

Volume 59 (2016)

## CONTENTS

## ARTICLES

HALF A CENTURY WITH THE INTERNATIONAL COVENANTS ON  
HUMAN RIGHTS: LONG-TERM IMPACTS ON THE WORLD,  
ASIA AND JAPAN: PART ONE

- Overview of A Half-Century of International Covenants on Human Rights:  
Inter-State Cooperation as the Original Infrastructure and Autonomous  
Institutionalization ..... *Kaoru Obata* 1
- Whose International Law Is It? Some Reflections on the Contributions of  
Non-State Actors to the Development and Implementation of International  
Human Rights Law ..... *Andrew Byrnes* 14
- Toward a Holistic Understanding and Implementation of Human Rights:  
Development of Norms and Practice under the International Covenant on  
Economic, Social and Cultural Rights ..... *SHIN Hae-Bong* 51
- Echoes of Strasbourg in Geneva  
— The Influence of ECHR Anti-Torture Jurisprudence on the United Nations  
Human Rights Committee — ..... *Antoine Buyse* 81
- The Influence of the International Covenant on Civil and Political Rights  
on Prisoners' Rights and Criminal Justice in Contemporary Japan  
..... *Yasuzo Kitamura* 99
- The Impact of the International Covenants on Human Rights on the Rights  
of Foreigners in Japan ..... *TERAYA Koji* 156

UNILATERALISM AND MULTILATERALISM IN REGULATING CROSS-BORDER  
BUSINESS TRANSACTIONS: PART ONE

- Towards a Private International Law for Regulatory Conflicts?  
..... *Ralf Michaels* 175
- Customer Location and the International Reach of  
National Competition Laws ..... *Tadasbi Shiraisbi* 202

Unilateralism, Bilateralism, and Multilateralism in International Taxation  
 ..... *Keigo Fuchi* 216

NOTE

Financial Stability Concern of the Extraterritorial Impacts Caused by the  
 Recent US Financial Sanctions on Foreign Banks ..... *Takashi Kubota* 229

PARTY AUTONOMY IN CONTEMPORARY PRIVATE INTERNATIONAL LAW:  
 PART TWO

Party Autonomy and Regulation  
 — Public Interests in Private International Law — ..... *Stéphanie Francq* 251

Party Autonomy in Contemporary Private International Law  
 — The Hague Principles on Choice of Law and East Asia —  
 ..... *Yuko Nishitani* 300

ICJ JUDGMENT ON WHALING IN THE ANTARCTIC:  
 ITS SIGNIFICANCE AND IMPLICATIONS: PART TWO

Paradoxical Role of Experts in the *Whaling in the Antarctic* Case  
 ..... *Shotaro Hamamoto* 345

JAPANESE DIGEST OF INTERNATIONAL LAW

The Japanese Views on Legal Issues Related to Security  
 ..... *Tomohiro Mikanagi and Hirobito Ogi* 360

*Right of Self-Defense — Armed Attack — Request by the Attacked State —  
 Distinction between Individual Self-Defense and Collective Self-Defense —  
 Measures against Non-Innocent Navigation — Defensive On-the-Spot Measures  
 against Minor Attacks*

The Destruction of Japanese Abandoned Chemical Weapons  
 in China under the Chemical Weapons Convention ..... *Masabiko Asada* 372

*Chemical Weapons Convention — Chemical Weapons Abandoned by Japan in  
 China — Extension of Destruction Deadline — Decision of the Executive Council  
 on the Destruction of ACWs beyond Extended Destruction Deadline — MOU  
 between Japan and China regarding the Destruction of ACWs beyond Extended  
 Destruction Deadline*

CASES AND ISSUES IN JAPANESE PRIVATE INTERNATIONAL LAW

The Jurisdiction of Foreign Courts and the Recognition of Foreign Judgments  
 Ordering Injunction: The Supreme Court Judgment of April 24, 2014  
 ..... *Béligh Elbalti* 395

BOOK REVIEWS

*Nicchuu Sengobaishou to Kokusai Hou* [Post-War Reparations between Japan  
 and China under International Law], by Masahiko Asada. Tokyo: Toshindo, 2015.  
 ..... *Kohki Abe* 420

*Kokusai Saiban to Gendai Kokusaiho no Tenkai* [International Adjudication  
 and Development of Contemporary International Law], edited by Masahiko  
 Asada, Nobuyuki Kato and Hironobu Sakai. Tokyo: Sanseido, 2014.  
 ..... *Junichi Eto and Junko Iwaishi* 423

*Kokusaibougaku no Shosou: Toutatsuten to Tenbou* [Aspects of International  
 Law Studies: Achievements and Prospects (Commemorative Book in Honor of  
 Professor Shinya Murase)], edited by Junichi Eto. Tokyo: Shinzansha, 2015.  
 ..... *Takubei Yamada, Tomobiko Kobayashi, and Dai Tamada* 429

*Saiken/Dousan wo Katsuyoushita Kinyuutoribiki to Kokuksaishou* [Financial  
 Transactions with Assignment/Collateralization of Finance Receivables/  
 Movables and Conflict of Laws], by Naoe Fujisawa. Tokyo: Doubunsha, 2014.  
 ..... *Takuya Shima* 433

*Kokusai Shibo Ronshu: Kokusai Shibo no Shinzui wo Motomete* [Essay on  
 Private International Law: In Search of the Essence of Private International  
 Law], by Hiroshi Morita. Tokyo: Shinzansha, 2014.  
 ..... *Ai Murakami* 436

*Kokusaiho Gakusha ga Yomu Senkaku Mondai — Funso Kaiketsu eno Tenbo  
 wo Hiraku* [The Senkaku Issue Analyzed by a Specialist in International Law:  
 Carving out New Horizons for the Settlement of the Dispute], by Yoshiro  
 Matsui. Tokyo: Nihon Hyoronsha, 2014. .... *Masabaru Yanagibara* 440

*Intellectual Property and Private International Law: Comparative Perspectives*  
 (Studies in Private International Law), edited by Toshiyuki Kono. Oxford: Hart  
 Publishing, 2012. .... *Atsuko Yamaguchi* 443

*Yoroppa Chiiki Jinken-bo no Kenpo Chitsujyo-ka* [The Constitutionalization of  
 European Human Rights Law: A Critical Study in a Process of International  
 Law], by Kaoru Obata. Tokyo: Shinzansha, 2014. .... *Takao Suami* 448

*International Liability Regime for Biodiversity Damage: The Nagoya-Kuala Lumpur Supplementary Protocol*, edited by Akiho Shibata. Routledge, 2014. .... Akiko Toi 452

*Resistance and Change in the International Law on Foreign Investment*, by M. Sornarajah. Cambridge: Cambridge University Press, 2015. .... Yucong Wang 455

*Kokusaiho niokeru Kinkyubinan* [Necessity in International Law], by Takuhei Yamada. Tokyo: Yuhikaku, 2014. .... Tomofumi Kitamura 458

JUDICIAL DECISIONS IN JAPAN ..... 462

I. Public International Law

Sapporo District Court, Judgment, September 19, 2013 ..... 463  
*Construction of the New Road — Environmental Impact Assessment — Convention on the Biological Diversity — Interpretative Guidelines*

Tokyo District Court, Judgment, February 25, 2015 ..... 468  
*Compensation for War Injuries — Individuals' Right to Seek Compensation under the 1907 Convention Respecting the Laws and Customs of War on Land — Individuals' Right to Seek Compensation under Customary International Law*

Tokyo District Court, Judgment, June 16, 2015 ..... 474  
*Conditions to Grant Special Permission to Stay in Japan — Necessity for Medical Treatment — Article 12(1)(2) of ICESCR — Separation from Parents — Articles 3(1) and 9(1) of CRC*

Tokyo District Court, Judgment, August 28, 2015 ..... 485  
*Obligation of Minister of Justice to Provide for Refugee Recognition — Violation of the Immigration Control and Refugee Recognition Act — Article 1A(2) and Article 1F(b) of the Convention relating to the Status of Refugees*

II. Private International Law

Tokyo High Court, Judgment, May 20, 2015 ..... 490  
*Enforcement of Foreign Judgments in Japan — Contravention of Public Policy — International Adjudicatory Jurisdiction — Payment of Child Support*

Tokyo District Court, Judgment, March 26, 2014 ..... 494  
*Exclusive Choice of Court Agreement — Interpretation of a Choice of Court Clause in a Contract*

Tokyo District Court, Interlocutory Judgment, January 28, 2015 ..... 497  
*Exclusive Jurisdiction Clause — Arbitrability of Disputes Regarding Statutory Interpretation*

Osaka District Court, Decision, March 17, 2015 ..... 501  
*Arbitration — Japanese Arbitration Act — Setting Aside of an Arbitral Award*

CHRONOLOGY OF JAPANESE FOREIGN AFFAIRS IN 2015 ..... 507

CHRONOLOGICAL LIST OF TREATIES AND OTHER INTERNATIONAL AGREEMENTS CONCLUDED BY JAPAN IN 2015 ..... 523

DOCUMENTS

1. The New Declaration of Japan Recognizing the Compulsory Jurisdiction of the International Court of Justice in Conformity with Article 36, Paragraph 2 of the Statute of the International Court of Justice ..... 525

2. Announcement by Foreign Ministers of Japan and the Republic of Korea Regarding the Issue of "Comfort Women" ..... 527

ACTIVITIES

I. Activities of the International Law Association of Japan ..... 530

II. Activities of Related Academic Associations in Japan ..... 537

1. Kokusaiho Gakkai (Japanese Society of International Law, established in 1897) ..... 537

2. Kokusai Shiho Gakkai (Private International Law Association of Japan, established in 1949) ..... 543

3. Sekaiho Gakkai (Japanese Association of World Law, established in 1965) ..... 546

INSTRUCTIONS FOR SUBMISSIONS TO THE JYIL ..... 548

xiv CONTENTS

TABLE OF CASES ..... 551

TABLE OF TREATIES AND OTHER INSTRUMENTS ..... 555