

## ACTIVITIES

### I. Activities of the International Law Association of Japan

#### THE TWENTY-FOURTH ACADEMIC CONFERENCE (2017)

Date: April 22, 2017

Place: Sanjo Kaikan, University of Tokyo

Theme: Challenges to Existing International Law

#### Morning Session:

Chair: Professor Masaharu Yanagihara, Open Air University of Japan

Speaker: Professor Masayuki Yamauchi, Emeritus Professor, University of Tokyo

#### Afternoon Session:

Chair: Professor Yuji Iwasawa, University of Tokyo

Speaker: Professor WANG Zhi-an, Komazawa University

Speaker: Professor Mitsue Inazumi, Kanazawa University

Speaker: Professor Kimitaka Matsuzato, University of Tokyo

#### Eurasian Geopolitics and Multiple Crises in the Middle East

Masayuki Yamauchi

Professor Emeritus, University of Tokyo

On June 23, 2016, a British referendum announced the UK's withdrawal from the EU, widening gaps between Germany, France, and the UK, while Russia saw it as a break to reject sanctions imposed over Ukraine. Obama's failure in his Syrian policy led to the success of Putin who aimed to revive its interests in the Middle East from the former Soviet era.

On August 9, a meeting between Russian President Putin and Turkish President Erdogan took place in Saint Petersburg to restore relations between the two nations after a Turkish military aircraft shot down a Russian military plane in the autumn of 2015. This, as symbolized by their cooperation during the meeting in Astana on the Syrian issue in January 2017, significantly enhanced the presence of the three countries, including Iran, in the Middle East.

On the other hand, Putin is aiming to foster peacebuilding activities with Japan, which does not overtly conflict with Russia from the standpoint of Eurasian geopolitics, through a series of meetings with Prime Minister Abe at Sochi in May, Vladivostok in September, Lima in November, Nagato City in the Yamaguchi Prefecture on December 15, and in Tokyo on December 16. Meanwhile, from October to November 2016, because most of Aleppo in Syria fell and the eastern part of Mosul in Iraq was seized by Iraqi government forces, the "Islamic State" (IS) faces

major setbacks while the fall of its "capital," Raqqa, appears to be approaching.

However, as evidenced by the deadly attack targeting teenagers in Manchester this May, IS terrorism is spreading throughout Europe, thus linking multiple crises in the Middle East with that in Europe, evolving into multiple Middle East/European crises. In the midst of this, on November 9, Trump of the Republican Party was elected as President of the United States. Trump, confronted by North Korea's repeated missile launches in 2017 and growing threats in the East and in the South China Sea, is attempting to exhibit a get-tough posture, different from that of the Obama administration.

In fact, Trump launched 59 Tomahawk missiles on Syria's Shairat Air Base on April 7. This was in retaliation for the bombing of the Hyden-Shaifen Idlib District by Syrian government forces on April 4th using chemical weapons and killing 58 civilians, including 11 children. Trump accused the Assad regime of crossing the red line. Outwitting the Assad regime and Russia, this is clearly a warning to China, sent in the presence of Xi Jinping, as well as a stern warning to North Korea. Thus, the Middle East crisis, which is now occurring in parallel with the crisis in North East Asia, should be considered a major factor in support of a structural change to Eurasian geopolitics.

#### The Challenging Puzzle of China as a New Great Power in International Law:

A Reading from the Perspective of Its Changing International Role

WANG Zhi-an, Professor, Komazawa University

With the rise of China in international law, will it be a revisionist state? This presentation attempts to define the characteristics of the challenge for international law as well as for China itself from the perspective of its changing international role — from a pragmatic acceptor to a new constructor of international law.

The rise of China in international law has been analyzed in many ways using the theories of hegemony, compliance, exceptional states, and the multi-hub structure. These analyses, while accounting for the impacts of rising China, still cannot properly define the characteristics of this challenge.

For China, international law has long been accepted as a pragmatic tool for pursuing national interests. While adapting to international law in general, China has never been a wholehearted acceptor and has maintained skeptical views on the value system upon which the international normative structure has been built. In its rising process, China has gradually earned confidence in its systems for state as well as global governance. This can be seen in its persistent support for the legitimacy of multilateralism and active pursuit of the role of reformer. BRICS' New Development Bank, the Asian Infrastructure Investment Bank, and the Shanghai Cooperation Organization are representative examples of China's willingness and capability.

Additionally, the theory of a Harmonious World was conceptualized by the

Chinese Government as a central pillar for achieving its goal of being a globally acceptable constructor of international legal order. Here, a great challenge for international law is embedded in the sense that its value system must be expanded to accommodate this non-European power of Confucian ideals and distinct political ideology. Here also lies a great challenge for China in that it should articulate this new utopia through the use of deductive legal terms.

The Resistance of African States to the Development of International Criminal Law and the Idea of the African Criminal Court

Mitsue Inazumi, Professor, Kanazawa University

Africa has been involved more closely than other regions in the development of international criminal law since the 1990s because it has been the target of investigation before the International Criminal Tribunal for Rwanda (ICTR), the special tribunal for Sierra Leone, and the International Criminal Court (ICC). Because the ICC primarily addresses African cases at this time, and moreover, because of the priority of the principle of non-significance of public status (ICC Statute Art. 27) and disrespecting the immunity of heads of state and high officials, there is opposition among many African states. Some states declared secession from ICC membership. The African Union (AU), in addition to expressing its dissatisfaction through several anti-ICC resolutions, decided to create a judicial organ of its own with international criminal jurisdiction under the Malabo Protocol (2014).

This new court follows the precedents of other international judicial organs, including those of the ICC, and has a similar structure and mechanisms. However, it prioritizes the principle of immunity. It states that charges against any serving AU head of state or government cannot be brought before the court. Although this provision does not prevent prosecution by the ICC, it might affect the status of the two principles mentioned above under customary law. The new court may remain in theory because the protocol is not yet in force, but we cannot ignore the importance of its significance as an effort of Africa to acquire the power to create international law, rather than merely being the subject of its application.

War Crimes and Unrecognized States:

Applicability of the Geneva Conventions of 1949 to the April 2016 War

Kimitaka Matsuzato, Professor, University of Tokyo

The dissolution of the Soviet Union gave birth to four unrecognized states, which have survived for a quarter century. Deprived of the freedom of movement and excluded from international treaties and organizations, citizens of these states suffer significant human rights violations. Even if civilians and military service personnel in these states suffer war crimes committed by their former suzerains, the

European Court of Human Rights (ECHR) will not accept their complaints. It is very important for unrecognized states to appeal their unilateral acceptance of international human rights norms. Therefore, Karabakh and Abkhazia created the office of Human Rights Ombudsman. The European Institute of Ombudsman (EIO) invited these ombudsmen to become members. In contrast, Azerbaijan, the most militant country among the former suzerains, has revealed its indifference to the international audience. In 2004, an Azerbaijan military serviceman beheaded an Armenian military serviceman during the North Atlantic Treaty Organization's English training course held in Budapest. In 2012, Hungary agreed with Azerbaijan to extradite him to Azerbaijan, which immediately amnestized and heroized him. Protesting this incident, a famous Azerbaijan writer published a novel depicting Azerbaijanis attempting to save Armenians during the Sumgait (1988) and Baku Massacres (1990). Not only the Azerbaijan Government but also the public harassed the writer, even putting a price on his ear. These events may have affected the attitudes of international organizations such as the ECHR and EIO. After the April 2016 War between Karabakh and Azerbaijan, the ECHR accepted Karabakh citizens' complaints for war crimes committed by the Azerbaijan Army during the war, including mutilation, torture, and execution. This was the first example in which international courts accepted complaints submitted by citizens of post-Soviet unrecognized states.

ACTIVITIES OF THE OFFICE IN 2016

1. The General Meeting of the Japan Branch was held on April 23, 2016 in Sanjo Kaikan, Tokyo.
  - a. With regard to fiscal year 2015:
    - (i) The financial account of the Japan Branch for fiscal year 2014, audited by Mr. Masaki Orita and Mr. Akira Kawamura, Auditors, and prepared by Mr. Yoshio Kumakura, Treasurer, was submitted and approved at the meeting.
    - (ii) The general affairs of the Japan Branch during this term were reported by Professor Kazuhiro Nakatani, Secretary-General.
    - (iii) The academic activities of the Japan Branch during this term were reported by Professor Kazuhiro Nakatani, Secretary-General on behalf of Professor Yuji Iwasawa, Director of Planning.
    - (iv) The publication of Volume 58 of the *Japanese Yearbook of International Law* was reported by Professor Koichi Morikawa, Editor-in-Chief.
  - b. With regard to fiscal year 2016:
    - (i) The budget for fiscal year 2016, as prepared by Mr. Yoshio Kumakura, Treasurer, was submitted and approved at the meeting.
    - (ii) The general affairs scheduled for this term were presented by Professor

- Kazuhiro Nakatani, Secretary-General.
- (iii) The academic activities scheduled for this term were presented by Professor Kazuhiro Nakatani, Secretary-General on behalf of Professor Yuji Iwasawa, Director of Planning.
- (iv) The progress of the editorial work for Volumes 59 and 60 of the *Japanese Yearbook of International Law* was reported by Professor Koichi Morikawa, Editor-in-Chief.
- (v) The following 17 persons were admitted as new members of the Japan Branch:
- Yukiko Takashiba, Associate Professor, Ritsumeikan University  
 Hitomi Takemura, Associate Professor, Aichi University  
 Akihiro Matsui, Associate Professor, Osaka Institute of Technology  
 Chie Kojima, Associate Professor, Musashino University  
 Hiroshi Miyashita, Associate Professor, Chuo University  
 Mikiko Otani, Attorney-at-law, Toranomon Law & Economic Offices  
 Masabumi Suzuki, Professor, Nagoya University  
 Yuko Osakada, Associate Professor, Chukyo University  
 Norihito Samata, Lecturer, Tohoku Medical and Pharmaceutical University  
 Masahiro Kurosaki, Associate Professor, National Defense Academy of Japan  
 Makoto Hizuma, Professor, Ritsumeikan University  
 Yusuke Tanemura, Associate Professor, Tokyo Metropolitan University  
 Tomofumi Kitamura, Associate Professor, University of Tokyo  
 Sayoko Tanaka, Associate Professor, Hosei University  
 Yasuhiko Kagami, Associate Professor, Chubu University  
 Kei Nakajima, Research Fellow, Kobe University  
 Yasuhiro Shimasaka, Defence & Security Trade Officer, British Embassy Tokyo
- (vi) The following 24 persons were admitted as Council Members of the Japan Branch:
- Jun'ichi Akiba, Masahiko Asada, Masato Dogauchi, Shuichi Furuya, Kazuya Hirobe, Yuji Iwasawa, Atsuko Kanehara, Shigeru Kozai, Yoshio Kumakura, Yoshiro Matsui, Koichi Morikawa, Shinya Murase, Kazuhiro Nakatani, Naoya Okuwaki, Hisashi Owada, Naoko Saiki, Hironobu Sakai, Shigeki Sakamoto, Yoshiaki Sakurada, Junko Torii, Kimio Yakushiji, Masaharu Yanagihara, Koresuke Yamauchi, and Shunji Yanai
- (vii) The following two persons were admitted as Auditors:  
 Masaki Orita and Akira Kawamura

2. Council Meetings were held three times in fiscal year 2016 and addressed the following matters:
- a. At the First and Second Council Meetings of 2016 held on April 23, 2016 in Sanjo Kaikan, Tokyo:
- (i) The financial account of the Japan Branch for fiscal year 2015 and its budget for fiscal year 2016 were reported.
- (ii) The general affairs of the Japan Branch for fiscal year 2015 and the program for fiscal year 2016 were approved.
- (iii) The academic activities of the Japan Branch during fiscal year 2014 and the program for fiscal year 2016 were approved.
- (iv) The publication of Volume 58 of the *Japanese Yearbook of International Law* and the progress of the editorial work for Volumes 59 and 60 of the *Japanese Yearbook of International Law* were reported.
- (v) The Japan Branch officers were elected as follows:  
 Chairman of the Council: Shunji Yanai  
 Vice Chairman of the Council: Naoya Okuwaki  
 Treasurer: Yoshio Kumakura  
 Secretary General: Kazuhiro Nakatani  
 Editor-in-Chief: Koichi Morikawa  
 Director of Planning: Masaharu Yanagihara
- b. At the Third Council Meeting of 2016 held on November 28, 2016 in Shigaku Kaikan, Tokyo:
- (i) The financial condition of the Japan Branch was reported.
- (ii) The general affairs of the Japan Branch were reported.
- (iii) The academic activities of the Japan Branch were reported.
- (iv) The progress of the editorial work for Volumes 59 and 60 of the *Japanese Yearbook of International Law* was reported.

On December 6, 2016, Professor Nisuke Ando, a former council member, passed away. The Japan Branch expresses its sincere condolences.

Kazuhiro Nakatani