that it is a network society. In fact, various aspects in your daily lives are supported by networks.

Let us take a cellular phone as an example. Telephone calls or mail exchange cannot be made just with two transceivers. The radio wave sent from any cellular phone, whether the device is of a DoCoMo brand or J-Phone brand, is first connected to a server, or a computer center, and then, sent on to reach the cellular phone of the other party. Two cellular phones do not directly communicate with each other, unlike walkie-talkies. So, if the network system working as a medium between cellular phones breaks down, your daily life is inconvenienced. And one of the obstructions will be the deprivation of the opportunity to freely express your opinion.

Similarly, the government system is currently depending on a network system for it to function smoothly.

The management system of the Basic Resident Register scheme is one example, and the data management system for tax service or real property registration is another. In recent years, a lot of public biddings conducted by the central or local governments are also being made available though a network system. I have heard that voting will also be available via a network system in the near future.

This means that a certain part of the current democratic system – I mean, democracy as a substantial system rather than democracy in an ideological sense – exists in a computer system. Should the system be destroyed, there would be total disaster. Inarguably, a certain part of the foundation of democracy would be lost.

Of course, a computer system has its good and bad aspects. When left in the hands of a person with bad intent, it can be used to destroy democracy. In light of the fact that we are actually using a network system to express ourselves or our views and to eventually exchange opinions, as indicated in the example of cell phones, protecting network security is equivalent to protecting a certain portion of the foundation of a democratic society. This is where the need for adjusting the balance arises.

**Responsibility of Service Providers**

The same subject leads to the issue of "service provider responsibility."

Any telecommunication company, including DoCoMo and J-Phone, first accumulates contents of telephone calls or e-mail messages in a server, and then distributes the data to individual phones. Your mailbox is located within the server, not within your cellular phone. You just access the mailbox in the server to check messages for you. The organizations and corporations managing the mailboxes for tens of thousands of people are generally called "providers." In Japan, J-Phone, DoCoMo and Nifty are some of the most well-known providers.

The word "provider" in this context means "those who provide service" or "corporations or

organizations who provide service." Providers manage the information consigned from their customers.

Information consigned to providers can sometimes include harmful information. Providers who accept harmful information into their keeping or disclose such information could be obliged to take responsibility as a provider. Not only that, provider responsibility towards users also arises when providers do not manage information entrusted to them properly. If a provider had to take full responsibility for everything under their supervision, nobody would want to be in that business because of the burden it involves. Or, all the providers would be forced to go out of business, which would disrupt network society. Such risks always accompany the provider industry. Thus, it is necessary to establish a reasonable standard that draws certain lines about issues of responsibility; demarcating the areas of self-responsibility and provider responsibility, or dictating the area in which nobody should be held responsible.

Since provider responsibility is not an apparent issue of network society, as is the problem of security, it is a kind of invisible problem in discussions of democracy. It is a significant issue in network society, though. Freedom of information would be threatened if we failed to keep the right balance here.

I have discussed rather difficult issues, so some of you may be feeling drowsy. I previously said that these kinds of issues, which should have been or were handled in a course of Constitutional Law, need to be examined in legal informatics. The very reason lies in what I have just explained; we need to review various social backbones that we did not have to pay much attention to before the advent of network society. Otherwise, we will be unable to tell if our basic human rights are properly protected or not. This is the environment we are now living in.

Legal informatics examines the situation from this angle.

In 10 or 20 years, legal informatics may be absorbed into Constitutional Law developed for the new age. To me, that sometimes seems how things should be, ideally. But until that day comes, I would like to pursue my study in this field so as to fulfill my responsibility as a professional in legal informatics.

**Further Details**

Now, let me explain this philosophy in further detail.

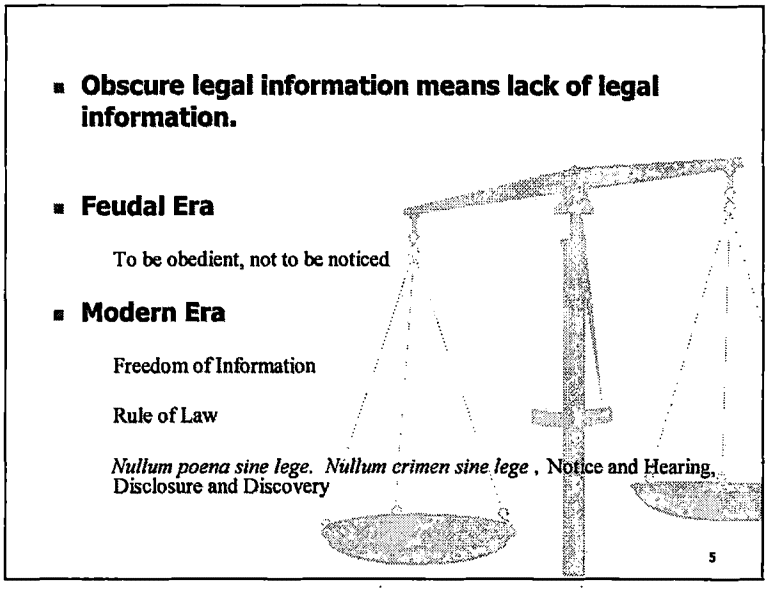
I previously said that even legal professionals sometimes have difficulty understanding what a certain text in the Compendium of Laws means though they recognize what is written in the text. I would like you to think about what it means when you say that you "do not understand," that is, the issue of incomprehensibility.

When you find yourself having difficulty understanding the study of jurisprudence at university, some of you might think that professors or lecturers are to blame, because their way of teaching is not good enough. Some of you might decide you are not cut out for jurisprudence, opting to earn the necessary credits in other subjects. Or you might exert yourself to understand because the

subject is a compulsory one. But let's consider this from a more philosophical angle.

In the example of how to run a university circle, I mentioned you have the chance to form your own opinion provided that rules are given as information in advance, or that various kinds of information are offered to you. It is the same with legal information. If you are provided with information about how rules of law are made consistent, and if the rules seem reasonable to you, you would have a firm basis for your judgment. If you find the rules inappropriate in light of the information you have, you would make efforts to have it amended. However, when you do not have all necessary information, you would not even realize that you are governed by faulty rules.

So, it is essential for a better life that information about rules is properly supplied. Law, above all things, is a very significant rule, which you must observe whether you like it or not. You have no choice about that. If you do not follow the rules, you will be subject to punishment or forced to pay damages.




Slide 5; Details of Philosophy

On Slide 5, I wrote "obscure legal information means lack of legal information." It is naturally inferred that legal information must be in a form that is comprehensible to the public, because, if not, many serious problems arise.

The judgment that obscure legal information is problematic, is a relative one, not an absolute one. It is dependent on a certain, major premise. Since I believe that democracy is better than a dictatorship, I conclude that obscure law is not good. In a feudal society, however, obscure law might be more convenient for a political leader.

I assume you all know the TV program called "*Tohyama no Kin-san.*"

I imagine you have all seen the program at least once or twice. I believe *Kin-san* was a

southern magistrate of the city of Edo. I do think he was. Anyway, in the Tokugawa Period, a southern magistrate and a northern magistrate took half-year turns to police the city of Edo. One of the two magistrate's offices was closed for the six-month period when the other was on duty. *Kin-san* is said to have been a real, respected magistrate called Kinshiro Tohyama. At that time, there were many laws and regulations and in light of those rules, trials were conducted following established procedures. I believe it was not so different from today's trial system. For example, in handing down a death sentence, a magistrate must state something like "This act constitutes a crime of murder, so the accused shall be hanged on a cross."

However, the trials depicted in the TV program are rather odd, aren't they? I am older than you by 20 years or more, and I have seen the program several hundred times, probably. Not once have I seen *Kin-san* pronouncing, "You are in violation of Article X of Law Y, so you deserve a death sentence." This is obviously strange. Instead, *Kin-san* in the program dramatically pulls off his *kimono* to show his tattoo, roaring "Admit that you recognize this storm of cherry blossoms! This tattoo has witnessed everything!" With the tattoo of cherry blossoms revealed, the magistrate declares, "Yes, you have admitted to your guilt," and hands down the punishment. This is how the story goes.[2] The accused would never explicitly understand on which grounds they are to be punished.

In the TV program, the audience, who already knows that the accused are bad guys, might feel satisfaction in seeing them being punished. In the real world, however, it would probably be questioned if there was enough evidence to conclude that the accused really committed the crime. To begin with, the reason for punishment must be clarified.

Have you read "The Trial" written by Franz Kafka? I would recommend that you read this story during your school days, when you have the energy and time to do such hard reading. Since the story has been made into a movie, you could also rent a video. This story begins with the leading character arrested and put on trial, all of a sudden. Were I in the shoes of a bad guy in a *Kin-san* episode, it would be like a detective unexpectedly arresting me and dragging me into a court. Then, a person called Kinshiro Tohyama would appear and display his tattoo, yelling "Admit that you recognize this storm of cherry blossoms!" What would I say? I guess I would say, "Yes, Your Honor, I see them." "All right, you see. Then, you are guilty!" What would you do if you were treated like that? Outrageous, isn't it?

So, I have always thought that "*Tohyama no Kin-san*" is the most absurd program. It blunts the legal consciousness of the Japanese people, depriving them of the opportunity to be clear sighted.

This type of caricatured world, however, may be convenient to rulers not wishing people to

[2] This program has been one of the most popular and long-lived TV programs in Japan for the past several decades, and the majority of Japanese people have watched this series, at one time or another. It might be compared to the legends of Matt Dillon, Daniel Boone and similar folk heroes, in American culture. Like the classic Western, the story always follows a certain pattern: in the case of *Kin-san,* the hero disguises himself as a townsman and investigates crimes, and in the course of his investigation, comes to know some honest and good people. When these good people are about to be harmed by some bad person or group, he comes to their rescue and shows off his tattoo in front of them. Later on, when these bad individuals are brought to trial, they deny their wrongdoing. Kin-san, now appearing as a magistrate, pulls of his *kimono* and yells these famous and familiar lines.

understand why they are being punished. I guess leaving things obscure was very expedient for rulers in the feudal age.

This kind of thinking, however, does not hold true in our age of democracy, and I believe democracy is a fairer system. If we are unable to verify the rules of the establishment ascribed to us, in a conceptual sense, the democracy will not, basically, be viable. How can you trust courts when you do not know under which rules your case will be judged? Failure to promptly redress out-of-date laws or unfair legislations, might lead to collapse of the society.

You might have a vague belief that law is free of mistakes. However, there are many laws riddled with mistakes. Let me show you some examples. I did not bring documents today, but I will illustrate how they are formulated. Usually, a provision in a statute should end like this, "In this or that case, it should be like this or that." But I have seen a sentence cut off half way, without a period. Probably, it was a simple typo or something like that. Such texts really exist. Another example is a specific budget-related law, where Article 2 stipulated an expense of a million yen for something. The bill had only Article 1 and 2. However, an amending act stipulating revision of Article 3 was somehow established. This is a serious error. In Japan, no government organization takes charge of editing and publishing the letter of the law after revision. The task is completely left to private publishers. What is issued in the gazette is provisions of an amending act, like "This should be amended to be such and such," not the text with revisions applied. Complete text reflecting revisions by an amending act is published in the Compendium of Laws. Private publishers editing the compendiums may find mistakes in the process of compiling amended law, but they turn a blind eye to the mistakes. There are many other laws with such mistakes. I know another example that happened about two years ago. A certain law was revised twice or three times in a year. A drafter in the government who wrote the first draft overlooked the latest revision and created amended provisions based upon the older version preceding the latest version. That resulted in an amending act not corresponding to the latest one. Such an error could happen where several revisions are made to the same act in a year. I heard that there was another would-be error of that kind last year. Fortunately, a director noticed the mistake before it became a serious problem.

Also, a misprint in the Compendium of Laws once caused a serious accident. In that case, the law itself had no problem. The length of imprisonment period stipulated in a specific provision in the Penal Code was mistakenly printed as a certain amount of years. A judge, who referred to the compendium, believed the defendant deserved the longest amount of years in jail and handed down a misguided sentence based on the incorrect information. The revelation of the error caused a big sensation. The publisher held responsible for the misprint had to cease publication of the Compendium of Laws from the next year.

So, even law records contain mistakes. And we cannot leave those as they are; they need to be corrected.

Human actions are never totally infallible. Human beings do make mistakes. But to err is not necessarily bad. A scientist once won a Nobel Prize for his work after taking a hint from an error in his experiment. Unexpected things often happen, and an error can sometimes be a source of inspiration. The important thing is to be willing to recognize the good things resulting from an error,

in addition to fixing whatever turned out to be a failure. Leaving an error unredressed is the worst choice.

However, without knowing the existence of an error, we cannot do anything to put it right. I may sound repetitious, but let me point this out one more time: any rule of law is so significant that even the smallest mistake should be redressed and we should also know where to amend. Law must be a clear entity in itself. This also applies to a budgetary system, when seeing a budget as a law.

What I have explained so far is often discussed in different areas of general jurisprudence. Different terms are used in different areas, but the underlying principle is the same.

In criminal law, for example, this principle is observed in a doctrine dictating "Nullum poena sine lege. Nullum crimen sine lege (Without a law, there is no punishment. Without a law, there is no crime.)" This is one of the three examples illustrating different applications of the principle as shown on Slide 5. To put it simply, this doctrine, which has several derivative principles, stipulates that a certain conduct cannot be characterized or punished as a crime unless so defined, in advance, by law. Moreover, the definition must be done in an unambiguous way, so that anyone can easily understand what conduct constitutes a crime. This is one of the basic doctrines you learn in Criminal Law.

The second application of the principle is "notice and hearing." This is sometimes seen in a context related to legal procedures, but mainly seen in relation to the Administrative Law. When issuing an administrative order imposing a specific obligation on another party or a restriction on the right of another party, or when making a big change in certain procedures, the government must give enough explanation, as well as hear the opinions from parties concerned, to satisfy established procedures. Without sufficient "notice and hearing," an unexpected administrative conduct would be unfair to the other party. The Administration must listen to the taxpayer's opinion, especially when they are planning a project using taxpayer's money. They are not allowed to use public money at their own discretion to build a gigantic palace, for example. So, the government must first make pertinent information accessible to the taxpayers and then, make efforts to listen to their opinions.

A similar concept has also been introduced in legislation, recently, as a system called "public comment." You will find a lot of hits when you conduct a search on the Internet with "public comment" as a key word. Under the system, when the government is preparing to establish a new law, the public is asked to submit individual opinions. It is a kind of notice and hearing procedure.

As is seen above, not only in administration but also in various other areas does this concept of notice and hearing come into play. It is necessary for the government to give prior notice and listen to public opinion when making a decision that will affect the citizens, use taxpayer money or exert a substantial influence on the right of other people. This is basically the same as giving explicit information.

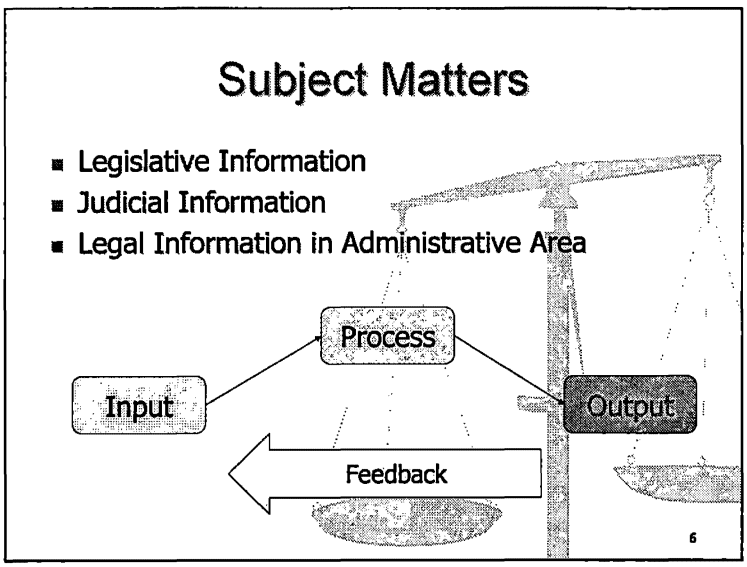
The third application of the principle is "discovery." This might seem to belong to a more personal sphere. Both in civil and criminal procedures, a demand for discovery is filed, requiring the other party to disclose information relating to the litigation following certain requirements, when one concludes that compulsory disclosure of information held by the other party is essential for the sake of fairness. This is generally explained in the context of "fair play," but I think this can be viewed from another angle, too. No trial is in the right, unless it is based upon correct information. Also, assume a

case in which you do not have much valid proof while the other side has abundant proof. Judging from the small amount of proof at hand, you might feel aggrieved by the other party and decide to file a damage suit. Then you could have the other party disclose all pertinent information and realize that the other party was not to blame, causing you to decide not to file a suit, after all. Of course, the reverse could happen, too. Thinking in terms of judicial economics, and operating society in a more reasonable way, the disclosure of important information and its proper understanding would certainly lead to the realization of a less stressful society. So, in my personal view, the issue of discovery can be included in the context of "notice and hearing," although it may not be dealt with in that way commonly.

**Subject Matters of Legal Informatics**

With time limitations in mind, I will leave abstract topics at this point, and go on to explanations of what legal informatics deals with.

The chart (Input -> Processing -> Output) on Slide 6 is a basic model. Legal informatics deals with "legislative information" and "judicial information" – information about decisions or legal procedures. It also covers "legal information related to public administration," which includes internal rules or decisions for administrative procedures in government agencies. Such rules and decisions are also handled as legal information.




Slide 6; Subject Matters and Basic Model

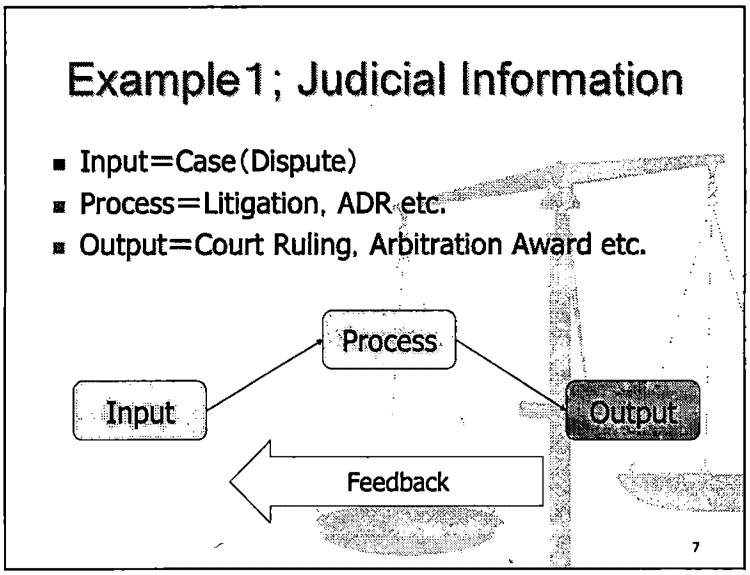
From my point of view, the above three kinds of information, which are the focus of legal informatics, exist as a type of dynamic system, rather than in a static state.

Information generally takes the following path; an input is generated, then processed, and

then, turned into some form of output. The output comes back to the source of the input as feedback. This is the basic pattern. Now, I will show how this flow applies to areas of legal informatics.

**Regarding Judicial Information**

Firstly, let's take judicial information as an example, since this is the easiest to understand. What corresponds to "input" is a case. Somebody was hit by a car and got injured. Somebody wants to receive a tax refund as he paid more than he should. Somebody is indignant because of another's derogatory remarks...These are cases. A case is an "input" to the court.




Slide 7; Example 1 – Judicial Information

Judicial information is basically "processed" in the machinery of the law. Today, courts are not the only machinery used to resolve disputes. Various systems other than courts, commonly known as "ADR" (Alternative Dispute Resolution), are also regarded as basic tools for dispute resolution. A case comes into a dispute resolution mechanism including ADR, as an "input," where some processing is applied. In the courts, a trial corresponds to "processing." The processing, or trial, is conducted based on the principle that a case must be tried as stipulated by law. What we have to consider is "Under which law is the trial being conducted?" and "Is the case really being tried in strict compliance with the law?" Legal informatics is concerned with these two points. Whatever the situation, some "processing" is applied to the case as "input."

What emerges as "output" for judicial information? For courts, it is a "decision." For other ADRs, it is a "decision of arbitration" or a "judgment of arbitration." In recent years, an international organization called WIPO has been frequently employed as an ADR. WIPO is also known as an

arbitrator in disputes over domain name. Decisions of arbitration made by WIPO are well respected by most parties and thus, have a large influence. On WIPO's website, you can find examples of decisions reached in arbitration cases. Just recently, there was an arbitration case – I forget if it was relegated to WIPO – over a website with the domain name "newzealand.com."[3] The site is owned by a private company, and the New Zealand government filed a claim that the right of using this domain name should be given to the government, as the name is suggestive of the New Zealand government. The claim was rejected, though, on the grounds that ".com" obviously indicates that the site belongs to a commercial corporation. This is a difficult problem, isn't it? Should the domain name be "newzealand.jp," the name could have been ordered to be handed over to the New Zealand government on the grounds that it is evocative of the New Zealand Consulate or Embassy in Japan. So, the decision is rather relative.

Then, what does a "*feedback*" mean? I will explain this, using as illustration, the processes involved in a trial. In many cases, both parties are sufficiently satisfied to close the case at the first level. When one party is not satisfied, however, it can lead to an appeals trial. In that case, the decision of the first trial, which is an output, comes back as a new input into the processing system of the appeal trial. Similarly, a decision made at the appeals trial comes out as an output; if both parties are satisfied, the case is closed at that point; if not, the decision of the appeal trial, or the output, turns into another input, which then goes into the processing scheme of the Supreme Court. In a formal sense, an output, or decision, at the Supreme Court level closes the case entirely. Yet, in a substantial sense, some cases do not end there – they are closed as individual cases, but a Supreme Court decision does not always put a period to the case once and for all. For example, a decision could be proved to be faulty with the discovery of new evidence, several years after it was handed down. With feedback in the form an appeal for retrial, the whole cycle starts up once again. Also, a law upon which a controversial, final sentence is based could be changed, following a social movement insisting that the defectiveness of the sentence should be attributed to certain flaws of the law. In the past, several sentences of the Supreme Court, which had found the defendants guilty, became the focus of public criticism, which maintained that the law was against the Constitution. At a certain point, when public criticism had intensified, the Supreme Court changed its tune and admitted that the provisions at issue were unconstitutional, and eventually nullified them. The most classic example is the amendment to a certain provision, intended to stipulate heavier punishment for ascendant homicide. Such movements can be observed as a complicated, dynamic interaction among multiple feedbacks, putting outputs into another processing system as new inputs. My point here is that legal information is not something static and fixed, like a stone statue, but something constantly in use or in operation. It is a dynamically functioning body in itself. Legal information can be considered such an entity.

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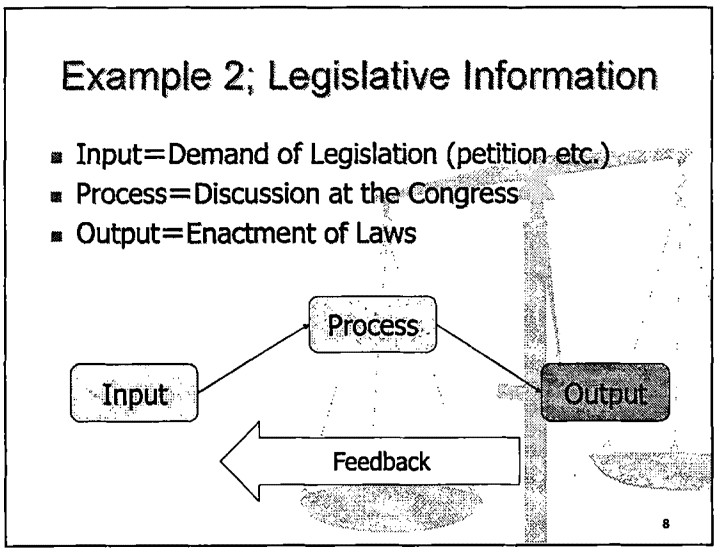
[3] WIPO Arbitration and Mediation Center, ADMINISTRATIVE PANEL DECISION, HER MAJESTY THE QUEEN, in right of her Government in New Zealand, as Trustee for the Citizens, Organizations and State of New Zealand, acting by and through the Honourable Jim Sutton, the Associate Minister of Foreign Affairs and Trade v. Virtual Countries, Inc, Case No. D2002-0754 http://arbiter.wipo.int/domains/decisions/html/2002/d2002-0754.html

**Regarding Legislative Information**

The same process, as just described for judicial information, can also be applied to legislative information. This kind of processing is done at a legislative body, or an assembly, like the House of Representatives and the House of Councilors for Japan, or, for example, Yamagata Prefectural Assembly or Yamagata Municipal Assembly for Yamagata Prefecture. Smaller legislative bodies are neighborhood associations or town councils. They are a decision mechanism handling "processing." When legislation of a new law or amendment to a specific law is requested, that request is processed in an assembly, and a new law or an amendment law is generated as an "output." Generally, the process ends with an output, but sometimes, the output comes back as feedback, as for example, in the case of an amendment law that is amended once again, after it has been found to be unsatisfactory in implementation. The process of legislative information may seem easy, as explained above, but actually, it is not that simple. This is why I took it up separately from judicial information, as I will now show in Example 2 on Slide 8. What is quite obvious with judicial matters remains rather more unclear in the case of legislative issues.




Slide 8; Example 2 – Legislative Information

Evidently, a trial results from some kind of trouble as "input." One can readily understand the causal relationship between a trial and an event, although one may not know how it will be resolved. Since a decision is clearly presented in the form of a document, the output of how the case unfolds is also very easy to follow.

Now, let's compare the process of legislation with that of a trial.

In recent years, deliberations in government committee meetings or plenary sessions are often broadcast on TV or through the Internet, so we have the opportunity to observe a bill being deliberated on, in real-time. Also, the deliberations are documented as proceedings, which are made

available to the public for searching and viewing at the National Diet Library's website. Thus, the formal aspects of the deliberations are visible to us. So are the resultant statutes, because they are always published in gazettes. This means that the output is also accessible to us, in addition to the processing.

However, some statutes make you wonder who really requested them. It often happens that a bill has been somehow drafted and passed, while it is still unclear who really needs such a law. Of course, someone must have requested such legislation, but one has no indication of who that person might be. In fact, I know a case in which one government official stubbornly insisted on a particular law being established and eventually had his way, while most people were against it. In Japan, this aspect of legislation is left invisible in the current legislative system. One cannot find out who requested a certain law, or amendment law, currently under deliberation at the legislative body. I mean, the "input" is not clearly presented in the current system.

The reason I see legal information in the flow of "input, processing and output," is that I believe that, in perceiving an event in terms of legal information, we cannot understand the meaning of legal information, unless we understand the basic reason why that legal information is processed or output.

As for the previously given example of a trial, one will not be able to accurately evaluate whether the decision made as the output of the trial is appropriate or not, without understanding the trouble triggering the original trial. Whether that particular processing was properly carried out becomes clear only by comparing the input and the output. How can one know if the processing of an input was right or wrong, when information about the input is concealed?

Suppose you are using a computer or a word processor. Typing in the letters "*Yamagata Daigaku*" (meaning Yamagata University) in *hiragana*, you press Convert Key or Space Key. When the *hiragana* letters are converted into corresponding Chinese characters, you tend to think it has been properly processed. However, you would not be able to judge if the word-processing software you are using is functioning well or not, just by seeing four Chinese characters standing for Yamagata University displayed. You can judge how good the program is, only when you find the Chinese characters converted correctly, and also see, with your own eyes, all the input, processing and output done. With only an output presented, you would never know if the processing is appropriate, or if the program is good or not.

The same thing can be applied to the realm of law. To know what is an input or what is an output is crucial. Above all, since the democracy of Japan is based on the doctrine of "Rule-by-Law," it should make us subject to the discipline of law. If information about who originally required passage of certain rules is not provided, one cannot discern what is democratic and what is not. I believe this is the most important point, and, regrettably, the least satisfactory feature of democracy in Japan.

**Legal Issues**

Now, I would like to move on to discuss some legal issues, as time is running out and we still have much ground to cover.

One of the challenges of the current situation in legal information is that we need to establish some kind of right of access to obtain invisible or inaccessible information. The information about proponents of a certain statute, as discussed previously, does exist anywhere, and thus remains unseen to us because it is not made open to the public. In some cases, the proposal for some legislation might be made in a high-class, Japanese-style restaurant, where hostesses are serving *sake* to the guests. Or, in a criminal case, somebody might offer money to a Diet member, asking for the relaxing of some regulation. Nodding at the bribe money, the politician might exert his influence to instigate change of the regulation.

Information about such instances is concealed from us. We do not have any means to access this kind of background history now, but we must make it accessible, I believe.

Under the Freedom of Information Law, everyone is allowed access to information held by administrative organizations, to some degree. Of course, restrictions are imposed on access to certain kinds of information, but the law sets a clear standard defining the degree of accessibility to various kinds of information. The criterion for accessibility is made explicit. However, information about trials is not included in the scope of this Freedom of Information Law, which deals with administrative information only. Trials are governed by judicial power, not by administrative authority. There is no equivalence to the Freedom of Information Law provided for information under the jurisdiction of court.

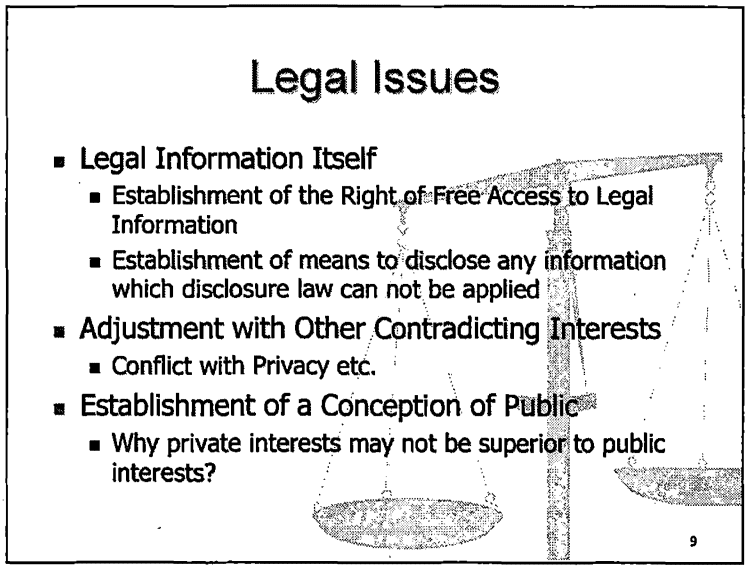
Such being the current situation, don't you think it would be better that court information also be disclosed to the public, since anyone of us might very easily get involved in a legal case, once or twice in life? Imagine when you get ticketed for speeding, for example. You think you will get through with a simple administrative punishment for a traffic offense, but it is possible the case will be brought to trial. Should your case be judged "malicious," you might be even ordered to court. Some of you might see a speeding fine as another kind of tax, but formal trial proceedings are often taken, even for traffic offences. It is just that you are not aware that you may possibly be tried. Besides speeding, in the future you might get involved in trouble over loan transactions, or divorce problems, for example.

Then, how on earth can you possibly judge if a court is reliable enough to try your case, when you are not provided with sufficient information? As you can see, limited access to information carries with it many problems.

This problem of limited access to information also applies to an assembly, which is also out of the scope of the Freedom of Information Law because it is a legislative body, not an administrative body. Thus, it is essential for us to examine and establish procedures to request disclosure of information from judicial or legislative power.

**Concept of "Public Domain"**

"Adjustment with Other Contradicting Interests," as printed on Slide 9, was a previously discussed topic. Now, let's examine this again, this time from the viewpoint of "public" incorporated.




Slide 9; Legal Issues

Looking back on the legal education I received, and recollecting books I read when I was studying jurisprudence, I think too little attention has been paid to the concept of the public in conventional legal education. I mean, the textbooks examine the protection of individual interest or basic human rights from the viewpoint of individual rights. However, on careful thought, it should be noted that we have to see things from the viewpoint of the public, too, because we are living in a public sphere.

For example, you are allowed to walk on a road because a road belongs to the public space. You are not permitted to walk around on privately-owned land – you can even be sued. A general road is open to us because it is public property. I guess you have Boso-zoku (dangerous hot-automobile riders) in Yamagata, too. Why are they bad? It is because they occupy public roads with hundreds of motorbikes and cars. They monopolize the space which is supposed to be equally available to anybody. Along with their activities come various forms of violence. In other words, they are using a place which should be equally available to us all as public property, for their own, exclusive interests. This is an improper use of a public place, as it is privatization of what originally belongs to the public.

Perceiving law in this context, I believe law exists in the public sphere. It is neither something owned by some private publisher as another corporate asset nor something to be hidden, like a treasure, by some government high-ranking official at his desk drawer. It is an asset within the public sphere, and we all have the right to use it impartially. Law must be available to us any time, as public roads are. We should all have equal access to what is in the public sphere.

When the road is congested, you cannot proceed smoothly. Somehow you have to bear it,

because all the drivers on the road are equally stuck in traffic. Everyone has to exercise patience. It is important to ensure free yet fair availability or access in such a public place. Then again, this world is not composed of "public" factors alone; it has many "private" entities, which belong to a totally different sphere. So, in considering adjustment between one interest and another, it is often easier to find a good solution when you assume that the two are of different natures, rather than weighing the two, with the assumption that they are inherently the same. A number of problems can be approached more adequately by applying the concept of "public domain."

The problem here is, however, that what belongs to the public sphere in a theoretical sense is not deemed so by many Japanese people.

For example, do you, or do you not think proceedings conducted in a court are public property? I think they are. The Constitution guarantees the right to an open trial. Viewing this right from the opposite angle, the public also has the right of monitoring trials, to ensure that judges do not make inappropriate or self-righteous decisions. The open trial system has two aspects. On one hand, the system protects the right of an individual to receive a fair trial by allowing other people to monitor the procedures, thus protecting the individual from unfair treatment by judges or prosecutors. On the other hand, the system is also designed to ensure the right of its citizens to monitor legal proceedings, to which they are not directly concerned, to ensure that they are conducted properly. Originally, trials were carried out in a sort of "kangaroo court" (the term may sound a bit strange here, though) at a public space like an *agora.* Now that trials are given inside a building and thus limiting the number of people allowed to observe court proceedings, anyone should be admitted to observe any trial, in principle.

In the United States, the concept explained above is quite prevalent. When you do a search on the Internet using two keywords "Supreme Court USA" and "transcript," you will get to a site operated by the United States Supreme Court showing video recordings of oral pleadings going on. All the oral proceedings are disclosed entirely.[4] As you know, several TV stations in the United States have live broadcasting of court proceedings. It is based on the belief that community members have an interest in trials and thus, have the right to constantly monitor how judges make decisions. People say they should watch proceedings in order to be assured that they, too, would get a fair trial, should they be brought to trial one day. That is their official position, though they may be watching such TV programs only out of sheer curiosity.

When I visited the Law School of Cornell University two years ago, I met Professor Peter Martin. I think he is one of the greatest scholars in legal informatics. Professor Martin, who is teaching courses in Social Security Act and Civil Law, showed me how he uses trial-related materials in his class. Usually, his staff record live coverage of informative court proceedings on a video tape, which is then used to show to students how a real trial is conducted. Students are also asked to carry on a discussion on the video tape. According to Professor Martin, that is the most fundamental of the fundamental Socratic Method. He told me that the latest material he had used in class was the oral

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[4] Supreme Court of the United States; Oral Arguments
http://www.supremecourtus.gov/oral_arguments/oral_arguments.html

proceedings in the Bush vs. Gore case at the Supreme Court, which had just been aired on TV at that time. I remember him saying, "I had the students discuss what the case was basically about. They had a very good discussion."

Now, I would like to point out to you that you only learn "the letter" when you learn about "trial" or "litigation" at university. Some universities have a moot court, but it is no more than an imitation of a real court. No practical proceedings are conducted there. Anyone who claims he or she understands what a trial is, without having observed some real court proceedings, is a liar in my view. When someone who you know has never got behind the wheel says to you "I can drive," you would call him a liar, wouldn't you? Well, it would have been all right to say that someone "has the knowledge about court proceedings," but having knowledge about a trial does not mean one really knows how a trial proceeds.

In Japan, people believe that they are living in a democratic society, and that any trial will be conducted according to proper procedures under law. It is up to you to embrace such a belief without any critical examination, but can you really accept it when you have no way to verify its rightfulness? We need to have some way to verify that. History tells us that many people were persecuted in secret trials. Hundreds of thousands of people were brought to military trials and executed in secret. Such a historical background led to the establishment of the principle of open court process. Certainly, some may see it disgraceful that his or her personal case is disclosed to the public. Despite such a drawback, the open trial system must be considered far better than being tried in secrecy.

The conception I have presented so far holds true theoretically, but most Japanese tend to be reluctant to regard a trial as being part of a public sphere. It is because they see being put on trial as an embarrassing experience in itself and that it is a shame to have their own private matters exposed. However, Japanese need to change this way of thinking. Shift in mentality may be essential in addressing this problem. Talking about mentality, this topic will be about the Japanese culture, and not limited to the area of legal information. It should be noted that this issue is not only related to culture but also to our way of living. In the global world of today, I assume some of you will find yourselves working in some job overseas, in the future. In order to survive any circumstances in any part of the world, I suggest you consider this point well. If Japanese people insist on sticking to their own particular mentality, they may end up cutting their own throats.

**Outlook for the Future**

I will conclude my talk with "Outlook for the Future."

I would like you, of the next generation, to be particularly aware that the legal information of a country is not only for its people. This is shown in Slide 10.

For example, no corporation is willing to make a new investment in a foreign country unless they can be sure their corporate activities there, such as opening new branches, will be reasonably protected by law. Imagine a company making a snap decision to operate in another country and later finding themselves in some big trouble. What if their overseas affiliated company were put under the

control of the local government by some seemingly unreasonable policy, or if their claims regarding some business trouble were brushed off by a local court? The investment would appear as absurd as pouring money down the drain. Calculating investment risks would be impossible for such a country. Now, you see that it is very important for a country to provide sufficient information about its legal system and how it is working. Failing to provide such information, a country is likely to be deemed as a high-risk country as a whole, naturally losing value as an investment destination. When investments from other countries decrease, the economy of a country would continue to worsen, let alone help it get over a recession. What I am saying also applies to Japan. I think this country would not be able to get its economy back on a positive track, unless it made clear to the rest of the world how its rules are applied and that they are properly applied.

Another point I would like to discuss is "Factors for Establishing International Relations," as shown in Slide 10. To advocate international collaboration and global friendship is easier said than done. Let me cite a familiar example. When you meet new people, you do not make friends with just anyone, do you? You do not shake hands with someone you do not trust. The basis for trust in a partner differs case by case, or from person to person. You shake hands with someone because you judge that person to be trustworthy, based on your own value system. It is the same with relationships between countries. Even though two countries with totally different social bases might be able to build up a partnership, by entering into some treaty, their relationship would likely fall through at some point in the future. To begin with, one would even be at a loss, about what to do to improve the relationship, without sharing information that validates the reliability of the other party as a partner.

I previously said that Japan needs to make legal information available in order to survive in the international community. Now, you can see that it is actually related to the context of international cooperation, as well.

In Slide 10, I also wrote "Legal information must be available for immediate use." I think I would not have made such a statement 10 years ago. Today, it has become possible to utilize information speedily via networks. We have built up an infrastructure. The remaining problem is that we have very little content, that is, digitized legal information, as such information has traditionally been accumulated on paper. In recent years, various efforts have been made to develop legal information databases, but it is far from being sufficient. We are going to have to improve the environment to put such databases to practical use.

Granted that legal information is made available, a further difficulty arises. Version control. But what is version control? Assume the text is a law that has been subject to hundreds of revisions since its enactment in the Meiji era, now being put into a database. It will be very easy to retrieve the text of the law currently effective, as only the simplest procedures are required. Then, what about retrieving the texts effective two years ago, or 10 years ago? Since a crime committed two years ago must be judged under the provisions effective at the time of the crime, one might need to know the text effective two years ago, not the one currently valid. If proper version control is not administered, it will be impossible to retrieve texts effective two years ago. So, a database system should be equipped with a good version control functionality, to help find a text being effective at a particular point in time. Since the Compendium of Law currently published is not organized in such a way, finding past

provisions requires rather laborious efforts. Also, a database of legal information needs to provide background knowledge or concepts about a law as well as information about examples of application, to meet practical demand.

What I would like to emphasize is that the text in the Compendium of Laws is nothing more than a bunch of letters, if one does not study its meanings or usage by reading pertinent textbooks. You see the meaning of legal education there. Certainly, memorizing the letter of the law is a minimum requirement in learning jurisprudence. I am not saying you have to learn all the provisions by heart, but you are required to remember important provisions, at least. However, you need more than rote learning to make practical use of your knowledge.

For example, you want to drive a car called "Corolla." You cannot drive a real Corolla just by remembering the name. You need to know how to step on the accelerator or shift gears, at minimum, to drive a car. It is the same with law. You cannot use it just by learning the letter of law. You have to learn its usage and meaning, as well. In addition to that, knowing the scope of application of each law is also essential. That is what learning law means. Therefore, textbooks are absolutely necessary.

As for writing good textbooks for legal education, or teaching the meaning of legal provisions, officials of legislatures or courts are going to be too busy to take on that task. So, the task will continue to be committed to university professors or private corporations in businesses related to law.

Legal informatics in the future is going to grow in value, more than ever, in the educational sense, too. This is how I perceive this academic discipline. Thank you.