

Volume 67 (2024)

CONTENTS

ARTICLES

NEW FRONTIERS OF STATE JURISDICTION

Introductory Note	<i>Akio Morita and Mari Takeuchi</i>	1
Weaponizing Economic Interdependence via Extraterritorial Chokepoint Jurisdiction: An International Law Perspective	<i>Cedric Ryngaert</i>	4
Limits of State Jurisdiction in Cyberspace — The Legality of the Cross-Border Remote Access and the Use of Policeware —	<i>ISHII Yurika</i>	26
Port State Jurisdiction as Universal Jurisdiction over Fisheries	<i>Makoto Seta</i>	57
Changes in the Legal Structure of the <i>Aut Dedere Aut Judicare</i> Principle — Focusing on the Requirements for the Obligation to Exercise Jurisdiction —	<i>Takayo Ando</i>	84
Theoretical Analysis of Conflicting Approaches on State Jurisdiction — Focusing on “ <i>Liberté</i> ” and Conflicting “Basic Positions” —	<i>MORITA Akio</i>	126

LEGAL ANALYSIS ON SUCCESSION SUBSTITUTES

Introductory Note	<i>Dai Yokomizo</i>	162
The Potential and Limitations of Contracts That Function as Succession Substitutes	<i>OSHIMA Lisa</i>	164
Succession Substitutes and Japanese Conflict of Laws: Including the Possibility of Introducing Limited <i>Professio Juris</i> to Japanese Choice-of-Law Rule Relating to Succession	<i>Dai Yokomizo</i>	180
Conflict-of-Law Issues Regarding Succession Substitutes with a Focus on Trusts	<i>Takami Hayashi</i>	195
The Law Applicable to Succession Substitutes: European Perspective	<i>Charlotte Wendland</i>	214

Succession Substitutes and Taxation
 — An Analysis from the Perspective of Party Autonomy and Tax
 Neutrality — *Takeshi Fujitani* 253

**HUMAN RIGHTS APPROACH TO REGULATE ARMED CONFLICTS:
 BEYOND THE *LEX GENERALIS/SPECIALIS* FRAMEWORK: PART TWO**

The Other Side of the Human Rights Approach to the Reparation for
 Victims of Armed Conflict
 — The Coalition of the Sword and Shield Function for Transformative
 Reparation — *Megumi Ochi* 272

Occupation, the Right to Self-Determination, and the Law
 *Yaël Ronen* 296

Digging the Skewed Gendered Surface
 — The Rights of Female Prisoners of War Under International
 Humanitarian Law — *Yutaka Arai-Takabasbi* 333

Conclusion: Why Do We Tend to Apply International Human Rights Law
 to Armed Conflicts? *Shuichi Furuya* 394

JAPANESE DIGEST OF INTERNATIONAL LAW

Act on the Promotion of Ensuring National Security Through Integrated
 Implementation of Economic Measures *Yoshinori Abe* 404
*Promotion of Economic Security — Concept of Economic Security — Basic
 Policy of the Act — Four Systems of Economic Security Policy — Ensuring a
 Stable Supply of Critical Products — Ensuring the Stable Provision of Essential
 Infrastructure Services — Enhancing Development of Critical Technologies —
 Non-Disclosure of Selected Patent Applications — Sincere Implementation of
 International Agreements — Relationship with WTO Agreements*

National Security Strategy of Japan *Tatsuya Abe and Yurika Ishii* 419
*Background — New National Security Strategy of Japan — Counterattack
 Capabilities — Active Cyber Defense — Space Security Policies and International
 Cooperation*

The Ainu Policy Promotion Act (2019) *Yuko Osakada* 432
*Ainu People — Indigenous People of Japan — The United Nations Declaration
 on the Rights of Indigenous Peoples — The Ainu Policy Promotion Act —
 Recognition of Indigenous Status — Grant Delivery — Non-Discrimination*

CASES AND ISSUES IN JAPANESE PRIVATE INTERNATIONAL LAW

Breach of the Arbitrator's Obligation of Disclosure in Article 18(4) of the Arbitration Act	<i>Yusuke Tanemura</i>	446
Application <i>Mutatis Mutandis</i> of Art. 117(1) of the Child Abduction Convention Implementation Act to a Return Agreement in an In-Court Conciliation	<i>Naobiro Kitasaka</i>	460

BOOK REVIEWS

<i>Kokusaikeizaishakaiho de Heiwa o Tsukuru</i> [Creating Peace by International Economic-Social Law], by Shin-ichi Ago. Tokyo: Shinzansha, 2022. Pp. xi, 205.	<i>Naozumi Kurokami</i>	471
<i>Non-Rufurumangensoku to Gaikokujin no Taikyokyosei</i> [Non-Refoulement Principles and the Deportation of Foreigners], by Yukari Ando, Tokyo: Shinzansha, 2022. Pp. viii, 330.	<i>Miyako Tatematsu</i>	474
<i>Okinawa no Hikinobasareta Senryo: "Amerika Yu" no Hoteki Kiban</i> [Prolonged Occupation of Okinawa: Legal Framework of "Era of America"], by Kyo Arai. Tokyo: Yuhikaku, 2023. Pp. viii, 349.	<i>Tetsuya Yamada</i>	477
<i>Nittaikeizaikoryu to Kokusaibo</i> [Japan-Taiwan Economic Exchanges and International Law], edited by Hiroyuki Banzai. Tokyo: Seibundo, 2022. Pp. xii, 334.	<i>Masahiro Kurosaki</i>	481
<i>Naisei Kansho no Kokusaibo — Ho no Tekiyo Mondai eno Rekishiteki Shiza</i> [Intervention in the Internal Affairs of States and International Law: A Historical Perspective on the Applicability of International Law] by Iwao Fujisawa. Tokyo: Iwanami Shoten, 2022. Pp. xii, 367.	<i>Tatsuya Abe</i>	486
<i>Corporate Environmental Responsibility in Investor-State Dispute Settlement: The Unexhausted Potential of Current Mechanisms</i> , by Tomoko Ishikawa. Cambridge and New York: Cambridge University Press, 2023. Pp. xxxix, 302.	<i>NISUGI Kento</i>	489
<i>Saibankan Taiwa: Kokusaika suru Shibo no Kyodo to Kobo</i> [Judicial Dialogue: Cooperation and Competition Among Courts and Tribunals], edited by Yoichi Ito, Tokyo: Nihon Hyoronsha, 2023. Pp. xxiii, 322.	<i>Shinji Tokugawa</i>	492
<i>Domestic Application of International Law: Focusing on Direct Applicability</i> , by Yuji Iwasawa. Leiden: Brill, 2023. Pp. xxix, 314.	<i>SHIN Hae Bong</i>	498

<i>Kokusaikankei to Ho no Shibai: OWADA Hisashi Kokusaishibosaibansho Saibankan Tainin Kinen</i> [International Relations and the Rule of Law: Festschrift for Judge Hisashi Owada in Commemoration of His Retirement from the International Court of Justice], edited by Yuji Iwasawa and Masataka Okano, Tokyo: Shinzansha, 2021. Pp. xxiii, 1446.	Kei Nakajima	501
<i>Chugoku ni okeru Kokusaitoribikifunso Kaiketsubo</i> [International Commercial Dispute Resolution Law in China], by Yukio Kajita. Tokyo: Nihonhyoronsha, 2022. Pp. 344.	Xi Feng	506
<i>Kokusaibotetsugaku no Fukken</i> [Reclaiming the Philosophy of International Law], by Shun Kaku. Tokyo: Kobundo, 2022. Pp. iv, 299.	Ryoshi Fukushima	510
<i>Tagensbugi no Kokusaibo — Kokurenbo to Jinkenbo no Kosaku —</i> [Pluralism and International Law: The Intersection Between United Nations Law and Human Rights Law], by Akira Kato. Tokyo: Shinzansha, 2022. Pp. xii, 415.	Takao Suami	513
<i>Kokusaidairishokeiyakubo no Kenkyu</i> [International Aspects of the Law of Commercial Agency], by KIM Mihwa. Tokyo: Shinzansha, 2022. Pp. xii, 382.	Masayo Kataoka	516
<i>Ippan Kokusaiboron Josetsu: Kansbukokusaibo Gainen no Tenkai to Riron Kosei</i> [The Foundations of General International Law: The Development of the Idea of Customary International Law and Its Theoretical Construction], by KOMORI Teruo. Tokyo: Shinzansha, 2022. Pp. xviii, 391.	KAKU Shun	519
<i>The International Law of Sovereign Debt Dispute Settlement</i> , by Kei Nakajima. Cambridge: Cambridge University Press, 2022. Pp. xxx, 339.	Yuka Fukunaga	522
<i>Kokusai Keiji Tetsuzuki Ho no Genri: Kokusai Kyodo niokeru Puremisu no Tokutei</i> [The Rationales of the International Criminal Procedure Law: Identifying the Premises of International Cooperation], by OCHI Megumi. Tokyo: Shinzansha, 2022. Pp.292.	KIHARA Masaki	526
<i>Multilayered Structures of International Criminal Law</i> , by Hiromi Sato. Cham: Springer, 2021. Pp. ix, 221.	Kuniko Ozaki	529
<i>Kokusaibo o Amu: Kokusai Renmei no Hotenka Jigyo to Nihon</i> [Weaving International Law: Japan and the Work of the League of Nations for the Codification of International Law], by Rikiya Takahashi. Nagoya: Nagoya Daigaku Shuppankai, 2023. Pp. vii, 480, 55.	Tetsuya Toyoda	532
<i>Ko no Hikiwatashi-Tetsuzuki no Riron to Jitsumu</i> [Theory and Practice of the Procedure for Handing-Over a Child in Custody Disputes], edited by Kazuhiko Yamamoto. Tokyo: Yuhikaku, 2022. Pp. x, 373.	Hajime Sakai	536

<i>Kokusaihochitsujo to Gurobaru Keizai</i> [International Legal Order and Global Economy], edited by Masaharu Yanagihara, Koichi Morikawa, Atsuko Kanehara, and Taro Hamada. Tokyo: Shinzansha, 2021. Pp. xvi, 614.	Satoru Taira	541
---	--------------	-----

JUDICIAL DECISIONS IN JAPAN..... 549

I. Public International Law

Tokyo High Court, Judgment, February 16, 2023	550
<i>The Japan-Luxembourg Tax Convention for the Avoidance of Double Taxation — Treaty Interpretation — Translation Prepared by the Government — Objects and Purposes — Ordinary Meaning of the Treaty Text</i>	
Osaka District Court, Judgment, March 15, 2023	558
<i>Refugee Status — Fear of Persecution Due to Sexual Orientation — Homosexuality — Standard of Proof</i>	
Tokyo District Court, Judgment, March 16, 2023	566
<i>Tax Exemption — Retirement Pensions of Former ICJ Judges — Article 32 of the ICJ Statute — Treaty Interpretation</i>	

II. Private International Law

Osaka High Court, Adjudication, May 26, 2021	581
<i>International Child Abduction — Habitual Residence — Infant</i>	
Tokyo High Court, Judgment, January 25, 2023	584
<i>Applicable Law to Vicarious Liability — Traffic Accidents of an Employee on Overseas Business Trips — Escape Clause</i>	
Tokyo High Court, Judgment, October 30, 2023	589
<i>State Immunity — Unrecognized States — Jurisdiction — Place of Tort — Continuous Tort</i>	
Tokyo District Court, Judgment, May 9, 2022	594
<i>Validity of Agreements on Jurisdiction — Sea Carriage Contracts — Surrender Bill of Lading (B/L)</i>	
Tokyo District Court, Judgment, March 27, 2023	597
<i>Applicable Law — Labor Contracts — Mandatory Provisions — Place with Which the Labor Contract Is Most Closely Connected — Place of Business at Which the Worker Was Employed — International Airline Cabin Crew</i>	
Yokohama Family Court, Judgment, March 30, 2021	602
<i>Recognition and Enforcement of Foreign Judgments on Child Custody</i>	

CHRONOLOGY OF JAPANESE FOREIGN AFFAIRS IN 2023 609

CHRONOLOGICAL LIST OF TREATIES AND OTHER INTERNATIONAL
AGREEMENTS CONCLUDED BY JAPAN IN 2023 619

DOCUMENTS

1. Written Statement and Oral Statements of Japan Presented in the Advisory
Proceeding on the *Legal Consequences Arising from the Policies and
Practices of Israel in the Occupied Palestinian Territory, Including East
Jerusalem*. 622

2. Written Statement of Japan Presented in the Advisory Proceeding on the
*Request Submitted to the Tribunal by the Commission of Small Island
States on Climate Change and International Law*. 639

ACTIVITIES

I. Activities of the International Law Association of Japan 642

II. Activities of Related Academic Associations in Japan 647

1. Kokusaiho Gakkai (Japanese Society of International Law [JSIL],
established in 1897) 647

2. Kokusai Shiho Gakkai (Private International Law Association of Japan,
established in 1949) 659

3. Sekaiho Gakkai (Japanese Association of World Law, established in 1965)
..... 664

INSTRUCTIONS FOR SUBMISSIONS TO THE JYIL 667