

ACTIVITIES

I. ACTIVITIES OF THE INTERNATIONAL LAW ASSOCIATION OF JAPAN

THE ELEVENTH ACADEMIC CONFERENCE (2003)

Date: April 26, 2003

Place: Sanjo Kaikan, Tokyo.

The Common Theme: "Review of the Activities of ILA in International Lawmaking Process"

Morning Session:

Chair: Professor Shinya Murase, Sophia University

Speaker: Professor Alfred H.A. Soons, Utrecht University, Director of Studies of the ILA

Afternoon Session:

Chair: Professor Akira Kotera, University of Tokyo

Speaker: Professor Toshiya Ueki, Tohoku University

Speaker: Professor Yoshiro Matsui, Nagoya University

Speaker: Professor Jun Yokoyama, Hitotsubashi University

Speaker: Professor Yuji Iwasawa, University of Tokyo

Summary of the Presentation : See the following.

"Review of the Activities of ILA in International Lawmaking Process" (Keynote Address)

Alfred H.A. Soons, Utrecht University, Director of
Studies of the ILA

The Japan Branch, established in 1920, is one of the oldest, largest and most active regional branches of the ILA, with its members having played important roles in the Association. As to the objectives and working methods of the ILA, it should be borne in mind that, while the method of work may vary depending on the topic of study assigned to a given International Committee, the ultimate objective is to contribute to the clarification and development of the law. Since 1997, Study Groups have been added as one of the working methods of the ILA, which may be found effective for specific projects on a short-term basis. Concerning the role of learned societies in the field of international law, with which the ILA has maintained healthy "competition," the unique feature of the ILA is its "inclusiveness": geographical spread, academics and practitioners, students and experts. This has made it possible to pronounce "authoritative statements" both on the present state of the law and the desired development of the law.

Regarding the work of the ILA for the period since 1973, we count some fifty-five International Committees and five Study Groups, which have been in existence over the past thirty years. While acknowledging that it is a formidable task to make a comprehensive review of the work of the ILA (and impossible for a single person), it is important to note that such an exercise should be conducted with a view to improving the working methods and to attaining the desired impact from its work.

The factors possibly explaining the success of committees are both with respect to the working methods (the vital role of the leadership provided by chairs and rapporteurs; the truly collective nature of the work; and the holding of actual committee meetings) as well as the impact on international law-making (both customary international law and diplomatic conferences). The underrepresentation in the past decades of private international law topics as subjects of ILA studies has to be noted.

“Activities of the Committee on Accountability of International Organizations”

Toshiya Ueki, Tohoku University

The Committee on the Accountability of International Organizations began its consideration of the topic with a clearly defined concept of “accountability”, being conscious of the elements to be covered by the project, as discussed in detail at the Taipei Conference (1998). The reports submitted at London (2000) and New Delhi (2002), respectively, contained the draft general rules and principles concerning the accountability of international organizations. It is expected that the Committee will submit its fourth (final) report to the 71st ILA Conference at Berlin in 2004, which will focus on the legal remedies in cases where international organizations may be held accountable.

The diversity of expertise and background of the members, guided by the excellent leadership of the chair and co-rapporteurs, is the source of the strength of this committee. The committee held a number of joint meetings with international organizations and academic associations, which were found to be extremely beneficial for the work of the committee. While this is no doubt one of the most successful ILA committees, it would have been desirable to have more substantial participation by members from developing countries in view of the fact that the majority of its membership has been dominated by European experts.

“Committee on Legal Aspects of Sustainable Development and
the Drafting of the New Delhi Declaration of Principles
of International Law Relating to Sustainable Development”

Yoshiro Matsui, Nagoya University

The Committee on Legal Aspects of Sustainable Development was established

at the Cairo Conference in 1992. Under the leadership of Dr. Kamal Hossain, the Chair, and Professor Nico Schrijver, the Rapporteur, the Committee elaborated a draft Declaration of Principles of International Law Relating to Sustainable Development, which was adopted at the New Delhi Conference in 2002. One of the features of its working method was the convening of research seminars. The results of some of the research seminars were published in book form, and these publications have been an important academic contribution of the Committee. The Committee meetings were held on the occasion of ILA Conferences as well as of research seminars. The Committee also circulated a questionnaire to its members and to the ILA Branches. In response to this, the Japan Branch established a national committee, and sent a reply prepared by it. This reply was highly appreciated and reproduced in the Fourth Report by the Rapporteur, together with a reply from the Netherlands Branch. The New Delhi Declaration emphasizes that sustainable development is a concept integrating development and environmental protection, and adds human rights in this context. As an instrument aimed at progressive development of law, the Declaration includes elements *de lege lata* as well as *de lege ferenda*, and these elements are clearly distinguished in the Rapporteur's Fifth Report, which is in fact a commentary on the Declaration. However, it is regretted that "operationalizing" the principle of sustainable development, the importance of which was emphasized at the latter stage of the debate, is not adequately reflected in the Declaration. Having accomplished its mandate, the Committee was dissolved in 2002. However, it was rather a rare arena in the ILA where standpoints of the developing countries were seriously taken up and debated. A new Committee of comparable mandate is expected to be established later.

"Activities of the Committee on Family Law : Transfrontier Family
Contact and the Rights of the Child"

Jun Yokoyama, Hitotsubashi University

The Committee on Family Law has concentrated its efforts on the problem of transfrontier parent/child contacts since 1997, referring to some of the relevant Japanese cases which have been slowly but steadily on the increase from the 1990s onwards. The Hague Conference on Private International Law has been playing an important role in this field. The Committee should make recommendations on transfrontier contact as soon as practicable, since it is expected that many States would be Contracting States of the Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children.

“Contribution of the ILA Committee on International Human Rights Law and Practice to the Development of International Law on Universal Jurisdiction”

Yuji Iwasawa, University of Tokyo

Iwasawa, Rapporteur of the ILA Committee on International Human Rights Law and Practice, reviewed the activities of the Committee with a view to examining its possible contribution to international lawmaking. The Committee adopted “Conclusions and Recommendations” on the Exercise of Universal Jurisdiction in Respect of Gross Human Rights Offences at the London Conference in 2000. The issue of immunity aroused discussion in London and the draft conclusion was revised as a result.

The ILA approved the study on universal jurisdiction in 1984 and interesting developments on this matter subsequently ensued. One such development was the judgment rendered by the ICJ in the *Arrest Warrant* Case (Democratic Republic of Congo v. Belgium) in 2002. The case raised issues of universal jurisdiction and immunity — the very issues the ILA Committee had tackled in its “Conclusions and Recommendations.” Judge *ad hoc* Van den Wyngaert cited the ILA report several times in her dissenting opinion, declaring that the opinion of civil society “cannot be completely discounted in the formation of customary international law.” There are some indications that the ILA report had a certain impact on the ICJ in the *Arrest Warrant* Case. At the time of the meeting, the ICJ was about to begin public hearings in a similar case, *Certain Criminal Proceedings in France* (Republic of Congo v. France). The ICJ might face the issue of universal jurisdiction squarely in this case and might refer to the ILA report.

ACTIVITIES OF THE OFFICE IN 2003

1. The General Meeting of the Japan Branch was held on April 26, 2003 at Sanjo Kaikan, Tokyo.

a. Election of New Council Members and Auditors:

Twenty-five new Council members and two Auditors, who were to serve from October 23, 2003 through October 22, 2006, were elected as follows:

Council Members:

- Jun'ichi Akiba, Professor Emeritus, Hitotsubashi University
- Nisuke Ando, Professor, Doshisha University
- Hisashi Uchida
- Tsuneo Ohtori, Professor Emeritus, University of Tokyo
- Naoya Okuwaki, Professor, University of Tokyo
- Shigeru Oda, Professor Emeritus, Tohoku University
- Seiichi Ochiai, Professor, University of Tokyo

- Hisashi Owada, Judge, International Court of Justice
- Yoshiya Kawamata, Professor Emeritus, Kyoto University
- Yoshio Kumakura, Attorney-at-Law
- Shigeru Kozai, Professor Emeritus, Kyoto University
- Akira Kotera, Professor, University of Tokyo
- Yoshiaki Sakurada, Professor, Kyoto University
- Masato Dogauchi, Professor, University of Tokyo
- Toshihiro Nakajima, Legal Advisor, Asahi Law Office
- Ko Nakamura, Professor Emeritus, Keio University
- Ribot Hatano, Professor Emeritus, Gakushuin University
- Keiichi Hayashi, Director-General of Treaties Bureau, Ministry of Foreign Affairs
- Kazuya Hirobe, Professor, Seikei University
- Yoshiro Matsui, Professor, Nagoya University
- Hiroshi Matsuoka, Professor, Osaka University
- Shigeki Miyazaki, Professor Emeritus, Meiji University
- Shinya Murase, Professor, Sophia University
- Chusei Yamada, Professor, Waseda University
- Soji Yamamoto, Professor Emeritus, Tohoku University

Auditors:

- Masatsugu Mitsuki, Attorney-at-Law
 - Shunji Yanai, Professor, Chuo University
- b. With regard to fiscal year 2002:
- (i) The financial accounts of the Japan Branch for fiscal year 2002, audited by Mr. Masatsugu Mitsuki, Auditor, as prepared by Mr. Yoshio Kumakura, Treasurer, were submitted and approved by the meeting.
 - (ii) The general affairs of the Branch during this term were reported by Professor Shinya Murase, Secretary-General.
 - (iii) The academic activities of the Branch during this term were reported by Professor Naoya Okuwaki, Director of Planning.
 - (iv) Publication of Number 45 of *The Japanese Annual of International Law* was reported by Professor Akira Kotera, Editor-in-Chief.
- c. With regard to fiscal year 2003:
- (i) The budget for fiscal year 2003, as prepared by Mr. Yoshio Kumakura, Treasurer, was submitted and approved by the meeting.
 - (ii) The general affairs scheduled for this term were presented by Professor Shinya Murase, Secretary-General.
 - (iii) The academic activities of the Branch scheduled for this term were presented by Professor Naoya Okuwaki, Director of Planning.
 - (iv) The progress of the editorial work for Numbers 46 and 47 of *The Japanese*

Annual of International Law was reported by Professor Akira Kotera, Editor-in-Chief.

2. Council Meetings were held twice for fiscal year 2003 and dealt with the following matters:

a. At the first Regular Council Meeting of 2003 held on April 26, 2003 at Sanjo Kaikan, Tokyo:

- (i) The financial accounts of the Branch for fiscal year 2002 and its budget for fiscal year 2003 were approved.
- (ii) The general affairs of the Branch during fiscal year 2002 and the program for fiscal year 2003 were approved.
- (iii) The academic activities of the Branch during fiscal year 2002 and the program for fiscal year 2003 were reported on.
- (iv) The publication of Number 45 of *The Japanese Annual of International Law* and the progress of the editorial work for Numbers 46 and 47 were reported on.
- (v) The following persons were admitted as new regular members of the Branch:
 - Naoki Koizumi, Professor, Sophia University
 - Yuko Yamane, Professor, National Graduate Institute for Policy Studies
 - Hiroyuki Kanzaku, Professor, Gakushuin University
 - Yuko Nishitani, Associate Professor, Tohoku University

b. At the second Regular Council Meeting of 2003 held on November 12, 2003 at Shigaku Kaikan, Tokyo:

- (i) Professor Shigeru Oda was elected as the new President.
- (ii) Mr. Toshihiro Nakajima was elected as the new Vice-President.
- (iii) Professor Soji Yamamoto and Mr. Yoshio Kumakura were elected as the new Standing Councillors.
- (iv) The financial condition of the Branch was reported on.
- (v) The general affairs of the Branch were reported on.
- (vi) The academic activities of the Branch were reported on.
- (vii) The progress of the editorial work for Number 46 and 47 was reported on.
- (viii) The following persons were admitted as new members of the Branch:
 - Naoshi Takasugi, Associate Professor, Tezukayama University
 - Yuko Okano, Professor, Kansei Gakuin University
 - Nozomi Tada, Professor, Kumamoto University
 - Mari Nagata, Associate Professor, Osaka University of Foreign Studies

(Masato Dogauchi)