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## Form of Citation of Japanese Legal Materials

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# FORM OF CITATION OF JAPANESE LEGAL MATERIALS\*

## 1. INTRODUCTION

The chief purpose of a citation, aside from furnishing assurance of scholarly discipline, is to make the author's sources available to others. Citation style rules should strive to do this uniformly, briefly, and clearly.

For the sake of uniformity in citing Japanese language sources it is suggested that writers use the manual published by the Harvard Law Review Association, *A Uniform System of Citation* (11th ed. 1967), whenever its rules can be directly applied, or whenever they can be readily adapted to citation of Japanese sources. New rules are suggested below only for those relatively few instances where they are required by the peculiarities of the Japanese materials, language, or legal system.

It is hoped that these rules can avoid some of the confusing diversity heretofore observable in English citations and translations of Japanese legal materials. However, in making style rules for article-length publications it is unrealistic to strive for coverage of every conceivable situation. Nor are these rules to be considered inflexible. If the reader's convenience seems to require adaptation or deviations, authors should make the necessary adjustments. In many situations, not specifically covered below, it will be best to improvise in citing cases and statutes; indeed, the Japanese trial procedure, system of reporting cases, and the meaning of judicial precedents as authority are enough different from American practices to require different rules.

Nevertheless, in arranging the following supplementary rules, the order of *A Uniform System of Citation* has been followed. The rules governing citation of judicial, statutory, and secondary materials are presented in that order below, even though case law in Japan does not yet enjoy, as legal authority, the same primacy that it does in the United States.

Preliminarily, authors preparing manuscripts should note that the

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\* The forms contained herein have been adopted by the *Washington Law Review* as its official guide for Japanese legal citations. The original draft was prepared by Professor Dan Fenno Henderson, Director of the Asian Law Program, School of Law, University of Washington. The present draft is a revised version prepared by Professor Henderson, Mr. Andy M. Ichiki, 1966 Asian Law Symposium Editor, *Washington Law Review*, and the *Review's* 1967 Asian Law Symposium staff.

three kinds of type-face used in *A Uniform System of Citation*, rule 34, may be rendered in typescript as follows: "Roman" (upper and lower case), "LARGE AND SMALL CAPITALS" (all upper case with large capitals underlined), and "italics" (roman underlined).

## 2. GENERAL RULES FOR TRANSLATION AND TRANSCRIPTION

**2:1. *English Translations.*** Since readers of English can generally use English language sources most easily, English translations of Japanese sources should always be cited, if they exist. Conversely, if the source is in the Japanese language, it serves little purpose to translate into English information which could only be useful to those who read Japanese. However, for what suggestive value they might have to those who do not read Japanese, titles of statutes, books, and articles in Japanese should be translated in parentheses following the romanized Japanese title, but this need be done only the first time the title appears in the article.

**2:1:1. *English Equivalents.*** When a technical Japanese term must be expressed often in the text or footnotes, a formal equivalent should be designated in order to avoid overuse of untranslated Japanese terms in the text. The equivalent may be designated on its first occurrence by capitalizing the first letters of the English words to be regarded as a precise equivalent, followed by the transcribed term italicized in parentheses; e.g., Pledge Right (*shichiken*). Thereafter, the English equivalent need not be capitalized, nor the transcribed term given. Where a precise English equivalent does not exist, the writer may use the transcribed term (in italics) after making a reasonable attempt at definition.

**2:1:2. *Recommended Sources for English Equivalents.*** Wholly satisfactory English equivalents for Japanese legal terms and concepts are often difficult and sometimes impossible to find, but the English equivalents used in the official translations of the Japanese codes and other laws may be used. If there is no official translation, those found in Eibun hōreisha [hereafter EHS] translations or those found in Itō, *A Japanese-English Dictionary of Legal Terms with Supplement*, or

*Anglo-American Law Dictionary* (Yūhikaku 1953), may be used for the sake of uniformity. For the English equivalents of Japanese ministries, bureaus, etc., see the list in *Kenkyūsha's New Japanese-English Dictionary* 2116-21 (1954). If official renditions raise real problems in discussing nice substantive distinctions in the text, then each author may set out specific ad hoc equivalents, giving both Japanese and English either in text or in a footnote. It is suggested that for discussing such finer distinctions in English, *Minji hōgaku jiten* (Dictionary of civil jurisprudence) 2 vols. (Yūhikaku 1960) and *Keiji hōgaku jiten* (Dictionary of criminal jurisprudence) (Yūhikaku 1957) will prove useful to provide equivalents because they have good indices in both English and Japanese.

**2:2. Transcription.** The modified Hepburn system of romanization used in *Kenkyūsha's New Japanese-English Dictionary* (Tokyo 1931; American ed., Harvard University Press 1942; or Tokyo 1949) is recommended. Writers will find that the rules for transcription in the 1954 edition of *Kenkyūsha* are not as easily usable; it may be followed, however, provided that in transcription the syllabic *n*, when immediately followed by *m*, *b*, or *p* in the same word, should always be transcribed as *m*; e.g., *Gumma-ken*, *shimbun*, *tampo*. Also, an apostrophe should be used between the syllabic *n* and a vowel or *y*; e.g., *zen'i*, *Daishin'in*. In short, Japanese words should be spelled in accordance with the Hepburn system as they sound in Standard Japanese (*kyōjungo*).

**2:2:1. Long Vowels.** Except in anglicized words such as Tokyo, Osaka, and shogun, long vowels in transcribed Japanese words are indicated by macrons; e.g., *hōseishi*, *kenkyū*, *kommentāru*.

**2:2:2. Compounding and Word Division.** Perhaps the most perplexing task in transcription is to decide whether words conveying a unit idea should be written as separate words, hyphenated, or written as a solid compound; e.g., *shichi ken*, *shichi-ken*, or *shichiken*. Obviously, inflexible rules cannot be laid down here, and the writer must choose the form which facilitates understanding, enhances readability, and ensures correct pronunciation. Where certain words have, through frequent usage, become associated in

readers' minds as units of thought, the general preference is to amalgamate the words and write them as a solid compound to ensure continuity and to avoid excessive use of hyphens. While *Kenkyūsha* is the recommended general guide for the romanization of Japanese words, it is not the recommended guide for compounding of words (by hyphenation or amalgamation).

(a) An affix or a modifying substantive is amalgamated with the principal word and written as a solid compound; e.g., *daihōtei*, *chūshōkigyo*, *daisangō*, *hanreishū*, *keizaiteki*, *kogittēhō*, *shisōshi*, *Bōryoku kōitō shobatsu ni kansuru hōritsu*. An exception to this rule is made where proper nouns are involved, in which case a hyphen is used (unless an affix has become an integral part of a geographical name, such as *Yūrakuchō*). Examples: *O-Kiku-san*, *Wagatsuma-shiki*, *Nihon-koku* (but *Nihon kōku*), *shin-Nichi-Bei*, *O-Bei-jin*, *Miyayama-chō*, *Kanagawa-ken*.

(b) Where there are two or more separately written coordinate words, the affix or modifying substantive is amalgamated with the word in that group which it follows or precedes; e.g., *Dōro kōtsū jigyō teitōhō*, *Saikō saibansho minji hanreishū*, *Kaisha kōsei*. Again an exception to this rule is made where proper names are involved, in which case a hyphen is used; e.g., *Nishima Yukio-shū*.

(c) Particles are written separately from other words and from each other; e.g., *Baishinhō no teishi ni kansuru hōritsu*, *kōfuku e no michi*.

### 2:2:3. Capitalization of Japanese Words. (See also rule 2:3 *infra*.)

(a) Each word of a personal name is capitalized, except the particle *no*. Contrary to Japanese practice, in English writing it is least confusing to readers to put the given name first and the family name last: Takaaki Hattori, not Hattori Takaaki.

(b) Being proper nouns, all words of a corporate or organizational name are capitalized: *Taishō Seiyaku K.K.*, *Tōbu Tetsudō Kōnai Eigyōjin Kumiai*, *Saikō Saibansho*, *Kōsei Torihiki Inkai*.

(c) Each separate written word of a geographical name is capitalized. An abbreviated geographical name is capitalized in coordinate compounds and at the beginning of other compound words: *Uji-Yamada-shi*, *Shimokitazawa*, *Higashirinkan*, *Tōnan Ajia*, *Nichi-Ro* (but *Nikka (Nichi-Ka)*), *Ei-bungaku*.

**2:3. Capitalization in Titles of Books, Periodicals, Articles, Statutes, Administrative Regulations, etc.**

**2:3:1.** No capitals are necessary in the transcribed title except the first letter of the first word and except as indicated in rule 2:2:3 *supra*.

**2:3:2.** The translated English title is capitalized in accordance with normal English rules of capitalization. Exception: when the translation follows the transcribed title in parentheses, only the first letter of the first word and proper nouns are capitalized. Examples:

(a) In text: Commercial Code; Foreign Exchange and Foreign Trade Control Law (when standing alone), but, *Gaikoku kawase oyobi gaikoku bōeki kanrihō* (Foreign exchange and foreign trade control law); *Hanrei jihō*. See also rule 2:1:1 *supra*.

(b) In footnote citations: COMMERCIAL CODE; *Kaisha kōseiho* (Corporate reorganization law), T. WATANABE, UKEOI KOJI NI OKERU FUNSO TO KUREMU (Disputes in contract construction and claims) (1955); Ishimoto, *Kashitsu no yōken* (Elements of negligence), in 9 MIMPO, SŌGŌ HANREI KENKYŪ SŌSHO (Comprehensive case study series, civil law) 3 (1964).

### 3. JUDICIAL MATERIALS

**3:1. Case Citation Style.** Japanese jurists often cite cases by the title and department of the court and the exact date, and sometimes the docket number, without giving the names of parties, or the volume, title, page, and date of the report. In recent writing on international or comparative law topics, however, some Japanese scholars are beginning to cite by the names of parties and by the volume and page of a specific reporter. Under the circumstances a citation style is recommended which is not much different formally from that used for United States federal court cases (*e.g.*, *Nagin v. Kenner*, 117 F. Supp. 241 (E.D. Tenn. 1954)), but which includes the exact date of decision in parentheses at the end; it might enable a Japanese lawyer to find the case in another set of reports which might be more conveniently available to him. Also the English translation of the case, if one exists, is always cited.

**3:2. Japanese Report Abbreviations.** The name of the reporter need

not be translated. It may be abbreviated. When a "key" to reporter abbreviations is made readily available to the reader, the complete title of the reporter need not be set out. Where such a "key" is not readily available to the reader, the complete title should be set out the first time it appears, with the abbreviated form to be subsequently used indicated in brackets as follows: 7 Saikō saibansho minji hanreishū [hereinafter cited Minshū] 1523 (Sup. Ct., Aug. 12, 1953). Abbreviations for the most commonly cited Japanese reporters are not entirely standardized in Japanese practice, but the following abbreviations from 2(2) HANREI TAIKEI (Compendium of decisions) 5 (1953) are recommended:

Saikō saibansho saibanshū minji . . . . .	Saibanshū minji
Saikō saibansho saibanshū keiji . . . . .	Saibanshū keiji
Daishin'in minji hanketsuroku . . . . .	Minroku
Daishin'in keiji hanketsuroku . . . . .	Keiroku
Daishin'in minji hanreishū	{ . . . . . Minshū
Saikō saibansho minji hanreishū	
Daishin'in keiji hanreishū	{ . . . . . Keishū
Saikō saibansho keiji hanreishū	
Kōtō saibansho minji hanreishū . . . . .	Kōsai minshū
Kōtō saibansho keiji hanreishū . . . . .	Kōsai keishū
Kakyū saibansho minji saibanreishū . . . . .	Kakyū minshū
Kakyū saibansho keiji saibanreishū . . . . .	Kakyū keishū
Gyōsei saibansho hanketsuroku . . . . .	Gyōroku
Gyōsei jiken saibanreishū . . . . .	Gyōsai reishū

**3:3. Case Name.** The plaintiff (party's family name only) is listed first; if an agency or institution is a party, its Japanese title should be translated into English in parentheses after the transcribed Japanese version. Names of business companies need not be translated; "*Kabushiki Kaisha*" (or "*Kabushi-kigaisha*") may be abbreviated as "K. K."

**3:4. Name of Court.** The name of the court of decision should always be indicated in a full case citation. Particular departments, branches, and benches of the court may be shown in the citation where they are deemed important. The following translations and abbreviations of prewar and postwar court terminology may be used:

*Prewar*

Daishin'in	Great Court of Cassation	(Gr. Ct. Cass.)
Kōsoin	Appellate Chamber	(App. Ch.)
Chihō saibansho	District Court	(Dist. Ct.)
Ku saibansho	Ward Court	(Wd. Ct.)
Gyōsei saibansho	Administrative Court	(Ad. Ct.)
Minji rengōbu	United Civil Department	(Un. Civ. Dep't)
Keiji rengōbu	United Criminal Department	(Un. Crim. Dep't)
Minkei rengōbu	United Civil and Criminal Department	(Un. Civ. & Crim. Dep't)
Minjibu	Civil Department	(Civ. Dep't)
Keijibu	Criminal Department	(Crim. Dep't)

*Postwar*

Saikō saibansho	Supreme Court	(Sup. Ct.)
Kōtō saibansho	High Court	(High Ct.)
Chihō saibansho	District Court	(Dist. Ct.)
Kan'i saibansho	Summary Court	(Sum. Ct.)
Daihōtei	Grand Bench	(G.B.)
Shōhōtei	Petty Bench	(P.B.)
Minji rengōbu	} Same as Prewar	
Keiji rengōbu		
Minkei rengōbu		
Minjibu		
Keijibu		

**3:5. Unreported Cases.** Case reporting in Japan is highly selective especially in the lower courts. Some cases not reported in the official reporters are reported in unofficial periodicals or newspapers. Citation to a publication in which the entire decision appears, as in *Hanrei jihō* (see rule 3:8(b) *infra*), is preferable to a publication in which only a summary of the case is printed, as in *Hanrei taikēi*. If the latter is used, however, the fact that the citation is to less than the full decision should be indicated by the use of "in." See illustration in rule 3:8(d) *infra*.

Other cases which are completely unreported are numerous. They may be cited with an indication that they are unreported, the court, docket number, and complete date (see rule 3:8(c)).

**3:6. Case History.** Because of difficulties with procedural and linguistic equivalents, it is usually best to show the Japanese procedural term in parentheses in citing prior or subsequent history of a case, unless enough case histories are cited in one article to make ad hoc standardization convenient (see rule 2:1:1). *E.g.*, Asahi Shōji K.K. v. Okumura Kōgyo K.K., 13 Minshū 1301 (Sup. Ct., P.B., Aug. 28, 1959), *Dismissing (kikyaku) Second Appeal (jōkoku) from 13 Minshū 1308* (Nagoya High Ct., Nov. 28, 1952), *dismissing First Appeal (kōso) from 13 Minshū 1305* (Nagoya Dist. Ct., date omitted).

**3:7. Inclusion of Lower Court Decisions.** Often the Supreme Court report of a case also appends the decisions at first and second instance as well. Thus, case histories are not usually cited because all the reported decisions in the case usually appear in the final report. *E.g.*, Tōhō K.K. v. Kōsei Torihiki Iinkai (Fair Trade Comm'n [hereinafter FTC]), 8 Minshū 950 (Sup. Ct., May 25, 1954), which includes the Tokyo High Court's decision, 3 Special Dep't, Sept. 19, 1951, and the FTC decision, Sept. 29, 1950, 2 Kōsei torihiki iinkai shinketsushū 146.

**3:8. Examples of Japanese Case Citations.**

(a) Nagata v. Takahashi, 12 Minshū 767 (Gr. Ct. Cass., April 26, 1933).

(b) Tsutsui v. Ōhira Seishi K.K., HANREI JIHŌ (No. 192) 31 (Tokyo Dist. Ct., 19 Civ. Dep't, July 14, 1959). Note: if the year of publication of the report differs from the year of decision, the year of publication must be added, in parentheses, following the page number of the report.

(c) Suzuki v. Watanabe, unreported case (Tokyo Dist. Ct., No. 27 (wa) 1960, June 26, 1962).

(d) Judgment of Nov. 24, 1924, in 17(2) HANREI TAIKEI 94 (Gr. Ct. Cass.).

(e) Tottori Seikashō Kumiai, 9 Kōsei torihiki iinkai shinketsushū 41 (Fair Trade Comm'n [hereinafter FTC], Feb. 25, 1958), English synopsis in 1 FAIR TRADE (No. 4) 34 (1958).

(f) Noda Shōyu K.K., 9 Kōsei torihiki iinkai shinketsushū 57 (FTC, Dec. 27, 1955) (includes Tokyo High Ct. decision, Dec. 25, 1957; FTC decision translated into English in 1 FAIR TRADE (No. 4) 18 (1958)).

(g) Koyama v. Japan (Lady Chatterly's Lover case), 11 Keishū 997

(Sup. Ct., G.B., March 13, 1957), English translation in MAKI, COURT AND CONSTITUTION IN JAPAN: SELECTED SUPREME COURT DECISIONS (1948-1960) 3 (1963), *Dismissing (kikyaku) defendant's Second Appeal (jōkoku) from 5 Kosai keishū 2429* (Tokyo High Ct., Crim. Dep't, Dec. 10, 1952), *Quashing (haki) judgment below and entering New Judgment (jihan) instead of 5 Kosai keishū 2524* (Tokyo Dist. Ct., 8th Crim. Dep't, Jan. 18, 1952), JURISUTO (No. 129) 20 (1957) (note Miyazawa).

#### 4. STATUTORY AND QUASI-STATUTORY MATERIALS

**4:1. Constitution and Codes.** The Japanese Constitutions of 1889 and 1947 and the five basic Codes (Civil, Civil Procedure, Criminal, Criminal Procedure, and Commercial) are cited in large and small capitals in footnotes, and in roman within the text and textual footnotes. They are widely available in translations by the Japanese government agencies and EHS, and of course the Japanese versions are kept up-to-date in the annual reprints of the *Roppō zensho*. Hence, citations to the constitutions or codes need be only in English with the article number. If an English translation is quoted, the source of that translation should be indicated.

**4:2. Other Statutes.** All other statutory or quasi-statutory materials are cited by the (1) transcribed Japanese title, in italics, (2) translated title in parenthesis (on first occurrence only), in roman, (3) article, (4) paragraph, (5) item, (6) legislative number, (7) year, and (8) convenient translation, if any, *E.g.*, *Shōken torihikihō* (Securities and exchange law) art. 1 (Law No. 25, 1948), in 6 EHS No. 6600; *Gaishi ni kansuru hōritsu* (Law concerning foreign investment) art. 10 (Law No. 163, 1950), in 5 EHS No. 5410.

**4:3. Code or Statutory Subdivisions.** Code or statutory subdivisions may be translated and numbered as follows:

<i>jō</i>	article	1
<i>kō</i>	paragraph	(2)
<i>gō</i>	item	(iii)

Thus, article 1, paragraph 2, item iii becomes art. 1(2)(iii). In Japanese versions, the first paragraph of a multi-paragraph article of a code or statute is usually left unnumbered, though the paragraphs

after the first are properly numbered. Despite the absence of the paragraph number for such first paragraphs, they should be indicated as "(1)" whenever cited, *e.g.*, art. 4(1).

Occasionally, amendments to Japanese statutes take the form of adding new articles between two existing consecutively numbered articles. In such case the new articles are designated by the number of the preceding article plus a hyphen and separate series for the new articles. *E.g.*, (in a footnote citation) COMMERCIAL CODE art. 222, art. 222-2, art. 222-3, art. 222-4, art. 222-5, art. 222-6, art. 222-7, art. 223.

**4:4. *Administrative Rules and Regulations.*** The variety of rules, regulations, and the like which emanate from the administration are cited in the same manner as if they were statutes (see rule 4:2 *supra*), except that when a convenient special compilation containing the particular Japanese version of a Cabinet Order (*seirei*), Circular (*tsūtatsu*), etc., is known, it should be cited—particularly if the cited material is not in a standard *Roppō zensho*.

## 5. SECONDARY MATERIALS

**5:1. *Books and Pamphlets.*** All forms of citation for books and pamphlets should follow, so far as possible, *A Uniform System of Citation*, except that in the first citation of a particular work the translated version of the title and of any institutional author may be set out in parentheses immediately following the transcribed version.

### 5:1:1. *Examples.*

(a) Single-authored, single volume book (not one of a series): R. SUZUKI, *BUKKENHŌ KŌGI* (Lectures on the law of real rights) 139 (1964).

(b) Multi-book volume: 5(2) S. WAGATSUMA, *MIMPŌ KŌGI* (Lectures on the Civil Code) 124 (1962).

(c) Single-authored volume in multi-volume series: T. ŌMORI, *HOKENHŌ* (Insurance law) 224, in 31 *HŌRITSUGAKU ZENSHŪ* (1957).

(d) Multi-work volume in multi-volume series (since the works may or may not be separately paginated, cite only the particular work and the page of that work referred to): J. MATSUDA, *KAISHA KŌSEIHŌ* (Corporate reorganization law) 79, in 39 *HŌRITSUGAKU ZENSHŪ* (1960).

(e) Essay or article in a book: K. Tanaka, *Hōhō to shita no shōteki shikisai* (Commercial aspects as methodology), in SHŌHŌ NO SHOMONDAI (Various problems of commercial law) 31 (1955), M. Itō, *Sagyō-kigu no kashi to shiyōsha no sekinin* (Defects in manufacturing tools and the user's liability), in EI-BEI SHIHO RONSHU (Collected essays on English and American private law) 17 (T. Ariizumi ed. 1963).

**5:2. Periodicals.** The rules are the same as in *A Uniform System of Citation*, except that English translations of titles of articles and of institutional authors should be included in parentheses. No translation need be given for titles of periodicals. If, however, there is an English title used by the periodical itself, and the author desires to show it, then it may be included in quotation marks inside parentheses; e.g., Hōsō JIHŌ ("Lawyers Association Journal").

**5:2:1. Examples.**

(a) Harada, *Nihon mimpō sōsokuhen no shiteki sobyō* (Historical sketch of the good on general provisions of the Japanese Civil Code), 57 HŌGAKU KYŌKAI ZASSHI 593 (1939).

(b) Nakagawa, *Hō to zaisan* (Law and property), HŌGAKU SEMINĀ (No. 113) 2 (1965).

## 6. CONCLUSION

Ordinarily, the foregoing rules will suffice to supplement *A Uniform System of Citation* in citing the usual Japanese legal materials. It should be noted again, however, that in an article or longer study based on specialized materials, it is permissible to make ad hoc rules, provided they are clearly set forth in a prefatory note or footnote.

