

## Volume 56 (2013)

## CONTENTS

## ARTICLES

THE ROLE OF PROMINENT JURISTS IN JAPAN'S ENGAGEMENT WITH  
INTERNATIONAL LAW, 1853-1945

- Introduction: The Role of Prominent Jurists in Japan's Engagement with  
International Law, 1853–1945 ..... *Masabaru Yanagibara* 1
- Learning the New Law, Envisioning the New World:  
Meiji Japan's Reading of Henry Wheaton..... *LAM Hok-chung* 4
- Yukichi Fukuzawa (1835-1901) — Revisiting Fukuzawa from  
a Comparative Perspective — ..... *HAN Sang-bee* 37
- Thomas Baty: An International Lawyer as Public Intellectual between  
Imperial Japan and the Republic of China ..... *Anthony Carty* 70
- Mineitcuro Adatci (1869-1934):  
His Concept of International Adjudication ..... *Masabaru Yanagibara* 95
- Sakutarō Tachi: A Blend of Scholarship and Practitionership,  
and Its Fate in Japan..... *AKASHI Kinji* 122
- Juji Enomoto: The Case of an International Lawyer in the Imperial  
Japanese Navy..... *Masabiro Kurosaki and Akira Mayama* 144

## HISTORICAL PERSPECTIVE OF JAPANESE PRIVATE INTERNATIONAL LAW

- The Origin and Evolution of Private International Law in Japan  
..... *Yoshiaki Sakurada* 164
- Nobushige Hozumi and Saburo Yamada  
— The Enactment of the *Horei* of 1898 — ..... *Aki Kitazawa* 181
- The Beginning and Development of Japanese Doctrines on the Private  
International Law — Koichi Yamaguchi (1866-1945) and Iwataro Kubo  
(1897-1980)..... *Jun'ichi Akiba* 196

Sadajiro Atobe and Kotaro Tanaka: The Universal Private International  
Law School of Thought in Japan ..... *Keisuke Takeshita* 217

Hidebumi Egawa: Founder of the Internationalist Tradition  
in the Japanese Conflict of Laws..... *Dai Yokomizo* 243

#### THE GREAT EAST JAPAN EARTHQUAKE AND INTERNATIONAL LAW

The International Legal Framework for Liability and Compensation for  
Damage from Nuclear Accidents — History, Present Challenges,  
and Future Course ..... *Rokuichiro Michii* 257

The International Atomic Energy Agency and the International Legal  
Framework for Nuclear Safety  
..... *Wolfram Tonhauser and Anthony Wetherall* 283

#### PRIVATE INTERNATIONAL LAW

Is a Uniform Law Always Preferable to Private International Law?  
— A Critical Review of the Conventional Debate on Uniform Law and  
Private International Law from the Viewpoint of Economic Analysis —  
..... *Toshiyuki Kono and Kazuaki Kagami* 314

#### JAPANESE DIGEST OF INTERNATIONAL LAW

Implementation of Conventions Requiring State Parties to Establish Jurisdiction  
Over Extraterritorial Crimes — Enactment of Article 4-2 of the Japanese Penal  
Code — ..... *Mari Takeuchi* 338  
*Suppression Conventions — Extraterritorial Crimes — Obligation to Criminalize*  
*— Obligation to Ensure Prosecution — Principle of aut dedere aut iudicare —*  
*Principle of Legality — Means to Ensure Legal Certainty of the Treaty Provision —*  
*Domestic Procedures to Make the Contents of Treaty Provisions Known to the Public*  
*— Operation of Article 4-2*

#### CASES AND ISSUES IN JAPANESE PRIVATE INTERNATIONAL LAW

Choice-of-Law Rules to Answer an Incidental Question..... *Takami Hayashi* 357

## BOOK REVIEWS

- Kaku ni Tachimukau Kokusaibo — Genten karano Kensho* [International Law against the Use of Nuclear Weapons: Analysis of Its Developments since the Origin of the Issue], by Hisakazu Fujita. Kyoto: Horitsubunkasha, 2011.  
..... *Tatsuya Abe* 367
- Ryoiki Kengen Ron — Ryoiki Shibai no Jikkousei to Seitousei* [The Acquisition of Territory in International Law: The Effectiveness and Legitimacy of Territorial Control] (with English summary), by Sookyeon Huh. Tokyo: University of Tokyo Press, 2012..... *Hironobu Sakai* 368
- Kokusai Chiteki Zaisanken Hogo to Ho no Teishoku* [International Protection of Intellectual Property Rights and Conflict of Laws], by Eonsuk Kim. Tokyo: Shinzansha, 2011..... *Atsuko Yamaguchi* 371
- Dokdo, Historical Appraisal, and International Justice*, edited by Seokwoo Lee and Hee Eun Lee. Leiden: Martinus Nijhoff Publishers, 2011.  
..... *Tetsuya Nakano* 374
- Gendai kokusaibou no Shisou to Kouzou* [Thoughts and Structure of Contemporary International Law], 2 Volumes (Volume I: History, State, Organization, Treaties, and Human Rights; Volume II: Environment, Sea, Criminal Matters, Disputes, and Perspective), edited by Takeo Matsuda, Norio Tanaka, Kimio Yakushiji, and Shigeki Sakamoto. Tokyo: Toshindo, 2012.  
..... *Toshiya Ueki* 378
- International Law: An Integrative Perspective on Transboundary Issues*, by Shinya Murase. Tokyo: Sophia University Press, 2011. .... *Mari Koyano* 381
- Kokusaibo Ronsbu* [Essays in International Law], by Shinya Murase. Tokyo: Shinzansha, 2012..... *Yasubiro Shigeta* 385
- Patent Litigation in Japan and Germany* (Zeitschrift für japanisches Recht, Special Issue 3), edited by Guntram Rahn. Carl Heymanns Verlag, 2011.  
..... *Peter Ganea* 388
- Kokusaiminjisobobo to Kokusaishibo Ronsbu* [Treatises on the Law of Cross-border Civil Procedure and Private International Law], by Akira Takakuwa. Tokyo: Toshindo, 2011..... *Yasubito Inoue* 391
- Kokusai-shibo/Kokusai-torihikibo no Shomondai* [Issues in International Private Law and International Trade Law], edited and written by Hiroshi Taki. Tokyo: Chuo University Press, 2011..... *Shinomi Matsunaga* 394

JUDICIAL DECISIONS IN JAPAN .....	398
I. Public International Law	
Supreme Court, Judgment, December 8, 2011.....	399
<i>Protection of Copyrighted Works of the Democratic People's Republic of Korea — Article 6(3) of Japan's Copyright Act — Legal Relations under the Berne Convention with an Unrecognized State</i>	
Tokyo District Court, Judgment, October 1, 2010.....	402
<i>Recognition of Refugee Status — Non-refoulement — Special Permission to Stay — Nullity of the Disposition of Issuance of a Written Deportation Order</i>	
Yokohama District Court, Judgment, November 24, 2011.....	413
<i>Responsibility of the State under Article 1 of the Special Civil Act Attendant upon the Enforcement of the "Agreement under Article VI of the Treaty of Mutual Cooperation and Security between Japan and the United States of America Regarding Facilities and Areas and the Status of United States Armed Forces in Japan" — Necessity to Consider the Special Nature of Military Personnel and Civilian Employees of Foreign Armed Forces in Japan — Delinquency of United States Naval Force in Japan to Supervise the Military Personnel and Civilian Employees</i>	
Tokyo District Court, Judgment, December 19, 2011 .....	423
<i>United Nations Security Council Resolution 1737 — Prevention of Specialized Teaching or Training of Iranian Nationals — Refugee Convention — Discrimination Based on Nationality</i>	
II. Private International Law	
Tokyo High Court, Judgment, January 18, 2012 .....	427
<i>Applicable Law for Rights in rem and Superficies in Japan — Act on General Rules for the Application of Laws — The Horei — Conditions for Validly Acquiring Superficies</i>	
Tokyo District Court, Judgment, May 24, 2012 .....	430
<i>International Adjudicatory Jurisdiction — Place Where the Damage Occurred — Place of Performance — Applicable Law — Employment Dispute — Tort — Employment Contract — Bonus Reduction</i>	
Tokyo District Court, Decision, July 11, 2012 .....	439
<i>Copyright Law — Act on the General Rules for Application of Laws — Damages for Infringement — Cease and Desist Order</i>	

CHRONOLOGY OF JAPANESE FOREIGN AFFAIRS .....	444
CHRONOLOGICAL LIST OF TREATIES AND OTHER INTERNATIONAL AGREEMENTS CONCLUDED BY JAPAN IN 2012.....	467
DOCUMENTS	
I. National Legislation	
Act to Partially Amend the Mining Act.....	470
II. Other Document	
Memorandum of Understanding between the United States of America and Japan with Respect to the WTO Dispute Regarding the Zeroing Procedures in the United States Anti-Dumping Proceedings.....	475
ACTIVITIES	
I. Activities of the International Law Association of Japan.....	480
II. Activities of Related Academic Associations in Japan .....	487
INSTRUCTIONS FOR SUBMISSIONS TO THE JYIL .....	495
TABLE OF CASES .....	498
TABLE OF TREATIES AND OTHER INSTRUMENTS .....	500