

In Memoriam

Dr. SHIGEJIRO TABATA (1911-2001)

By Yasuo Ishimoto, President of the Japan Branch

Dr. Shigejiro Tabata, professor emeritus of Kyoto University and former president of the Japan Branch of the International Law Association, passed away on March 8, 2001, at the age of 89. His passing from the scene has been a great loss not only for the ILA Japan Branch, but also for the entire academic circle in international law in this country.

Born in 1911, the forty-fourth year of the Meiji era, at Maizuru City, Kyoto Prefecture, Dr. Tabata graduated in 1934 from the Faculty of Law of Kyoto Imperial University, now Kyoto University. He was appointed as research assistant in 1934, lecturer in 1936, and associate professor in 1938, teaching public international law at his alma mater. He was promoted to full professor in 1945, and he held that post until his retirement in 1974. He served as dean of the Faculty of Law between 1965 and 1966. After his retirement from Kyoto University, he served as president of Kyoto Prefectural University between 1974 and 1980, and president of Kyoto College of Art (now Kyoto University of Art and Design) between 1981 and 1987.

Dr. Tabata was one of Japan's leading authorities on international law for a long time. During his productive life as a scholar, which lasted for more than sixty years, he published many books and numerous articles. The focus of his studies seemed to concentrate on two aspects: One was the historical analysis that he stressed on the importance of interaction between the legal thoughts of international law and its changing socio-economic foundations. The results of his studies that he accumulated during the dark days of World War II culminated immediately after the war in his publication of *The Transformation of the Concept of the Equality of States* (Akitaya, 1946)⁽¹⁾, which is now considered a classic among international law studies in Japan. His *State Sovereignty and International Law* (Nippon Hyoron Shinsha, 1950) and *Doctrines of Recognition in International Law* (Nippon Hyoron Shinsha, 1955) assured him of holding an indisputable position in Japan's postwar academic circles. Dr. Tabata also wrote several articles, including "The Changes in the Function of Diplomatic Protection" (*Kyoto Law Review*, vol.52, no.4 – vol.53, nos.1/2, 1946-1947), which had, through his brilliant analysis of the relevant rules from socio-economic perspectives, a decisive influence thereafter on the academic community of international lawyers in Japan.

(1) The titles of Dr. Tabata's books and articles are given here only in English, although they were all written in Japanese.

The other characteristic aspect of Dr. Tabata's contribution to international law studies was his strong concern for the status of the individual in international law. He truly devoted his whole life to the emancipation of individuals through international law. This was demonstrated in his very first work, entitled "On Controversy regarding the Status of Individuals as Subjects of International Law" (*Kyoto Law Review*, vol.35, no.4, vol.36, no.2, 1936-1937), which was based on his quest for effective ways to ensure the interests of individuals in international law. His pioneer works in this field, published in the early 1950s, include *Universal Declaration of Human Rights* (Kobundo, 1951) and *Human Rights and International Law* (Nippon Hyoron Shinsha, 1952). Dr. Tabata continued on this theme until the latter period of his life: *Problems on Human Rights in the Era of Internationalization* (Iwanami Shoten, 1988) discussed, among others, the effectiveness of the measures to implement international protection of human rights and the new development of human rights norms incorporating "the right to development" as third-generation human rights.

Thus when Dr. Tabata was asked to give a lecture before the Emperor Showa at the *Kosho Hajime* (the New Year's First Reading Ceremony) in January 1987, the topic he chose was "Human Rights and International Law." From 1994, he devoted all his energies to performing his duties as president of the Kyoto Human Rights Research Institute. Clearly, he considered that the promotion and protection of human rights constituted his lifetime mission. As a member of the Japan Academy since 1980, Dr. Tabata gave lectures at the Academy several times, the topics of which were almost always related to human rights, such as "The Historical Significance of the Helsinki Final Act."

Closely related to his consistent concern for human rights, the prospect of world government strongly occupied Dr. Tabata's thinking from the end of World War II. He wrote *Thoughts on World Government* (Iwanami Shoten, 1950) on his sickbed during the time when he was hospitalized for a rather serious illness. In that book, he cautioned that as long as States possessed military forces, there was always the danger of the collective security system turning into large-scale wars. It is well known in this connection that Dr. Tabata took the initiative in establishing *Sekaiho Kenkyukai* (the Study Group on World Law) in 1965, which is now *Sekaiho Gakkai* (the Japanese Association of World Law). He was also a member of the Committee of Seven to Appeal for World Peace, which was a group established in 1955 by influential intellectuals, including Dr. Hideki Yukawa, Japan's first Nobel Prize recipient in physics, and which made appeals on a number of occasions when the peace of the world seemed at stake.

As comprehensive surveys based on his studies of various subjects, Dr. Tabata published several textbooks of international law: *International Law* published in two volumes by Yushindo in 1955, another book under the same title published by Iwanami Shoten in 1956, and still another from Yuhikaku (as volume I of the inter-

national law series, 1957), just to name a few. His *Discourse on International Law*, published in two volumes by Yushindo in 1968 and 1970, was perhaps the most complete set of his textbooks. All these books have been read and reread for decades by a great number of scholars, students and practitioners throughout Japan.

Dr. Tabata's life was not confined to purely academic activities. His broad knowledge of international law led him to the world of actual lawmaking and application of the law. Thus he served as adviser to the Delegation of Japan at the second session of the Third United Nations Conference on the Law of the Sea in 1974. He was appointed a member of the Permanent Court of Arbitration in 1985, a post in which he served until his death. He was also appointed a conciliator designated under the Annex of the Vienna Convention on the Law of Treaties, in 1982. Dr. Tabata was often asked by the courts to give his views on international law issues as an expert witness. Of particular importance was his expert opinion presented to the Tokyo District Court in 1963 in the internationally known *Shimoda* case, in which the legality of the U.S. atomic bombings was the issue. He considered that in view of the rules pertaining to military targets in the law of war, the indiscriminate bombings in question were violations of international law, a position that was almost fully accepted by the court.

It was Dr. Tabata's profound scholarship and warm personality, and above all, his outstanding leadership that drew many brilliant scholars and students around him. He was sometimes called the "commander-in-chief" of the Kyoto school, but he was indeed the leading figure of the entire legal academic community of Japan. He served as president of the Japanese Society of International Law between 1970 and 1973 and he was successful in transforming the society from the previous saloon-type gathering to a large-scale association of scholars. He was also president of the Japanese Association of Peace Studies between 1979 and 1981. From 1960 to 1975, he was a member of the Science Council of Japan, the institution which is sometimes called "a parliament of scholars."

Dr. Tabata became a member of the Japan Academy in 1980. He was honored by the Emperor with the Order of the Rising Sun, Gold and Silver Star in 1981. In 1997, he was designated as a Distinguished Person of Cultural Merit, the extremely high award conferred on scholars and artists of distinction.

What is unforgettable for us, of course, is the fact that Dr. Tabata served as president of the Japan Branch of the International Law Association between 1997 and 2000. As the most senior scholar in Japan's legal academic community, he was indeed the cornerstone on which the Branch was able to stand. We were immensely shocked by his death. On behalf of all the members of the Branch, I would like to express our profound gratitude to Dr. Shigejiro Tabata for his contributions and to extend our heartfelt salute to his memory.