ACTIVITIES

1. Activities of the International Law Association of Japan

THE TWENTY-FOURTH ACADEMIC CONFERENCE
(2017)

Date: April 22, 2017
Place: Sanjo Kikan, 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 Kimihiko matsuno, 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," Raqqah, appears to be approaching.

However, as evidenced by the deadly attack targeting teenagers in Manchester this May, IS terrorism is spreading throughout Europe, thus liking 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-Smith Idris 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.

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
Kimiaki Matsuoka, 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 anesthetized and herosized him. Protesting this incident, a famous Azerbaijan writer published a novel depicting Azerbaijan 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 might 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 Kukkun, 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 2015, 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
Kazuhiko Nakatani, Secretary-General.

(iii) The academic activities scheduled for this term were presented by Professor Kazuhiko Nakatani, Secretary-General on behalf of Professor Yui 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 Takashita, Associate Professor, Ritsumeikan University
- Hitomi Takemura, Associate Professor, Aichi University
- Akhiro Matsui, Associate Professor, Osaka Institute of Technology
- Chie Kojima, Associate Professor, Musashino University
- Hiroshi Miyashita, Associate Professor, Chuo University
- Mikiko Otani, Attorney-at-law, Tohono-mon Law & Economic Offices
- Masayumi Suzuki, Professor, Nagoya University
- Yuko Osakada, Associate Professor, Chukyo University
- Norihito Sakata, 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 Kimura, Associate Professor, University of Tokyo
- Sayoko Tanaka, Associate Professor, Hosei University
- Yasuhiko Kagami, Associate Professor, Chubu University
- Kei Nakajima, Research Fellow, Kobe University
- Yasuhiro Shimazaki, 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 Doguchi, Shuichi Furuya
- Kazuya Hirobe, Yui Iwasawa, Assuko Kanehara, Shigeru Kozi, Yoshihito Kuramochi, Yoshihiro Matsui, Kogetsu Morikawa, Shinya Murase, Kazuhiko Nakatani, Naoya Oke, Hisashi Oikawa, Naoko Sakai, Hiroshi Sakai
- Sakai, Shigeki Sakamoto, Yoshiki Sakurada, JUNKO T. Kimio
- Yakushiji, Masaharu Yanagihara, Koeda 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.

   b. At the Third Council Meeting of 2016 held on November 28, 2016 in Shigoku 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.

Kazuhiko Nakatani