

In Memoriam
Dr. Kisaburo Yokota (1896-1993)

By Takeso Shimoda

Dr. Kisaburo Yokota, former Chief Justice of the Supreme Court and Honorary President of the Japan Branch of the International Law Association, passed away on February 17, 1993, after a life entirely devoted to the search for peace and justice through law.

Born in 1896 — the twenty-ninth year of Meiji — in Konan City, Aichi Prefecture, Dr. Yokota graduated in 1922 from the Faculty of Law of Tokyo Imperial University, which is now the University of Tokyo. In 1924, he became Associate Professor of Public International Law at his alma mater. For nearly three years between 1926-28 he studied in France, Germany and the United States. He was promoted to full professor in 1930, and held that post until his retirement in 1957. He served as dean of the Faculty of Law between 1948-51.

Professor Yokota was Japan's leading authority on international law for more than sixty years. He was indeed a towering Mount Fuji in the academic circles of this country. In pre-war days, his studies of international-law seemed to have focused on two aspects: One was to find the sound theoretical and methodological grounds for international law studies, and in this respect, he was much influenced by the Vienna School's pure theory of law. He completed the Japanese translation of Hans Kelsen's *Reine Rechtslehre* in 1935. The other aspect was the importance he placed on the precise examination of the practice of States, and international courts. As a synthesis of these approaches, Professor Yokota published his study on *Kokusai Saiban no Honsbitsu* (The Essence of International Adjudication, 741 pages) in 1941, for which he was awarded a doctorate of laws.

In addition to numerous articles, Professor Yokota wrote commentaries and essays and published 66 books during his very productive life. The long list of his publication covers almost the whole field of international law and extends to some areas of domestic law as well. His first textbooks were *Kokusaiho* (International Law), vols. 1 and 2, published in 1932 and 1933. Some of his last major works include *Iken-shinsa* (Judicial Review) and *Kumiai no Jiyu* (Freedom of Association), both being large volumes of 844 pages and 579 pages respectively, which he wrote in 1968 and in 1979, at the ages of 72 and 83.

Dr. Yokota's life was not confined to purely academic activities. His profound knowledge of international law led him to the world of actual law-making and application of the law. Thus he served as a member of the Japanese delegation to the London Naval Conference in 1930. He also participated as adviser to the Delegation of Japan in the First and the Second United Nations Conferences on the Law of the

Sea in 1958 and 1960. He was appointed a member of the Permanent Court of Arbitration in 1958 which he served until his death. Earlier, in 1956, Dr. Yokota was elected a member of the United Nations International Law Commission and made a significant contribution to the work of codification and progressive development of international law. He attended all the sessions of the Commission in Geneva until 1960, when he resigned from that post to become Chief Justice of the Supreme Court of Japan. In 1968, he was elected a member of the ILO Committee of Experts on the Application of International Labor Conventions and Recommendations, a post in which he continued until 1975.

Professor Yokota was the most active member of the Japanese Association of International Law, and was elected its President in 1955 and Honorary President in 1967. He became a member of the Science Council of Japan in 1949, and its Vice President in 1956. He was also selected as a member of the Japan Academy in 1949. Professor Yokota's academic achievement was recognized internationally, and thus, he was elected *associé* of the Institute of International Law in 1952, becoming a member in 1963, and an honorary member in 1983.

What is unforgettable to us is the fact that Dr. Yokota served as President of the Japan Branch of the International Law Association for twenty years after he first assumed the office in 1971. The branch has attained dramatic progress under his brilliant guidance of its research activities. His vigorous leadership of its fund-raising efforts helped to lay a sound financial foundation of the branch, by which it became possible for its members to participate actively in the work of the ILA Committees. Even after he became Honorary President in 1991, he continued to be the symbol of unity for all the members of the branch until the day of his death, which was indeed a paramount loss.

In 1960, Dr. Yokota was appointed Chief Justice of the Supreme Court of Japan, a post in which he served until he reached the age of 70, the mandatory retirement age, in 1966. It was the first time that an international lawyer had become a member of the Supreme Court, much less the Chief Justice. During the term of his office, the Supreme Court rendered a number of important judgments and decisions. As Chief Justice, he exerted leadership in administrative reforms with a view to expediting speedy trials.

Even after his retirement from public office, he was continuously asked to serve as president of various organizations such as the Mineichiro Adachi Memorial Foundation, the Science and Technology Foundation of Japan and the Board of Trustees of Tsuda College.

Professor Yokota was a genuine liberalist, and was known for his criticism of Japan's military actions before and during the Second World War. He was virtually the only scholar of international law in Japan who openly challenged the position of the military and the government with regard to the Manchurian Incident of 1931,

insisting that Japan's action was never justifiable as an exercise of the right of self-defense. The critical remark he made on Japan's surprise attack on Pearl Harbor in 1941 also outraged ultra-rightist groups. The social and political pressures imposed upon him and his family made their life quite difficult in those days, depriving him of freedom of expression and publication, but he never changed his views.

When the war ended in 1945, he vigorously recommenced his academic activities like a fish put back into water. He published successively *Senso no Hoki* (The Renunciation of War), *Senso Hanzai Ron* (On War Crimes) and *Kokusai Rengo no Kenkyu* (A Study of the United Nations) in 1947, *Kokusaiho* (International Law, new edition) and *Sekai Kokka no Mondai* (Problems of the World-State) in 1948, *Kokusaiho no Kisoriron* (The Fundamental Theories of International Law) and *Anzen-hosho no Mondai* (Problems of Security) in 1949, and *Jieiken* (The Right of Self-defense) in 1951.

Based on his active participation in the work of the International Law Commission, he wrote *Umi no Kokusaiho* (International Law of the Sea, Vol. 1) in 1959, *Gaiko-kankei no Kokusaiho* (International Law on Diplomatic Relations) in 1962, and *Ryoji-kankei no Kokusaiho* (International Law on Consular Relations) in 1974.

Dr. Yokota was also known for his clear and concise writing style. He believed that a lawyer should write like a scientist rather than a novelist. In so doing, he strongly impressed his readers not only in the field of law but also in other writings such as essays and commentaries. When the new Japanese Constitution and laws were being drafted immediately after the war, he was one of those who stressed that they should be drafted in a familiar colloquial style rather than the old literary style, a recommendation that was eventually adopted by the legislature. It was because of Dr. Yokota's reputation as a master stylist that he was appointed a member of the Japanese Language Council in 1956-58.

Thus, Professor Yokota's scholastic accomplishments as well as his strong sense of justice and integrity were the very source of the extremely high prestige he enjoyed in the post-war era, which was recognized by the awarding of a number of honors: He was honored with the Order of the Rising Sun, First Class, in 1966, and with the Order of the Rising Sun, Paulownia, First Class, in 1979. He was decorated with the Order of Culture in 1981, the highest award presented to scholars and artists in this country.

When Dr. Yokota was made an honorary citizen of his hometown, Konan City, in 1979, he said that he was happier with that honor than with any other. He was born and lived in this town until the age of 15. While Dr. Yokota always led a simple life, he donated a large sum of money to Konan City by means of which it established the Yokota Library and an essay contest program for high school students. He truly loved his hometown.

Dr. Yokota was a famous “go” player. He also enjoyed playing tennis and ice skating, even after he was 90 years old. He was always extremely healthy and never missed scheduled meetings, many of which he presided over as chairman. Nobody felt that he had become old. Nobody had any doubt that he would live beyond 100.

With his profound scholarship and amiable personality, Dr. Yokota educated many students who are now active in international law circles both in Japan and abroad. In this sense also, his achievements were imperishable. Surrounded by these colleagues, he passed away at the advanced age of 96. His death greatly bereaved his wife, Yasuko Yokota, his two sons, his grandchildren and great grandchildren.

May we extend our heartiest blessings to his memory.