

Creating New Corporate Legal Systems for Mature Civil Society
- Restructuring Legal Systems of Corporation,
Finance and Capital Market, and Asian Challenges -

Symposium: Examine the Significance of Public Company Law – Toward the Basic Law for Corporate Society and Civil Society – Break the Spell of Civil Law

(2010/2/8)

This symposium was held aiming at deepening the discussions on the social significance and concrete contents of public company law in Japan. With more than 320 participants from academic, financial, and legal communities, it became the site of heated debate, getting to the heart of the issue.

[Moderator] Professor Tatsuo Uemura, Waseda University, Director of Waseda Global COE, Waseda Institute for Corporation Law and Society

First, Vice Finance Minister Naoki Minezaki (Adviser of Public Company Law Project Team of the Democratic Party) made a speech on Public Company Law of the Democratic Party. In his speech, he emphasized that it was necessary to establish a new public concepts for the Hatoyama administration focusing on the perspectives from life, consumer, and ordinary people and the public company law must be integrated with such perspectives.



Next, Professor Kazuhito Ikee, Keio University, spoke on the theme of "What Is Missing in Japanese Corporate Governance". He stated that what must be pursued for Japanese corporate law system should be the responsibilities to general and minority shareholders. As an expert in

disclosure, accounting and auditing, Mr. Keita Yoshida, Chief Executive of the Japanese Institute of Certified Public Accountants emphasized that it was necessary to unite the concepts in Financial Instruments and Exchange Act and the concepts in Companies Act as to reliability improvement in financial information of listed companies and Public Company Law. Then, with the theme of "Public Company Law and Corporate Combination Law System", Professor Yasuo Osaki of Waseda University highlighted the necessity of corporate combination law system in harmony with the reality of Japanese corporations. As the issues surrounding concrete design and contents of Public Company Law, Professor Tatsuo Uemura indicated that the next revision might bring or start drastic changes to the fundamental ideologies just as the 1950 revision. He stated that the Company Law was quickly taking on a character as the basic law for corporate and civil society by focusing on the concept of investor and the change meant a transformation toward a law of such a nature.

Then, a panel discussion took place with the following panelists.

Panelists

Takeo Inaba, Attorney at law, former Professor of Waseda University, former Chief Justice of Hiroshima High Court, former Councilor of Ministry of Justice)

Toru Ishiguro, Attorney at law, Mori Hamada & Matsumoto
Atsushi Suemura, special editorial staff member of Nihon Keizai Shinbun

Attorney Takeo Inaba pointed out that we should get back the original model of the Company Law which the current Company Law abandoned. He said that corporate combination law system was a burden left behind in the modernization of Company Law and the implementation of pure holding company without corporate combination law system must be "installing a flushing toilet without sewers". He also clearly mentioned that it was absolutely imperative to adjust the needs among Ministry of Justice, FSA, and METI instead of letting Ministry of Justice only handle this matter. It is noteworthy that Mr. Inaba who is one of important former members of Ministry of Justice stated as such.

Attorney Ishiguro stated that the home field for publicly-traded company law must be at a capital market rather than general shareholders' meeting. He emphasized that many issues on stock company such as acquisition, took on an aspect of all-out war including laborers or investors and should not be handled as a matter of the shareholders only.

Mr. Atsushi Suemura stated that the premise of limited responsibility and free transferability of share made the listed company system embrace the contradiction of lowering managerial discipline and the quality of shareholders. He concluded that it was necessary to develop a system focusing on social public nature before the private world and Public Company Law should play such a role.

Then, from the floor, Attorney Naohiko Matsuo, Professor of University of Tokyo and former FSA official, asked the panelists' view on that TOB should not be moved to company law and that publicly-traded company law as a law of the mechanism of financial products include business acts like trust business act. Also Professor Junjiro Mori, Fukuoka University stated that the positioning of laborers must be seriously examined. To these questions, Professor Uemura stated that TOB was a legal system playing an important role of capital market legislation and should not be included in company law. He also said that administrative regulations still aimed at accomplishing purposes in Financial Instruments and Exchange Act even if the concepts of the Act were approved in terms of company law. The governance of company law might become a help but it does not mean the administrative regulations get into each company law part. If we see the purpose of company is to realize its mission at a maximum, corporate organization is the one for that purpose and a laborer should be a legitimate member of the organization.



Report: Professor Tatsuo Uemura, Waseda University, Director of Waseda Global COE, Waseda Institute for Corporation Law and Society

UPDATE

Asia Economic Community Forum 2009 in Seoul

From November 11 to 13, 2009, "Asia Economic Community Forum 2009" was held under the theme of Creating One Asia Together, at Yingcheng International Conference Hall, Songdo ConvensiA in Seoul. Professor Shigehito Inukai, Waseda Global COE was invited as a keynote speaker of the session of "financial supervision & regulation system after the economic crisis" on November 11 and made a speech titled "How to create Common and Suitable Self-Regulatory Rules in Asian Capital Market? - For the recognition of the common infrastructure -"



Professor Inukai stated that it was necessary to develop various market infrastructures for funds flow in Asia in order to correct imbalance of international payments and enormous savings in Asia, which was fingered as a remote cause of the recent financial crisis. It was inevitable to create "cross-border bond markets for professionals within Asia" which should be called as Asian version of Euro bond market. Concretely speaking, it was necessary to develop a grand design for the various market infrastructures of cross-border (inter-regional) markets including the establishment of self-regulatory rules for professional market players as well as to create such infrastructures respectively with the partnership between the private sector (market players), the public sector (regulatory authorities in each country), and researchers within the region.

The Announcement of the Findings and the Proposal - the Feasibility of Asian MTN Program (2009/12/10)

We were entrusted with "the research on the feasibility of Asian MTN (Medium Term Note) Program" by Japan Bank for International Cooperation in the spring of 2008. We had conducted the first and second phases of the research for a year and submitted a report in April of 2009. Through the courtesy of JBIC, we are allowed to announce the revised report and a proposal including the subsequent results and

the additional proposal. In order to share the research report and proposal with concerned parties to capital markets and researchers, we held a forum on November 28, 2009, with the JBIC (p.7 of this newsletter).

※Please visit the following URL for the detail.

http://www.globalcoe-waseda-law-commerce.org/activity/091210_AsiaMTN.pdf (in Japanese)

The Quarterly Review of Corporation Law and Society Vol.19 “Feature: Private International Law”

The Quarterly Review of Corporation Law and Society Vol.19 “Feature: Private International Law” was published and freely viewed at our webpage (in Japanese).

Feature: Private International Law

Message: Accounting and Esperanto Eiko Tsujiyama

1. Symposium: Convergence of Accounting Standards – Reality in the EU, a Lecture by Chairman of EFRAG
Lecture [1] EFRAG Update Stig Enevoldsen
Lecture [2] Activities of PAAinE Paul Ebling
Panel Discussion: Application of IFRS, Performance Report, and Revenue Recognition in Europe

2. Symposium: Corporate Crime Investigations and the Role of Lawyer in the U.S. after SOX – Suggestion to Japan
Part 1 Lecture
U.S. Department of Justice Policies and Corporate Criminal Investigations: Uncovering Wrongdoing in a Shifting Legal and Political Landscape Charles D. Weisselberg
Part 2 Comments and Questionnaires

3. Japan-Korea Comparison/International IP Research
Japan-Korea Comparison/International IP Research (5)
Shoichi Kidana

Part 1 Various Issues on Internet and Intellectual Property
Issues on Private International Law on Business Model
Patents and Digital Contents Use on the Internet

Mari Nakayama
Issues on Private International Law on Cyber Entertainment
Park Jina

Part 2 Principles on Private International Law on Intellectual Property from the Viewpoint of Japan and Korea

General Provisions of Principles on Private International Law on Intellectual Property Yoshiaki Nomura

General Provisions of Principles on International IP Litigation – Korean Revision to the Japanese Draft of Dec.22, 2008 Sohn Kyung Han/ No Taeak

International Jurisdiction on Intellectual Property Cases – the Comparison of Japan-Korea Drafts and the Findings of Analysis - Lee Sung-Ho

Japan’s Proposal on Rules on International Jurisdiction on Intellectual Property Disputes Satoshi Watanabe

Principles on Private International Law on Intellectual Property - Japan’s Proposal on Applicable Law Clause

Shoichi Kidana

Applicable Law Concerning Intellectual Property – an Opinion to Japan’s Proposal on Applicable Law Clause

Kwang-Hyun Suk

Approval and Execution of Foreign Judgments on IP Cases

Syunichiro Nakano

Approval and Execution of Foreign Judgments on IP Disputes – Comparing Korea and Japan Proposals

Lee Gyu-Ho

< Documents >

Principles on Private International Law on Intellectual Property (Japanese Proposal) of 2008.12.15 (Japanese version and English version)

Principles on Private International Law on Intellectual Property (Korean Proposal) of 2006.12.11

4. Criminal Law

The Form of Organization and Scandals – the Central Government’s “Reports” on Scandals of Organization

Ken Shiraishi

The Position of Embryo and Stem Cell Research

Henning Rosenau

Translation=Katsunori Kai

Yuutaro Mieno

Yoshinori Fukuyama

A Proposal on Securities Regulation Reform in the U.S.

Yasunobu Wakabayashi

A Consideration on Elderly Employment – from the Perspective of Social Innovation - Akito Yoshizawa

Corporate Penalties in China – History, Legislation and Its Reformation Zhou Zhenjie

Research on Chinese Regulations on ChiNext – Regulation on IPO Chin Keizen

GCOE Note

Ahn Joo Hee · Yuusuke Tanemura · Chin Keizen

Introducing Research Projects (5)

In our Institute, various research groups independently promote activities under the keyword as “corporation, market, and civil society”. This newsletter features the project overview of each research project group in series.

7. Corporate Legal System - Theories, Legislation, and Interpretation -

A7-1. General Research on Corporate Legal System

The group is in charge of general corporate law areas other than those listed below and functions as a think tank, investigating major judicial decisions and issues of corporate law interpretation, making proposals, and holding emergency symposia. The group conducts topical projects by those other than project leaders as well as plans cross-sectoral general symposium.

Project Leader: Tatsuo Uemura

A7-2. Research on Waseda Takeover Rule

This project has been conducted since the time of the 21st Century COE and presented the final report of the Center's initial period at the "Question-Raising Symposium" in January 2008. It has already attracted considerable attention from various government ministries. In the GCOE, the project conducts research on the development of specific systems. We oversaw the preparation of a proposal on "Japanese Takeover Code" modeled after the British Takeover Code and established a plan for the creation of a "Japanese Takeover Panel". We examine and conduct interviews on takeover regulations in various countries with a focus on Europe and conduct research to identify the similarities and differences among the corporate and capital market legal systems of Western countries.

Project Leaders: Tatsuo Uemura, Hiroyuki Watanabe, Kenji Kawamura

A7-3. French Business Legislation Research

This group engages in multi-faceted, multi-dimensional research on legal approaches to corporations and laws concerning corporations based on legal traditions since Roman law with an eye towards future developments in the EU, focusing on French law. France was directly influenced by Roman law and traditions from Italy, an advanced commercial nation in the Middle Ages, and even today plays a central role in Europe along with Germany. Topics cover not only traditional commercial law perspectives such as corporate law and commercial transaction law, but also corporate legal systems in a broad sense such as competition law, capital market law, banking law, and financial law. The project also considers civil law as the prerequisite for a corporate legal system and the perspective of the Constitution to stipulate how corporate entities should be. In France - a forum of the Enlightenment, the Declaration of Human Rights, and citizens' revolutions, what type of ideological harmony has been achieved between the corporate society and the civil society, what is the content of the unlegislated and unseen normative awareness within the corporate society, and what French sensibilities are observed within the corporate society? These topics will make valuable contributions to the COE.

Project Leader: Kyoichi Toriyama

A7-4. German and EU Corporate Legislation Research

Japan's legal systems since the Meiji Restoration were developed with the strong influence by Europe and

especially Germany. After the World War II, they were strongly influenced by the United States. Relying exclusively on American legal systems, however, is problematic and undesirable effects have resulted. Following the collapse of the Soviet Union, many Eastern European countries joined the EU, and the geographic center of Europe shifted eastward. As a result, Germany has come to occupy an even more important geopolitical position. Since Germany is a member of the EU, German law is influenced by EU law. Concentrating the wisdom of its 27 member countries, the EU is developing legal systems to adapt to the globalization of economies and advances in information and communications technologies. It has significant benefits to study this movement. The group plans to conduct research on corporate law (including worker participation legislation), capital market law, and the decisions of European courts with a focus on economic and social conditions.

Project Leader: Shosaku Masai

A7-5. Empirical Research on Professionals Involved with Corporate Behavior

As a project in the 21st COE, this research team examined the roles of legal professionals in maintaining the legitimacy of corporate behavior. The most recent activity was a symposium, held on January 13, 2007, that examined the professional liability of lawyers and accountants with respect to corporate behavior (see *The Quarterly Review of Corporation Law and Society*, Vol. 4, No. 2, pp. 59 et seq.). The group in the GCOE held a symposium comparing Japanese and American law on this same topic in December 2008 in order to compile all activities as a fruit of the research. Considering rapid increase in legal professionals specializing in corporate law in Japan, we conduct a research project to investigate current conditions starting 2008 and plan to reorganize our team for this project. The group hopes to investigate future models of corporate lawyers in Japan based on the empirical results.

Project Leader: Setsuo Miyazawa

A7-6. Research on the Bankruptcy Legislation in the Next Generation

In conjunction with the structural changes in economies and industries around the world, it is essential that bankruptcy legislation, that is, rules concerning the restructuring of corporations in crisis, be designed and operated more efficiently and more in line with actual

conditions. Under the prior COE, the project examined the issues including Industrial Revitalization Corporation of Japan, the history of bankruptcy legislation in Japan, and Chapter 11 of the United States Bankruptcy Code and theories critical of it (the BAHM model), from the perspective that bankruptcy legislation prevent free trade in terms of corporate and finance theory. Under this GCOE, the project aims to organize results, expand the scope of research to related fields such as hypothecation, and deepen discussions within the group, in order to establish a viewpoint for the next generation of bankruptcy law based on the opinions of outside experts.

Project Leaders: Mitsuru Iwamura, Satoshi Nagano

8. Corporate Society and Law in Asia

A8-1. Normative Integration of Civil and Commercial Law in Asia

The legal systems (private law) of many Asian countries were strongly influenced by continental European law, which developed rapidly in the nineteenth century, and they adopted many aspects of that law. Asian countries each have their own unique cultures, however, and these cultures have exerted various influences in legal issues. For this reason, it has not been possible to consider integrated norms in Asia. During the “Asian era” of the twenty-first century, however, economic and cultural exchange has expanded, making the development of integrated norms concerning commercial law an urgent issue. Based on the academic exchanges that have been developed between Japan and South Korea and between Japan and China, this project establishes an “Asian Legal Research Center” on the civil and commercial legal systems of the three countries, aiming at searching for the “possibility of integrated norms and interpretation in Asian commercial law”. It is believed that integration of general legal fields relating to corporations and markets in the conduct of research activities will provide the most beneficial perspectives for Asian countries that will confront major issues hidden in corporations and markets. From this perspective, this project will encourage academic exchanges among Japan, China, and Korea with respect to corporate legal systems.

Project Leaders: Koji Ohmi, Teruaki Tayama

A8-2. Comparative Study on International Maritime Law and Its Legal System in East Asia

There are many integrated norms in maritime fields established by international treaty or international custom. In the field of international marine transport, for example, the adoption of a new treaty is being considered in the United Nations. There are continuous changes in the development of international legal rules concerning maritime matters. Amidst these circumstances, the development of the East Asian economic region, centered on Japan, China, South Korea (Japan, South Korea, China), has been astounding, increasing the need for uniform understandings in the interpretation and application of international legal norms in East Asia. Based on this understanding, this project seeks to collaborate with researchers in other countries, particularly in East Asian countries, and promote cooperation in research on maritime matters. In Japan, the existence of maritime law as a separate field has been viewed negatively and adversely. Maritime commercial law was seen as a part of commercial law, maritime insurance law was considered to be a part of insurance law, seafarer labor law was thought to be a part of labor law, and international private maritime law was considered to be included in international private law. Thus, maritime law was fragmented. Each of these, however, is just one small segment of the respective fields. At Waseda University, the Institute of Maritime Law was established to address maritime law as a comprehensive and cross-sectoral field. This project undertakes its activities in collaboration with the Institute of Maritime Law.

Project Leader: Takashi Hakoï

9. Corporate Society and Laws in Russia, Eastern Europe, and Scandinavia

A9-1. Corporations and Society in Northern European Laws

The study of corporate law developed countries in the EU tends to focus on Anglo-American, German, and French law. The Northern European countries including Norway and Sweden are also advanced industrial countries with global corporations such as Nokia. There are also the three Benelux countries such as the Netherlands, which is the home of Shell and Philips (and has been in the news recently concerning integration in the aviation industry), as well as the three Baltic countries such as Estonia, and Denmark, which hold key positions in the North Sea and Baltic Sea region. It seems that research in Japan has been inadequate concerning the corporate society and legal systems of these Northern Europe countries. Especially, the legal systems of Sweden and other Scandinavian

countries are a field that should be examined along with the cultures that support the “principle of interest balancing”. The legal systems of the Netherlands, which resemble German law but remind us that the Netherlands were once an Anglo-Saxon territory, and the laws of Denmark (including the laws of Iceland, which was once a Danish territory), can be compared to British law. We established a research group to focus on Northern Europe as an independent legal territory even though it is a part of EU law and conduct research activities to investigate how the corporate society and civil society can coexist.

Project Leaders: Yasuo Osaki, Shin Matsuzawa

A9-2. Corporations and Society in Russia and Eastern Europe

The group conducts research on the relationship between corporations and society in Russia and Eastern Europe with experts on Russian and Eastern European law who are affiliated with Waseda University. Research exchanges were conducted with the chief justice of Russia’s Supreme Commercial Court under the 21st century COE, and Professor Hiroshi Oda of University College London, who is an expert on Russian law, is a visiting professor of the Institute, providing the group with the human resources and knowledge necessary to develop this field.

Project Leaders: Hiromichi Hayakawa, Hiroshi Oda

10. Global Information System of Japanese Corporate Laws

A10-1. Global Information System of Japanese Corporate Laws

The academic level of Japanese jurisprudence is quite high and there is a record of continuous research on foreign laws, which has implications to Western countries. However, little of legal information from Japan is disseminated overseas. It is extremely unfortunate that Japan seems to fall behind the countries that are dominated by Anglo-American law and do not have their own independent legal cultures. The Institute aims to establish the base for the periodic dissemination of specialized topics in English by young researchers. The expertise of the Institute of Comparative Law can be used too. The project is still in the preparatory stages.

Project Leader: Tatsuo Uemura

Symposium & Seminar

■International Symposium:

Creative Law : A Challenge of New Comparative Law Theoretical and Practical Issues in Comparative Law in the New Millennium (2009/11/14-15)

These two international symposia were held GCOE with the common theme of theoretical and practical issues in comparative law. The first day focused on the theories in comparative law and the second day focused on more practical issues in comparative law.

Symposium 1: New Era of Comparative Law: Challenging for Civil Society and Harmonization of Law (11/14)

Japan has a history of continuous transplant of Western Law, which is one of the reasons why Japanese legal researchers and practitioners are often called for the projects of legal assistance. While European laws are drastically changing through the development of EU laws, new issues are being perceived in order to conquer American way of systems which brought down the worldwide financial crisis: what legal system can be created in Asia as a whole and how we can cooperate each other in law study. These issues are beyond the scope of the traditional theoretical study of comparative law, which had pursued “the Unification of Law”, and should be analyzed with a new theoretical framework. To address such urgent issues, this symposium examined the idea and the content of “the Unification and Harmonization of Law in Diversity,” which is an important theme in the contemporary comparative law studies. It revealed the existence of various models of law even within Western Law and different opinions about “the Unification of Western Law” among the researchers. With such new understandings, not only will we find implications for the future direction of our legal system, but also we will be able to clarify the roles and the limitations of Western Law in Asian countries. It also enables us to analyze series of issues related with the theoretical aspects of contemporary comparative law to create new horizons for the comparative law studies.

In the symposium, eminent scholars leading the comparative law studies of the world gathered to have diversified discussions from the various viewpoints such as Europe, Asia, and Japan. It successfully ended as an event “creating new horizons for the comparative law studies”. Especially, we were afraid that Professor Zimmermann was

unable to come due to health reasons. However, thankfully, he was able to participate in the session from Germany via the teleconference system which was hastily arranged at the last moment. His excellent lecture with full of suggestions fascinated the audience. We will publish the contents of the symposium in the near future.

“The Aim of the Symposium”

Professor Michiatsu Kaino, Waseda University

“The Reform of Civil Code in Japan and Comparative Law”

Dr. Takashi Uchida, Senior Advisor on Legislative Reform, Ministry of Justice, Former Professor of Tokyo University

“Legal History and Comparative Law”

Professor Reinhard Zimmermann, Director, Max Planck Institute for Comparative and International Private Law

“The Philosophy of a European Civil Code: European Identity, Transnational Civil Society, and the European Social Model”

Professor Hugh Collins, LSE, University of London

“Codification of the Civil Law in Viet Nam: A Legacy of the French Colonization”

Professor Nguyen Ngoc Dien, Vice Dean of Faculty of Economics of Law, Vietnam National University

“Transplant of Western Law in East Asia: Legal Evolution and Cultural Change”

Professor Tsung-Fu Chen, Associate Dean, College of Law, National Taiwan University

< Panel Discussion >

Coordinator: Emeritus Professor Rolf Knieper, University of Bremen

Discussants: the Guest Speakers as above, and;

Prof. Kozo Ogawa (Toin Yokohama Univ.), Prof. Tadashi Takizawa (President of Japan Society of Comparative Law: Jochi Univ.), Prof. Takeshi Mizubayashi (Hitotsubashi Univ.), Prof. Michiatsu Kaino, Prof. Hikota Koguchi, Prof. Tatsuo Uemura (Waseda Univ.)

Symposium 2: Global Economic Crisis and Role of Labor Law: a Comparative Law Perspective (11/15)

The symposium was held to explore the following two questions through international comparison. One is how the global economic crisis triggered by the US financial crisis is affecting the employment in each country and the other is what kind of issue is raised for the labor law system and theories in each country. Experts from different countries gathered to have discussions in order to find new challenges in labor law in the 21st century and present a vision for a

direction of reconstruction of labor law. In each country, the method has not been found to overcome the polarization of labor market (non-regular worker and regular worker) and it is an urgent matter to develop a new relationship between employment security and social security. Active discussions were made concerning various issues including “flexicurity” which European countries are adopting.

“The Aim of the Symposium”

Professor Makoto Ishida, Waseda University

“Beyond the Third Way in Labour Law: Towards the Constitutionalization of Labour Law?”

Professor Hugh Collins, LSE, University of London

Comment: Prof. Hiroshi Ishibashi, Kumamoto University

“Will There Be a New “New Deal”? – The Impact of the Global Economic Crisis on Labor and Employment Law in the United States of America”

Professor Karl Klare, Northeastern University

Comment: Professor Hiroko Hayashi, Fukuoka University

“The Role/Function of Italian Labor and Employment Law in the Economic Crisis- Towards the New Era of Studies on Comparative Law”

Professor Bruno Caruso, University of Catania

Comment: Professor Shinya Ouchi, Kobe University

“The Global Economic Crisis and Role/Function of Employment and Labour Law in Denmark with Special Reference to the Danish Flexicurity System”

Professor Ole Hasselbalch, Aarhus University

Comment: Professor Hajime Wada, Nagoya University

“Economic Crisis and the Role of Labor Law in Korea”

Professor Roh Sang-Heon, University of Seoul

Comment: Professor Itaru Nemoto, Osaka City University

“Labor Law and the Unification of the Divided Labor Market”

Professor Yoichi Shimada, Waseda University

< Discussion >

Designated Discussants:

Professor Katsutoshi Kezuka, Chuo University

Professor Yoshimi Kikuchi, Waseda University

■International IP Symposium: Expansive Protection of French Copyright: Intersection with Other Branches of IP Protection and Limits for Public Interests

(2009/11/28)

This two-part symposium (JASRAC Copyright Seminar) invited Professor Yves Reboul, University of Strasbourg and Professor Frédéric Pollaud-Dulian, University of Panthéon -Sorbonne (Paris I) from France as lecturers and

Professor Toshiko Takenaka, University of Washington and Associate Professor Yasuto Komada, Sophia University School of Law as commentators.

In the Part 1, Professor Reboul had a lecture titled “the extension of copyright to other IP laws in France” and especially emphasized France’s position on the overlap of design and copyright.



In the Part 2, Professor Pollaud-Dulian made a lecture with the theme of “the Restrictions of Author’s Right in France”. He clarified the distinction between the laws in France, a country of author’s right, and the laws in the U.S., a country of copyright, and then, briefly introduced French copyright law. He also introduced the opinion that author’s right was one of human rights, mentioning the Universal Declaration of Human Rights, International Covenants on Human Rights and Convention for Protection of Human Rights and Fundamental Freedoms.

Then, Associate Professor Komada made a comment from the viewpoint of Japanese law and Professor Takenaka made a comment from the viewpoint of the U.S. law. The viewpoints from different countries on copyright or freedom of expression were discussed.

Organizer: Waseda University Center for Professional Legal Education and Research

Co-organizer: Research Center for the Legal System of Intellectual Property (RCLIP), Waseda University Global COE.

(Report made with the support of Asuka Gomi/Lea Chang)

■ **International Forum on Asia MTN Program and Market Infrastructure Including Asian Capital Market Legislation**
(2009/11/28)

This forum was held to announce the result and proposal of “the research on the feasibility of Asian MTN (Medium Term Note) Program”, co-hosted by Waseda GCOE, JBIC, and CMAA(Capital Markets Association for Asia).

We were entrusted with “the research on the feasibility of Asian MTN (Medium Term Note) Program” by Japan Bank for International Cooperation in the spring of 2008. We had conducted the first and second phases of the research for a

year and submitted a report in April of 2009. Through the courtesy of JBIC, we are allowed to announce the revised report and a proposal including the subsequent results and the additional proposal. We could announce them to the concerned parties and researchers in this forum and had fruitful discussions. Especially many participants supported the proposal of utilizing Tokyo AIM. ※Please visit our HP for the detail (Japanese only).

【Speakers】

Shigehito Inukai, Professor, Waseda University; Executive President & Security General of CMAA

Nobusuke Tamaki, Councilor, Director-General, Planning Dept., Government Pension Investment Fund

Hirohiko Suzuki, Director, Barclays Capital Japan Limited

Tsuyoshi Ando, Joint Head of Capital Markets Group, Global Investment Banking, Mizuho Securities Co., Ltd.

Yutaka Kimura, Director, Capital Markets Execution Group, Investment Banking Division, Nikko Cordial Securities Inc.

Katsunori Kudo, Senior Advisor for Capital Markets, Nomura Securities Co., Ltd.

Syuji Yanase, Professor, Waseda University, Attorney at law

Fujio Nakatsuka, Head of Financial Markets Research Division, Rating and Investment Information Inc. (R&I)

Satoshi Yoshida, General Manager, Product Administration Dept. Daiwa Securities SMBC Co., Ltd.

Hyun, Suk, Economist, Finance Studies Team, Bank of Korea/ Visiting Fellow, Waseda University/ ADB Consultant

【Co-organizers】

Nobuyuki Higashi, Head, Asia and Oceania Finance Department, JBIC

Yoshio Ohkawa, Asia and Oceania Finance Department, JBIC

【Commentators】

Hiroko Aoki, Professor, Chiba University

Tetsuya Hamabe, Director, Industrial Finance Division, METI

■ **“Global Environmental Issues and Corporate Responsibilities” Workshop No.1** (2009/12/9)

Under the theme of “Legal Issues of Emissions Trading Scheme”, this workshop examined law systems, legal positioning, and the relation with the existing regulations in Japan and Western nations. First, Professor Tadashi Otsuka, Waseda University, explained about the positioning of emissions quotas in Japan and Western nations. He mentioned the fundamental rules on ETS, the degree and scope of the property right (transferability), and the issues concerning transfer and amortization. Next, Attorney Takeshi Mukawa, Mori Hamada & Matsumoto, spoke on “ETS and Financial Instruments and Exchange Law”. Then, a discussion was made from the various perspectives.

Commentator: Professor Etsuro Kuronuma, Waseda Univ.

**■ Symposium: Issues surrounding the Recent IP Laws
(2009/12/12)**

This symposium (JASRAC Copyright Seminar) was held as the fifth anniversary of I.P. Annual Report, organized by Waseda University Center for Professional Legal Education and Research and co-organized by the RCLIP, Waseda Global COE. More than 190 participants participated.



The Panel 1 featured the current circumstances of publicity right protection and the criteria for judging infringement in Japan, the U.S., and Germany with the theme of “Legal Protection for Celebrities’ Names and Portraits – the Latest Movement of Publicity Right –” (Moderator: Associate Professor Ueno, Rikkyo University). The first lecturer, Associate Professor Koji Okumura, Kanagawa University, introduced publicity right protection in the U.S. Then, Associate Professor Masahiro Motoyama, Kokushikan University introduced the protection of the publicity right in Germany. Attorney Makoto Ito, Iota law and patent office’s lecture focused on the judging criteria for publicity infringement in books and magazines in Japan. In the following panel discussion, the lecturers discussed the U.S. and German responses from the perspective of comparative law. The protection of publicity right in the case of impersonation was also discussed. In addition, a broad range of discussions were held among the lecturers concerning the issues like the relations between the “exclusively” criteria and the freedom of expression.

(Report made with the support of Fei Shi)

In the Panel 2, with the title of “Summary - the Movement of Intellectual Property Precedents and Theories for Five Years”, Professor Tatsuki Shibuya, Waseda University, who writes the movement of precedents in the I.P. Annual Report and Mr. Tetsuya Imamura, full-time lecturer of Meiji University, Mr. Asuka Gomi, Patent Attorney, and Motoki Kato, lecturer of Shinsyu Univeristy who write the movement of theories summarized the past five years. Then, Attorney Ryoichi Mimura, former judge of IP High

court who involved with many IP cases made a comment on interesting discussion points in each field. Opinion exchanges also took place and the seminar ended very successfully.

(Report made with the support of Motoki Kato)

**■ Symposium: Internal Control and Corporate Management under a New Law System – The Current Condition and Future Challenges of Internal Control –
(2009/12/17)**

This symposium was jointly held by Graduate School of Commerce (Waseda Accounting Institute) and Graduate School of Accountancy (Research Institute of Business Administration), Waseda University. The purpose of the symposium were to examine (1) the potential problems in the internal control report system, which was adopted under the Financial Instruments and Exchange Act, based on the current conditions presented in internal control reports and auditing reports and (2) the current conditions and the direction concerning how to develop internal control adopted under the Company Act and how the parties responsible for corporate governance should confront internal control.



【Speakers】

Part I Securities Market and Internal Control

Yoshihide Toba, Professor of Waseda Univ., School of Commerce

Yoshitaka Yamada, Kyoto Audit Corporation, CPA

Tamaki Kakizaki, Professor of Toyo Univ., School of Law

Part II Company Law and Financial Instruments and Exchange Act – Ideal Legal Regulation on Internal Control

Yasuo Osaki, Professor of Waseda University, School of Law

Shinji Akizuki, Professor of Saitama Univ., School of Economics

Kunimichi Gamo, Senior Corporate Auditor, Toyo Engineering Corporation

【Commentator】 Prof. Tatsuo Uemura (Waseda University)

【Overall Moderator】 Prof. Takayasu Okushima (former Dean of Waseda University)

■ International Conference on Business History: Innovation and Globalization (2010/1/9-10)

The International Conference on Business History was held in 2008 as it is known today based on Fuji Conference which had been formerly held by Business History Society of Japan. In 2010, it was held with the theme of “Innovation and Globalization”, jointly organized by Hitotsubashi GCOE and Waseda GCOE again.

The 20th Century can be viewed as one of innovation and globalization. What suggestions did the lessons in the 20th century make to corporate governance or legislative design in the 21st century? The researchers at the forefront of the field presented a report and had an active discussion.

Session1: Transition to the Market Economy and Institutional Innovations

Hiroshi Shimizu, Hitotsubashi Univ., “Scientific and Technological Breakthroughs and Networks in the Case of Semiconductor Laser Technology in the U.S. and Japan, 1960-2000”

Miaojie YU, Beijing Univ, “Trade Liberalization, Firm Exits, and Productivity: Evidence from Chinese Firms”

Session2: Role of executives and institutions toward innovation

Minoru Shimamoto, Hitotsubashi Univ., “Idemitsu Kosan’s Innovation: Financial Recovery through Corporate Transformation into a Publicly Traded Company”

YoungWon PARK, Waseda Univ./Univ. of Tokyo, “Role of Owner/CEO on Development of Organizational Capability: A Case Study of Korean Global Firms (with Paul Hong and Takashi Shimizu)”

Session3: Innovation of Business Systems in Emerging Overseas Markets

Motoi Ihara, Saitama Univ., “Japanese Marketing System and Its International Transferability: the case of Kao in Southeast Asia”

Zukweon KIM, Konkuk Univ., “The Globalization Patterns of Multinational Enterprises: The Case of Samsung Electronics toward Emerging Markets”

Geoffrey JONES, Harvard Univ., “Multinational Strategies and Emerging Markets in Historical Perspective”

Session4: Governance for globalization and innovation

Howard GOSPEL, King’s College London, “Title: Innovation in Workplace Governance: Context, Challenges, and Change”

Kazuhiro Tanaka, Hitotsubashi Univ., “Perceived Development and Unperceived Decline of Corporate Governance in Japan”

Keisuke Maki / Tatsuhiko Inoue, Waseda Univ., “Symbiotic Relationships in Business Ecosystems (with Susumu Nagayama)”

(Report made with the support of Toru Imajyo)

■ “Constitution and Economic Order” Workshop No.7 (2010/1/10)

With the title of “Notes on Kant’s Legal Theory”, Professor Yasuo Hasebe, University of Tokyo, spoke on Kant’s theory on morality and law. Then, as to “reviewing the aspect of right to freedom in the right to life”, Associate Professor Kazuhisa Saito, Tokyo Gakugei University, referred to the Supreme Court’s decision on Asahikawa social insurance case and questioned why collecting social insurance premium from the poor was legal. An active discussion took place respectively and the workshop successfully ended.

■ Waseda Global COE Special Seminar (No.3)

《The Present Situation of Finance, Law, Management, and Accounting from the Perspective of the UK》

(2010/1/21)

As the last seminar of a three-part series, it was held with the theme of “Management in the UK”.

First, focusing on UK Boards and the role of CEO, Professor John Roberts, the University of Sydney, spoke on the function of the boards and the Chairman’s role. Next, as to “the role of Board and CEO in M&A – the UK, US, and Europe”, Professor Simon Deakin, University of Cambridge, spoke on legal and economic issues concerning takeover bids, differences across countries, and the regulatory framework. Last, Mr. John Buchanan, Centre for Business Research, the University of Cambridge, presented on “Why do boards act differently in Japan and the UK? – A focus on shareholder value”. A panel discussion followed, moderated by Professor Tatsuo Uemura. In addition to three speakers, Attorney Syuji Yanase, Professor Hiroyuki Watanabe of Waseda University, Associate Professor Kenji Kawamura of Kantogakuin University, and Visiting Professor of Hiroyuki Yanai of Waseda University participated.

(Report made with the support of Han Keongsin)

Waseda Global COE Program

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