

characteristics of the notion of rights and attitudes toward litigation among the Japanese and urged the creation of a new analytical model to operate beside the Western, universal one for a fuller understanding of the patterns of legal dynamics and legalization in contemporary Japan.

Prof. Hoshino, using his civil law expertise, argued that an examination of the Japanese Civil Code and its function was indispensable for exploring the law-consciousness of the Japanese. He pointed to the distinction between “law” and “a law”, i.e. *lebendes Recht* or customary law and *Staatsrecht* or state law and then proposed a re-examination of the modern concept of subjective rights.

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c. Legal Philosophy

The Japan Association of Legal Philosophy held its 1984 general meeting at Sophia University, Tokyo, on November 17 and 18, under the common topic “Theories of Rights” with the following agenda:

[First Day]

(1) The Structure of Legal Justification, by Ko Hasegawa (Associate Professor, Hokkaido University).

(2) Moral Rights — Looking at John Stuart Mill, by Katsumi Koyano (Professor, Takushoku University).

(3) An Essay on the Contemporary Theories of Rights, by Mitsunori Fukada (Professor, Doshisha University).

(4) Ein Versuch zur Begründung der Theorie über das objektive und das subjektive Recht auf die Zivilrechtslehre, by Shigeyoshi Harashima (Professor, Kyushu University).

[Second Day]

(1) The Concept of Rights in Legal Transactions According to A. Hägerström, by Setsuko Sato (Professor, Aoyama Gakuin University).

(2) Une reflexion sur le droit subjectif selon Jean Dabin, by Akira Mizunami (Professor, Kyushu University).

Prof. Hasegawa defined legal justification as a network whose purpose was to give reason to certain complex, multilayer and open practical decision making. It is primarily conditioned not only by legal norms but by various normative statements in general and secondarily by non-normative statements. He considered it as a typical variation of normative justification which was but one type of manifestation of human thought.

Prof. Koyano discussed J.S. Mill's theory of moral rights and pointed out that Mill's theory premised the notion that having a right meant having a moral justification to demand an act of another.

Prof. Fukada examined the issue of legal rights and moral rights pointing to analytical problems concerning the structure of the concept and characteristics of rights as well as to normative problems about the concept, their utility, and their relationship with justice. He argued the necessity of analyzing different aspects of legal rights, classed customary rights, ideal rights and practical rights as types of moral rights, and raised various issues by comparing natural right and human rights.

Prof. Harashima attempted to approach the theory of rights from the point of view of civil law. He gave examples of such current issues as environmental problems, general conditions and a cooling-off provision in door-to-door sales law and urged the necessity of re-examining citizens' claims to their private interests as integral elements of law in order to correct the "distortion of law" and "neglect of law" found in the examples cited. Here, he argued, lay the core of the theory of right.

Prof. Sato questioned the explanation that the legal act was

a legal requisite by which a certain legal effect was given, based on a party's declaration of his will to achieve such an effect. She cited an argument of A. Hägerström to show that this explanation of the legal act had its roots in seventeenth and eighteenth century natural law theories, then critically examined the concept of rights and duties involved in natural law theories.

Prof. Mizunami, relying on one of J. Dabin's major works "The Theory of Rights", criticized the theories of B. Windscheid on voluntarism, the interest theory of R.V. Jhering, and the eclectic view of G. Jellinek, all of which related to the nature of rights.

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8. International Law

1. The spring general meeting of *the Japanese Association of International Law* was held at Osaka University of Foreign Studies on May 12, 1984. The following reports were made:

"The Concept of the 'Victim' in International Procedure for the Protection of Human Rights" by Assoc. Prof. Fumio Sato of Seijo University.

"Some Problems Involving the Implementation of the American Convention on Human Rights," by Yasuzo Kitamura, Lecturer, Kumamoto University.

"Treatment of Reservations Made to the International Convention on Human Rights," by Assoc. Prof. Kimio Yakusiji of Kobe Mercantile Marine University.

"The Use of Force and International Law — the Present State and an Evaluation" by Prof. Yoshio Hirose of Meiji Gakuin University.

"Force and Morality in International Society," by Assoc. Prof.