

The Report

ACCU International Exchange Programme
under the UNESCO/Japan Funds-in-Trust for the Promotion of International
Cooperation and Mutual understanding 2004

Cross-cultural program for student dialogue

-promoting mutual understanding of legal cultures in Asian countries-

Duration: From Monday, February 21, 2005 to Sunday, March 6, 2005

Venue: Nagoya University, Nagoya City, Japan

Programme organizer:

National University Corporation, Nagoya University
Asia/Pacific Cultural Centre for UNESCO (ACCU)

In Cooperation with:

Royal University of Law and Economics, Cambodia
Faculty of Law and Political Science, National University of Laos
Hanoi Law University, Vietnam

PREFACE

By the Executive Organizer

Graduate School of Law and School of Law, Nagoya University

The Nagoya University Graduate School of Law and the Asia/Pacific Cultural Centre for UNESCO (ACCU) jointly organized this 2004 University Student Exchange Programme, entitled “ACCU International Exchange Programme under the UNESCO/Japan Funds-in-Trust for the Promotion of International Cooperation and Mutual understanding - Cross-cultural programme for student dialogue – promoting mutual understanding of legal cultures in Asian countries-.” It was held at the School of Law, Nagoya University from the 6th of February 2004 over 14 days, with 12 undergraduates and 3 lecturers invited from overseas partner universities: the Royal University of Law and Economics, Cambodia, the National University of Laos and the Hanoi Law University, Vietnam to this programme.

The aim of the Programme was to deepen the level of discussion and exchanges between the students. The first half of the program consisted of lectures from a broad range of speakers in law and political science, concentrating on the theme of the Rule of Law in Asian countries, as well as study tours to legal institutions and a Japanese company. All in all, the students were exposed to a multifaceted learning experience. The second half of the programme involved a special feature drawn up by the faculty’s students in the form of the independent student exchange plan. There was a group discussion among students from the School’s Foreign Student’s Support Group (SOLV) and students from the three partner universities. There was also a chance to experience Japanese society first hand in a home-stay program for the overseas students. They were able to experience and enjoy the everyday lives of Japanese people with their host families.

This very fruitful programme would have been impossible to conclude successfully, without ACCU support, which gave us the chance to hold this very fruitful seminar with the financial assistance. Also, we want to express our special gratitude to H.E. Yuok Ngoy, Rector of the Royal University of Law and Economics, Dean Khamesone Souliyaseng of the National University of Laos, Faculty of Law and Political science, and Rector Le Minh Tam, of the Hanoi Law University, vietnam. There were also outside researchers, company people from the world of business and law who actively helped in providing the students with an enriching learning experience.

The issue now is how we can progress to holding this kind of international university exchange students programme in such a way as to nurture the global perspective of these Asian students who are to take on the responsibilities of the future. This is a report on the Programme with relevant related materials. We hope that this report will solicit the opinions of as many people as possible, so that we will be able to create and maintain more fruitful students exchange programmes in the future, which will contribute to attaining our main purpose of the mutual understandings and the building-up of the sustainable relationships among the universities.

**The Report on the ACCU International Exchange Programme under the UNESCO/Japan
Funds-in-Trust for the Promotion of International Cooperation and Mutual Understanding**

- Cross-cultural programme for student dialogue – promoting mutual understanding of legal cultures in Asian countries
from Monday, February 21, 2005 to Sunday March 6, 2005 at the Nagoya University, Nagoya City, Japan

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FORWARD

Professor Shinichi Yamamoto
Vice President of Nagoya University
Tuesday 22nd February 2005



Welcome everyone to Nagoya University. We most warmly welcome all you participants in the ‘ACCU International Exchange Programme under the UNESCO/Japan’.

As a national university inspired by a progressive spirit, we promote research and have about 10,000 undergraduates and 6,000 graduates studying by day and by night. As an indication of our openness to the World, our University actively takes in foreign students, with the number of such students rising above 1,200.

The School of Law and Graduate School of Law as of May 2004 has 96 foreign students from 15 countries with the number of our students studying abroad increasing year after year. The Faculty of Law is particularly blessed by our exchanges with your countries; Vietnam, Laos and Cambodia and has a close exchange with your universities (Hanoi Law University, Vietnam; National University of Laos; and Royal University of Law and Economics, Cambodia) through dispatching law students to and receiving students from your universities, through our international university exchange seminars, and through the Asian Legal Exchange Program.

I hope that in coming to Japan you will gain a deeper understanding of the Japanese legal system through your interactions with our students and staff. Also, there will be many experiences from visits to relevant institutions and home-stays.

Probably there will be some among you who will enter our University in the future with the aim to study law.

I hope that by coming to Japan this time round the exchange between your university and country, and Nagoya University will develop even more. Although you will be here just a short two weeks I pray that it will be a worthwhile program for you.

Thank you for your kind attention.

I . OVERVIEW OF THE PROGRAMME

The two-week programme, an extension of the international students exchange activities of the Nagoya University School of Law, turned out to be a success with fruitful results that were evaluated highly by the 15 invited participants¹ from the overseas counterpart universities: the Royal University of Law and Economics in Cambodia, the Hanoi Law University in Vietnam and the National University of Laos, Faculty of Law and Political Science in Laos.

The School of Law and the Graduate School of Law, Nagoya University, organized it in the capacity of EO (Executive Organization) with 21 local students at our School who are members of SOLV² (as explained below) and other students of our School. The programme, which aimed at promoting exchanges among the law students of these universities, was held from Monday, February 26th 2005 to Sunday, March 6th 2005 for two weeks, and was entitled “Cross-cultural programme for student dialogue – promoting mutual understanding of legal cultures in Asian countries as a sub-theme of the ACCU International Exchange Programme under the UNESCO/Japan Funds-in-Trust for the Promotion of International Cooperation and Mutual Understanding - 2004 University Student Exchange Programme.”

The venue for the programme was the 2nd floor of the Center for Asian Legal Exchange (CALE) of Nagoya University. The CALE is the center for the Asian Legal Assistance Project, which the faculty of the School of Law, Nagoya University has been promoting since 1998 in collaboration with partner institutions in various Asian countries, including the participants of this Programme .



¹ Participants:

- Four students and one coordinator (lecturer) from the Royal University of Law and Economics, Kingdom of Cambodia,
- Four students and one coordinator (lecturer) from the National University of Lao, Faculty of Law and Political Science, People’s Republic of Lao,
- Four students and one coordinator (lecturer) from the Hanoi Law University in Vietnam,
- 21 Japanese law undergraduates who are the members of the School’s Foreign Student’s Support Group - the School of Law Volunteers (known by the acronym: SOLV*), and
- Three faculty members from the Nagoya University School of Law who participated as advisers to the students and as members of the EO.

² SOLV was established in October 1999 by Japanese students in the School of Law. It organizes the reception of new foreign students and supports them in academic and living matters.

II. PROGRAMME RATIONALE AND OBJECTIVES

1. Background

The Nagoya University School of Law has been promoting various international students exchange programmes. Firstly, it started a law education program in English in October 1999.

The principal objective is to contribute to the process of developing human resources to contribute to the important tasks of building legal systems in certain Asian countries that are in the stages of development or are undergoing transitions in their political and economic systems. In this area, we could say that we have attained reasonable achievements in educating international students.

Secondly, we've also place an emphasis on promoting students exchange worldwide.

Thirdly, in the process of promoting cross-cultural exchanges among students, we've come to pay attention to the need to encourage Japanese students to learn about the legal systems of other countries by planning field trips and offering opportunities for direct interaction with students and scholars in those countries. We have therefore organized short-term student overseas exchange programs for Japanese law students since 2000, dispatching students to the partner institutions in Asia to participate in local workshops and joint study tours with their counterparts. For the same reason, we also considered it indispensable to organize short-term study programs for overseas students to come and exchange views and knowledge with their Japanese counterparts at Nagoya University. The first such program of inviting overseas students was conducted in August 2001, with financial assistance from the former Association of International Education, Japan (AIEJ). We invited 13 students and two lecturers from the Royal University of Law and Economics, Cambodia, to participate in a university student exchange program. This exchange program was of great benefit to both set of students, nurturing a sustainable friendship and relationship among the students of the two universities. Meanwhile the Japanese law students have played an important part in initiating some of these international activities in order to promote communication with foreign students at our School. For example, a group of Japanese and foreign students in our School set up the afore-mentioned ‘School of Law Volunteers (SOLV)’ in 1999 to support foreign students at our School. This organization has been conducting and organizing a variety of activities to support international students, mainly by designing and implementing cultural exchange events. The ‘International University Exchange Seminar’ mentioned above was successful largely through the active involvement of SOLV members from the early planning phase all the way through. We can say that these international activities along with the continual efforts of the staff and students of our Faculty were surely prerequisites to success of this Programme.

2. Rationale and Objectives of the Programme

Rationale:

International cooperation and mutual understanding may be enhanced by frank exchanges of views, readiness to accept differences, readiness to work out some minimum level of common cause or objectives, and shared experiences. Detailed activities including topics for discussions were designed according to this basic rationale.

Objectives:

The objectives of the program are to bring students from countries with different cultural, legal, social and historical backgrounds, including both developed and developing countries, to share ideas, explore differences, engage in routine activities and academic experiences together, so that they can further develop their skills in cross-cultural exchanges and appreciate international cooperation based on mutual respect for and the understanding of differences. At the end of the program, students from these different countries are expected to continue the relationship which they managed to build with each other in Nagoya and to seek further chances to expand and extend it to more students from other countries.

3. Needs for the programme:

There are strong demands not only from Japanese students and our Faculty, as stated above, but also from the partner universities who have participated so far. We believe that the programmes at our School, when built on the experiences of past inbound and outbound exchanges, will develop into more comprehensive programmes, promoting mutual understanding among students from a wide variety of different universities worldwide on a multilateral basis, and will better establish an atmosphere of global education for Japanese law students through cross-cultural interactions.

4. Expected results

Essentially the goal of this programme was to create mutual understanding between participants through lectures related to their chosen field of specialization and other activities, not only in regard to academic matters, but also through cooperation in everyday matters. We can strongly say that the participants managed, with their young open minds, to create good relationships and make friends with each other throughout the daily interactions between students. In addition, this program will make overseas students motivated to come back to Japan as a degree-seeking students and Japanese students will be inspired by the overseas students' positive attitude toward study and life.

III . PROCEEDINGS

As English was the common language of communication throughout the Programme, undergraduate students from four countries had to communicate and discuss things totally in English, not only in daily life but also in discussions which required the students to be skillful in English at a high level. Details of the activities are summarized in the following paragraphs.

1. Planning and preparation for the Programme

In the process of planning and arranging the Programme beforehand, Japanese students were faced with a lack of human resources in terms of the 4th year students who had experience in organizing and conducting this kind of programme before. Since the Japanese students were designated not only as participants and supporters for overseas students but also as organizers, we can imagine how many frustrations SOLV members faced during this period.

However, the Programme ended up a success under the 1st and the 2nd year students' management, as shown in the final comments from all the participants that the two weeks was 'too short'.



Preliminary preparations for accepting overseas exchange students by SOLV

Since the Programme aimed at promoting international cooperation and mutual understandings through frank exchanges of views and shared experiences among young undergraduates, we put an emphasis on our law students' active participation in the overseas students' daily life. A handbook named a '*Manual for SOLV members: ACCU International University Exchange Program*' had been prepared for and delivered to the participating SOLV members beforehand. This manual included lists of activities SOLV had to be involved in, such as campus tours, UNESCO party 1-4, the home-stay program, the field trip to Kyoto and the group discussion, along with the responsibility of each member in each activity. Based on the manual, the students designated to responsible positions were engaged in each activity before, throughout and after the program. The following is an example description from the manual:

'The campus tour: the purpose is to point out the location of various establishments in Nagoya University, and the route from the Personal Computer Room in the *Ryugakusei* Center where (we) teach how to use the computers, but be sure to inform them the closing time of the room etc.' The instructions continued with the following 'Note: Please do not get lost. Each member must engage in conversation with the overseas students.'

Preparatory workshops by SOLV for student's group discussion

One of the features of this Programme was that students were counted as coordinators and organizers especially for the students' Group Discussion workshops. Their active hard-working included collecting information on each country, discussing how to organize the discussion, making up '*The Discussion Manual*³', exploring topics for the discussion title, studying up the chosen fields and inviting foreign students of our School as lecturers for the purpose of improving speaking skills in English as well as contacting the expected overseas participants beforehand for the submission of the position papers based on the chosen topics. Based on this hard work by SOLV members before the programme, the discussions and workshops were well organized and successful as the students tells us below.



2. Arrival Orientation and Opening Ceremony:

Arrival Orientation, February 21

The programme was organized firstly into a pre-session and orientation session for guidance. The EO staff and SOLV members cooperated in preparing for the orientation, distributing a copy of the *Handout for Life at Nagoya University*, handouts on the schedule of the programme, lectures, and the opening ceremony, Welcome Dinner Party, accommodation, field tours, and other SOLV social activities. In addition, we requested all overseas participants along with SOLV members to write a diary every day. The book for

keeping the diary was distributed at this orientation, as we had considered it to be very important for the assessment and evaluation of the Programme. The diaries, finally submitted to us on the day of the closing ceremony, left us a lot of suggestions and comments on the Programme which we partially refer to in Chapter V. Some international students at our School from Cambodia, Vietnam and Laos also joined the orientation as people who could be of immediate support to



the exchange students during the period of the programme. This part of the programme was intended to give participants an overall picture of the activities which they would be expected to be involved in. At the same time, the orientation also gave them a general idea of tuniversity life and of Nagoya.

Opening Ceremony, February 21

After finishing up the orientation, we moved on to the opening ceremony for the Programme, chaired by the Vice Dean, Professor Hajime Wada of our School, to welcome all the participants from the overseas partner universities to Nagoya University and to declare, as the Host University, the commencement of the

³ Refer to the 'Discussion manual (2005/02/18)' prepared for by SOLV member, *Mr:Toshiya Kaminaka* on the Annex

Programme. The Dean of our Faculty, Professor Haruo Saburi warmly welcomed all in his opening address. The Head of the Administrative section, Mr. Keichi Yokota also joined the ceremony as EO. Professor Masanori Aikyo, specialized in Vietnamese Law, also welcomed the guests and then each instructor from the three universities made an address in reply, which was followed by self-introductions by students and other staff. After all that the opening ceremony finished on a buoyant note.

3. Lectures and workshops:

After the pre-session and orientation, a lecture series from a broad range of speakers in law were given. There were talks on specific themes related to the ‘Rule of Law.’ The lecturers were visiting professors, members of our faculty, and from business and the Bar Association.



February 22

One special lecture on ‘Rule of Law: Why citizens follow the rules?’ was delivered by Professor Takehiro Ohya. The lecture opened up a discussion on the definition of the rule of law and on the importance of education in securing citizens’ respect for the rules. The issues of corruption and morality were also debated.



February 22



This lecture was followed by another one by Professor Hidenori Moto on the “Japanese Constitutional System and the Rule of Law”. By reviewing the development of Japanese constitutional systems, Professor Moto explained the concept of the “rule of law” as different from that of “rule by law”.

February 23

The lecture by Professor Takashi Isobe on “the Two Concepts of Kingship (Emperorship) in History” looked into the historical developments of the concept of kingship in ancient Egypt, in the Christian and Lockean contexts and finally in the Japanese constitutional system which is based on democracy, rule of law and pacifism.



February 23

Participants were also exposed to Japanese civil procedural law in practice. Attorney Shigeji Ishiguro conducted a workshop to brief the participants on “Civil Dispute Resolution in Japan,” by engaging the participants in discussions about various specific cases.



February 23

The lecture by Mr. *Morio Owaki* from the Legal Department of the Toyota Corporation focused on the issue of “Legal Compliance and Risk Management” based on the practical experiences of the Toyota Corporation. Besides promoting employees’ awareness of, participation in, and compliance with rules and codes of conducts, he also discussed with participants the practical issues confronting a multinational corporation which has to deal with regional and transnational legal standards and judicial systems.



February 25

In addition to the above lectures focused on topics related to the ‘Rule of Law,’ a workshop was provided under the title of ‘Current issues of legal education at each university and how it contributes to the



development of human resources of each country.’ This workshop, chaired by Professor Matsuura Yoshiharu of our Faculty, started from a report presented by Professor Ly Chan Tola from the Royal University of Law and Economics, Cambodia, and was followed by Professor Silithip Somsack from the National University of Laos,



followed by another report by Professor Pham Hong Quang from Hanoi Law University, Vietnam. Finally Professor Yoshiharu Matsuura presented briefly the legal educational system in Japan. These reports made clear not only the differences in educational systems among the countries but also the common issues they are faced with. SOLV members reported these presentations as follows:



Professor Ly Chan Tola from the Royal University of Law and Economics (RULE), Cambodia opened up this session. For the purpose of reconstruction of the country, RULE has continuously played a key role in developing human resources in the legal field through its legal education program. Thousands of students, who have completed the programs at RULE, are now working in every corner of the country. The educational term system has been divided into semesters, with 8 semesters in the period of four years for the bachelor’s degree program. Lectures are given in Khmer, French and English. Most of the professors of RULE graduated from universities in France. ‘We have a problem in a lack of professors specialized in English law and who are proficient in English. In addition, we have some other problems: Cambodia depends largely on the foreign aid; we don’t have a consistent law system; a lack of documents, research papers and materials is also a serious problem.’ His suggestion to us is, ‘I would like to take this opportunity to propose you the establishment of a so-called Professor Exchange Program and fellowships to professors to study at Nagoya University.’



This report was followed by Professor Silithip Somsack from the National University of Laos. The university has 62 teaching staff and more than 1500 students are studying Law and Political Science, including 700 studying on the special evening & lunchtime courses. ‘We’d like to set up Economic department, but now, it’s just a plan.

Not only the Economics department, we want to have many more departments. The current problem of our university is increasing the number of students. Today, in Laos, there is an increasing demand for lawyers, jurists, and administrators in many areas such as business and private enterprise. Now we have special courses at lunchtime and in the evenings at our Faculty so that they can study without making existing daytime classes too large. Also, we should improve our teacher’s skill and knowledge to meet the needs of students and society.’



The last report was by Professor Pham Hong Quang from Hanoi Law University, Vietnam, whose report was presented visually using Power Point. ‘The general objective of the legal education at Hanoi Law University is to train bachelors of law to have good political and moral standards. We have two kinds of training courses: full-time courses and part-time courses. Concerning part-time courses, a three-year course is for persons with BA degrees in other specialties and a 5 years-course for others.

The entrance exam is under the standard national exam. Scores in secondary and high school are also important. The 9th Vietnamese Communist Party Congress approved the strategy for the economic- social development for the period of 2001-2010. And our course has been set up on this basis. At present, we are considering setting up Q&A type lectures in the near future.⁴

February 28

The study on the issue of the “rule of law” was further developed by in a lecture given by Professor Akio Morishima, who has long working experience in international cooperation and legal assistance projects. Talking about the ‘Rule of Law and Needs of Legal Assistance - In the case of some Asian countries in the process of shifting to the market economy- Present situation and Agenda of Legal Assistance Project in Asia,’ he briefed the participants on Japanese international cooperation work in providing legal assistance to countries in Asia.



⁴ At the planning stages it was anticipated to have an online distance learning course but unfortunately due to the limited time and lack of extra facilities for the exchange students, the system developed by our School could not be used.

Refer to Technical Inputs (p.27- 60) for the materials prepared by the above lecturers and distributed to the participants.

4. Observation Tour and Field Trip

Study tours and visits to legal institutions were designed for the students to learn and experience together Japanese legal society in operation in reality. The outline of the contents is as follows:

Visit to Legal Institutions, February 24

Our schedule at first was changed from a field trip to Tokyo (visiting the Supreme Court of Japan, the Ministry of Justice and the National Diet), to visits to the Nagoya District Court and Nagoya Prison, because of a tight budget. The trip to legal institutions aimed at giving students first-hand experience in the actual functioning of Japanese legal and political institutions. In order to help overseas students deepen their understandings of the Japanese legal system, a copy of 'An Overview of the Judicial System' in Japan, downloaded from the site of the Supreme Court of Japan was distributed beforehand. The



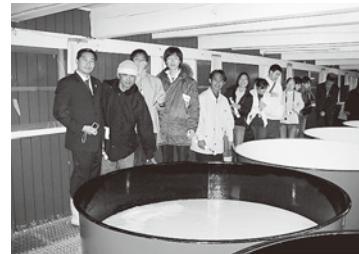
At the entrance of Nagoya Prison

Nagoya Prison Institution Guide pamphlet titled '*From the Midst of the Mountains to the Midst of the City*' published by Nagoya Prison, which had been translated into English solely for the use of this trip, was also handed out to the students. The number of participants in this study tour to the legal institutions was 33 including Japanese law students for whom also it was their first experience.

Visit to Kyoto, finding cultural and traditional Japan, February 28 to March 1



We also considered it necessary for law students to visit and find out about traditional Japan and Japanese culture in order to know and learn the basis of Japanese society and the modern legal system. So therefore a Kyoto trip was finally included in the programme. We first visited the



Matsumoto Brewery in the *Fushimi* area in Kyoto. Because Sake is made from rice and water, it closely connects to Japanese lifestyle, which is based on the long history of the agrarian culture of Japan. Mr. Yasuhiro Matsumoto, in his address, expressed his opinions on this point:





The form of eating and drinking patterns of the people represents the culture itself. The landscape of the sake warehouse of Matsumoto Brewery, which started business in 1791 in Kyoto 241 years ago, is the original landscape of Japan and a part of the cultural climate of the country which

could be created only through the harmony between people and nature. Making a short trip to the Sake factory, the students experienced the profound and fragrant taste of Sake and Japanese culture at the Matsumoto Brewery. The next visit was to the



famous temple named *Sanjusangendo* located in Higashiyama Ward, Kyoto. Finding inside the sanctum the thousand-armed *Kannon* (*Senju Kannon*) statutes and hearing the serene and deep sound of sutras by monks, the students from countries with Buddhism seemed to feel something quite close to their culture.

Field trip to Sony EMCS Corporation Kohda TEC, March 3

On March 3, a field trip was arranged for the lecturers and students from the three guest universities to visit the Kohda TEC office/factory of the Sony EMCS Corporation in Kohda city. They were briefed about changes in the philosophy of Sony EMCS Corporation management throughout the last three decades and were led on a tour inside the digital cameras production factory. Even though it was difficult for them to fully understand every technical details of the manufacturing process, but the theoretical and visual introduction to how a legal entity really functions and develops within the legal framework determined by the State gave the law students some insights in how laws and regulations really operate at the micro-level.

5. Students Group Discussion

Development of discussion

The second half of the programme consisted of group discussion and presentations, which were carefully organized by the SOLV members who also studied and prepared for it by getting the participating students from overseas to send over position papers based on the various topics before the program. Discussions and workshops were completely arranged and run by students themselves as shown in the discussion manual indicated above.

- Process of preparation

Japanese undergraduate students mainly from SOLV (School of Law Volunteer), (that is, members of the School's Foreign Student's Support Group), stared in September, six months before the start of the programme, planning and scheduling, developing English skills for discussions and cultivating knowledge for understanding the overseas partners. Students' discussion sessions were the biggest issue for them

because the students were expected to take the sole initiative in their discussions themselves.

The students at first concentrated earnestly on selecting the discussion topics. The discussion themes were partly based on the topics of the lectures mentioned above. In the end they decided to create the main theme as ‘Peace Based on the Rule of Law’ with the following sub-themes: 1) ‘How to construct a government based on the Rule of Law? And how can other countries help in this process?’ and 2) ‘what kind of system should Asian countries construct to develop and maintain good relations within the region?’ These topics were delivered to the overseas participants for advance preparation. Submissions of position papers based on the topics were also requested through email. ‘RULE OF LAW’ has turned out to be the key phrase throughout the programme.



- Group discussion sessions, March 2 to March 3

The first session consisted of a presentation by Working Group 1 on sub-theme (1) and a presentation by Working Group 2 on sub-theme (2). In the second session, participants were divided into two discussion



groups, each involving students from the four countries on the specific topics as determined at the first session. The final session was a plenary discussion where representatives from each of the groups had to make summary presentations on the result of the respective discussion groups. All participants then



started debating further on any issues they were interested after listening to the summary presentations.

- Achievement

The two day’s discussions enabled participants to exchange views on several academically and practically interesting questions. Some leading issues related to each of the two sub-themes can be rephrased and listed as follows:

Sub-theme (1)



- What is the rule of law?
- When did these countries introduce the present concept of the rule of law into their respective legal systems?
- Who are the main actors in ensuring the development of the rule of law? The government, citizens, mass media, legislative body, the judiciary etc, were all included in the discussions.
- What is the relationship between government based on rule of law and government which provides economic development?

- What is the relationship between government based on rule of law and good governance?
- How is a government based on the rule of law constructed?
- What is the role of international cooperation in this process?



Sub-theme (2)

- Should Asian countries get together to construct a supra-national organization?
- What should be the field(s) for close cooperation or integration? Monetary, economic, education, political,etc.
- What institution is more favorable for Asia? An Asian Monetary Fund, an Asian Union, or a supranational organization for cooperation in education?
- Why does Asia need such institutions now?
- How should developing countries share their obligation with developed countries in creating regional institutions?
- To what extent does integration into international organizations cause changes in domestic legal and political systems?
- How are each of the proposed institutions different from the existing ones, such as the ADB and the IMF?



6. Home-stay program, February 25 to February 27

The home-stay program was developed in terms of design and implementation in cooperation with local communities in Aichi Prefecture that have entered into partnership agreements with Cambodia, Vietnam and Laos to promote the EXPO 2005 AICHI activities. The experience of the previous programs indicates that a home-stay program is most effective for overseas exchange students in understanding the living culture and social life of Japan, which we believe to be the basis for fundamentally understanding Japanese society and culture. A detailed schedule of the home-stay is as follows:

Schedule of the Home Stay Program

Home Stay Programme: Students visit the AICHI EXPO 2005 partnership local cities and towns – Vietnamese students to *Miwa-cho* (partnership with Vietnam), Lao students to *Tahara-shi* (Laos), and Cambodian students to *Kouda-cho* (Cambodia) by public transportation.

Home Stay Program at TAHARA City for Participants from Laos

Schedule

- Friday February 25, 2005
 13:51 Departure from Nagoya Daigaku
 14:12 Arrival at Kanayama Station
 14:22 Departure from Kanayama Station

Note: Phone call to Ms Senga, Staff of the International Exchange Association at Tahara City)

- 15:07 Arrival at Toyohashi Station
Note: Phone call to Mr. Kuroda 090-3935-9029, one of the host families to let him know the time schedule of transportation.
 15:17 Departure from Shin Toyohashi Station
 15:52 Arrival Mikawa Tahara Station
 16:00 Meeting with a staff of Tahara International Association



16:00-17:00 Visit Mr. Shirai Kouichi, Mayor of Tahara city at the city hall and move to Host Family's House

Name of exchange students	Sex	Host Family	Phone no.
SILITHIP Somsack シリッティップ ソムッサ	M	TAKAHASHI's House	
PHOMMAHAXAY Phourattan ポンマハサイ プラナ	M	KAWAI's House	
BOUPHA Sinhalath ボッパア シンハラン	M	"	"
PHAWADEE Nhodkeo パワディ ノックオ	女	KONDO's House	
PHONVISAY Alina ポンビサイ アリナ	女	"	"

February 27 (Sun)

- 16:00 Meeting at Toyohashi Station
16:15 Departure from Toyohashi Station
17:06 Arrival at Nagoya Station

※After arrival at Nagoya Station, dinner time with Mr. Asai and Ms Asaoka, SOLV members

Students from Nagoya University on Friday

Mr. KONGKEO (Doctoral student of the graduate School of Engineering, Nagoya University from Laos)
Mr . Asai and Ms Asaoka

Students who pick up exchange students from Lao on Sunday February 27

Mr Asai and Ms Asaoka, Nagoya University Students

Contact Address of Tahara city Ms SENGA

Home Stay Program at MIWA for Vietnamese students

Schedule

- February 25 (Fri)
13:11 Departure from Nagoya Daigaku
13:32 Arrival at Kanayama Station
13:36 Departure from Kanayama Station
13:56 Arrival at Kida Station



14:00 Arrival at MIWA town hall and visit Mayor of Miwa City to see Mr. Katoh tatsuo, mayor of Miwa-cho and move to Host Family' s House

Host Families:

Ms Trinh Huong Lan to HORITA Eri's House
Ms Le Thu Ha to HARA Masako's House
Ms Nguyen Thu Nguyet to OHNO Takeshi's House
Mr. Nguyen Duc Nam to OHYABU Yoshiirou's House

February 27 (Sun)

- 15:45 Meet at KIDA Station and pick up students
After arrival at Nagoya Station, dinner with Ms Nishida and Ms Kumada.

Students in charge of leading Vietnamese students to Miwa-cho on Friday from Nagoya University)

NISHIDA Fumi and KUMADA Eri, undergraduates of Nagoya University, SOLV members

Member in charge of picking up on Sunday

The same members as 25

Staff in charge at Miwa Cho Local government: Mizuno

Home Stay Program at KOTA-Cho for Cambodian students

Schedule

- February 25 (Fri)
14:46 Departure from Nagoya Daigaku
15:08 Arrival at Nagoya Station
15:27 Departure from Nagoya Station
16:02 Arrival at Kota Station
16:15-16:45 Visit Kota City Mayor Mr. Kondo Tokumitsu at the town hall

17:10-17:40 Visit Angkor Wat Museum at Kota-cho

18:00-19:50 Dinner

20:00 Move to Host Family's House

Host Family

Ms Kalyane Nou to OOTA Sachiko's house

Ms Solina Yean to SENDA Rie's house

Mr Pheakdey cheat Hang to IKEDA Masanobu's house

Mr Keo Reaksmeay Kim to KATO Hiroko's house

February 27 (Sun)

15:30 Meeting at Kota Station/ SOLV members pick them up at the station.

15:53 Departure from Kota JR Station

16:27 Arrival at JR Nagoya Station

※After arrival at Nagoya Station, dinner time with Mr. Kaminaka and Ms Kagiya.



Participants on Friday Feb 25 from Nagoya University

Associate Professor Kuong Teilee

Chan Tola Ly, lecturer and leader of Cambodian students

Mr. Prum Virak from Graduate School of International Development, Nagoya University, Cambodian student

Member of picking up on Sunday Feb 27

KAMINAKA and KAGIYA from Nagoya University

Contact person:

Mr. Ishikawa Sueo, Staff of the KOTA International Association

7. Extra Curricular Activities

Various get-togethers were scheduled during the period of the programme such as the following activities; welcome party, *Nabe* party prepared jointly with the exchange students, *Karaoke* party, farewell party and every-day-luncheon.



February 21

Dinner party with foreign students of the School at the restaurants.



February 22

From 6:00pm welcome dinner party at the Universal Club Hall, 2nd floor of Symposium hosted by Dean Haruo Saburi. First, address from Professor



Yamamoto Shinichi, Vice President of Nagoya University, followed by exhibitions of 'ONBU', Nagoya University Students Circle of Japanese folk dance and Japanese drama, which was followed by Vietnamese, Laotian and Cambodian songs and dances.



February 24

Dinner party at HIDA Japanese restaurant with SOLV members:
Nomikai Hida



March 2

Nabe (Japanese Stew) Party organized by SOLV (Japanese students), preparing six kinds of Nabe referring to each country's specific dishes at the 1st floor of the Graduate School of Law, Nagoya University

March 4



From 5:30pm to 8:00pm, farewell party at the CALE Forum Nagoya University, hosted by the Dean of the Graduate School of Law, Professor Saburi. Host families from Miwa-cho and Kota-cho also joined the party.



7. The Closing Ceremony, March 4

Starting with the address from Dean Suburi, all participants from Cambodia, Laos, and Vietnam together with the representative of SOLV were awarded certificates Program Completion which were handed to each participant by the Dean. In acknowledgement of the Dean's address, three professors from the three universities gave thanks to ACCU, Nagoya University and SOLV. Final comments from students expressed their gratitude and regret the Program could not be longer. Some indicated their future expectations of coming back to Nagoya University as master's scholarship students.



IV. OUTCOMES OF THE PROGRAMME

1. Actual qualitative outcomes of the programme

The two-week programme of lectures, field-trips, students interactions, and in particular the students' discussion and meeting sessions, which was an opportunity for frank exchanges of views among students of different cultural backgrounds, directly contributed to promoting a mutual understanding of the students' differences. Going by the evaluation reports, this point was highly appreciated not only by the participants but also by the teachers from the partner universities.

We could see great development in students' perception of academic issues related to the topics they discussed with their counterparts from other countries. This was made possible in spite of the short period of working together, as reflected in the comments from the participating students (see Section IV.3 below).

Students who were not familiar with the different accents and pronunciations in English at the beginning did learn that they could understand each other better after learning about other students' culture and social backgrounds. It made them more confident in intercultural communication. We expect that they will continue to learn the way to develop cross-cultural communication skills that will deepen understandings across the borders.

During their stay in Nagoya, participating students were required to keep a record of their daily encounters and experiences in the form of diaries.

2. Progress of Japanese students

Japanese undergraduate students mainly from SOLV (School of Law Volunteer), that is, members of the School's Foreign Student's Support Group, after long discussions among SOLV members, set the goal of the Program as 'getting along well with different cultures and ideas and widening our view of the World.' They started from September, six months before the start of the program, planning and scheduling, developing English skills for discussions and cultivating knowledge for understanding the overseas partners. The students' discussion sessions were the biggest issue for them because students were expected to take the initiative in the discussions themselves.

What were their achievements?

Ms Eri Kumada, representative of SOLV, pointed out in her comments on the Programme, that 'we learned much about ourselves in the process of arranging things and spending two weeks with the exchange students,' and reflected that 'first we should start preparations for the program much earlier and second, we should practice English harder than before,' 'at discussion time, we were faced with difficulties in expressing and exchanging opinions in English,' and 'we learned much from the differences of culture, even if it sometimes confused us, what we thought was in common wasn't necessarily usual for everyone and we had to pay attention to this fact all the time.'

3. Abstract: Comments from participants

We obtained specific comments on what were useful/valuable activities from the lecturer, EO staff and students who put them in the Diaries and the final Evaluation notes, such as the following, which indicate the actual qualitative outcome of the programme:

Comment from the lecturer, Mr. Shigeji Ishiguro, Attorney at Law

In my opinion, this workshop was very useful for all the participants. Not only did they get knowledge about the Japanese legal system, but also they could exchange opinions among themselves. They could compare their legal system with that of other participants' countries. Take, for example, the power of bribery in the legal system. There are big differences between Vietnam, Laos, and Cambodia. On the other hand, what these countries share in common is the fact that the rule of law is not yet completely

established. I believe this workshop, by giving valuable opportunity to these young and able lawyers, has made a large contribution towards establishing the rule of law in their countries.

Comments on students' discussions from Associate Professor Kuong Teilee, one of the staff of organizers:

Discussions were vivid, informative and enjoyable. It was made clear from the beginning that no definite conclusions were expected to come from the discussions. Rather, a good summary of the differences and common opinions were all that were necessary. It is important that the inconclusiveness of the discussions gave each of the participating students an opportunity to enjoy the differences. On that basis, they could also figure out what was less different and thus the common cause and common denominators which they somehow can share. This was an important bit of training for students to learn how to work with differences and how to appreciate friendship which may be established despite differences.



Comments from overseas participating students:

Almost all comments from overseas participating students pointed out the difficulties in getting along with students from other countries in such a short time with English as a common language. However, even if it was so stressful for them, they overcame the problem and felt that the Program was successful, as indicated in the Diaries and Evaluation note. One student focused on the change in the relationships among students from different countries in the Diary: At the first stage her comments were 'Everything was different from our country,' or 'It was difficult to come to know foreign culture and strange people,' but it changed to the comment that 'I've learnt how to get on well with foreign people, foreign culture. If we have good will and good intention, we'll overcome all troubles' and 'Maybe, all of us felt difficulties in listening to the other nationalities' pronunciation, but luckily, we knew our friends quite well at the end of the discussion, and I think all my foreign friends speak English very well and have a wide range of knowledge,' and 'Even though we have different thoughts and opinions sometimes, the most important thing is that we've learnt a lot from each other.'

Other comments from the Evaluation notes also suggested to us what students had learned from the Program: One student from Cambodia said, 'Before coming to Japan, I was trying hard to learn about the topic both in general and in particular with regard to Cambodia, and I was eager to share what I learnt from other participants; We have got a lot of ideas now from other countries; We even picked up a lot of different ideas; we finally reach common conclusions; We had a great experience in finding out the other participants' points of views on the same topic; Now, I have learned so much about my neighboring countries; We thought about things differently and we looked at the problems from different points of view... we could make comparisons and find out solutions; Through the discussions among the students only, we got to know much more about the value of trying to understand each other; Even though sometimes we have different thoughts and opinions, the most important thing is that we have learnt a lot

from each other, sharing knowledge with each other to search for mutual understanding; I learned that to have an effective discussion, we should actively share our knowledge with each other.

Finally, students had got to know things: 'Knowing more about Japan and the Japanese helps us so much in getting on well in our relationships; How important it is to try to discover similarities and differences! It was a good opportunity to share the way of thinking with other countries. I learned that we have different backgrounds so that we could find out other view-points. This impressed me very much.'

Comments from Japanese students:

As an organizer:

The most useful activity was the visit to the Japanese Court and Nagoya prison. It was my first visit to Nagoya Prison, so it interested me a lot, and also this trip was a good chance of us to get to know each other when we traveled together by bus; As a staff member in charge of the *Nabe* party, I could not take part in the dancing, but I was much moved by the fact that every participant looked so excited during the party. And particularly in the process of preparing *Nabe*, participants from different countries were very cooperative with each other. I thought that it was very useful for our friendship.

What they learned from the program:

The discussions were very interesting; because I found out that we could learn and understand the different ways of thinking through discussing with exchange students.

Representative of SOLV, Ms Eri Kumada:

We learned a lot from this program. SOLV members and exchange students spent time together almost all day long. Of course, it was quite a demanding schedule, but we at last made close friends with each other, thanks to the shared effort. This program was the biggest and most challenging activity for us since I became a member of SOLV. All participants had to share the tasks and act responsibly. At last we found that it was very beneficial for me and SOLV.



Our goal in this program was to get along well with different cultures and ideas, and widen our view of the World. After this program, we noticed that we also learned much about ourselves in the process of arranging things and spending two weeks with the exchange students. We had a lot of useful plans in this program, but specifically the most impressive activity was the group discussion by students which was a precious chance for us to exchange many different ideas spontaneously and openly. One can read books about various different countries, but to listen to the actual voices from those from other countries is a rare opportunity.

The parties, field trips and free time were also valuable. During such time I felt as though I had known all of them from a long time ago. We also supported the home-stay program for them. We were glad to hear that they had a very good experience with their host families. I found out that the home stay was an

effective way for them to understand Japanese culture. When I visited the town which accepted our friends from overseas for home-stay, I felt that the host families also enjoyed this plan.

As a result, I think this program was successful. If I could have this kind of chance again, I would like to suggest that first we should start preparation for the program much earlier and second, we should practice English harder than before. We were able to have daily conversations in English, but at discussion time, we faced difficulties in expressing and exchanging opinions in English. Lastly, I would like to say that we learned much from the differences of culture, even if it sometimes confused us, what we thought was in common wasn't necessarily usual for everyone and we had to pay attention to this fact all the time.

V. COMMENTS AND SUGGESTIONS FOR FUTURE DEVELOPMENT

1. Feedback from participants on the programme

Proposal from SOLV Representative:

I have two proposals for the future program: First, all participants in such programs should be conscious of the fact that this is the cross-cultural program. Second, if students in different countries can have contact with each other beforehand, then they could greater share the topic of discussion and the programme would be more fruitful. This was a wonderful program. The exchange students' passion for studying has affected the SOLV members a lot. And now we have good friends in these three different countries. We would like to maintain and deepen our friendship in the future. Finally, we thank all people who supported us.

Comments from EO staff:

Almost all participants point out in their diaries and in the final comments on the Evaluation form that the programme is too short and run on too tight a budget. Because of the limited budget, we could only set up the programme for two weeks and include necessary activities in any way possible in that length of time.

2. Strengths and weaknesses of the programme observed by the EO

Although implementing this program revealed so many strengths, as shown in this report, securing the resources for continuously inviting participants from developing countries like we did is difficult. Students, particularly from developing countries, cannot afford to travel at their own cost. Apart from limited budgetary resources from the University, we also have to face limits in human resources, since this short-term exchange programme requires that we mobilize our faculty members and staff away from their routine work. A longer and more flexible time-schedule would be more convenient for the mobilization of human resources.

3. Suggestions to ACCU

We would like to suggest that ACCU further promotes and enhances this project. We would like to continue this programme, providing chances to young students every year, so our specific suggestion is that

ACCU provides funding for such projects to be conducted in a more sustainable manner by approving the development of a five-year plan for a series of annual short activities. This programme is, firstly, quite effective in educating and training students in a global environment. When students are involved, overseas students with different cultures and backgrounds will soon understand each other and learn how to share and negotiate among each other through daily activities and close discussions as law students on one theme selected from their specialized legal field.

Secondly, our Japanese society is becoming more internationalized and it requires educate citizens who understand what cross-cultural communication is about and who are fluent in English as a common language. Japanese students who joined the programme and acknowledged the importance of actively expressing themselves in English, like overseas students, became acutely aware of the need for English proficiency.

Lastly, we wish to solicit the opinions of as many people as possible so that we can create even more fruitful seminars in the future. Therefore, we suggest to ACCU to give us a chance to get together and exchange opinions with other program organizers.

VI. FOLLOW-UP ACTIVITIES

To make our relationship with partners long lasting and sustainable, our Faculty is planning to organize outbound study tours to Cambodia and Laos early next year. Detailed communications will be conducted by students of the countries involved. It is expected that the continuous extension and expansion of these activities will further enable the participants to develop the capacity from which they learn from this experience in Nagoya and will broaden the spheres of communication to include more students at each host country.

See below for the tentative schedule of the forthcoming exchange activities for related projects to be implemented in April 2005 – March 2006:

1) Short-term Students Exchange Project in Nagoya

- Schedule: September 14-24, 2005:
- Title of the seminar: “The Role of Law Schools and Networking for the Exchange of Legal Information among Law Students in the 21st Century Asia” (tentative)
- Countries to participate: Japan (host country), Vietnam (Ho Chi Minh city), Uzbekistan and Cambodia.
- Intended Participants: 3 students and 1 coordinator (lecturer) from each of the three guest countries, and 25 students and 15 faculty members from the host country.
- Institutions involved: Nagoya University School of Law, Japan; Ho Chi Minh City Law University, Vietnam; Tashkent State Law Institute, Uzbekistan; and Royal University of Law and Economics, Cambodia.

2) Short-term Students Exchange Project in Cambodia and Laos

- Title: to be confirmed
- Schedule: January 3-13, 2006:
- Countries to participate: Japan (guest country), Laos and Cambodia (host countries)
- Intended participants: to be confirmed
- Institutions involved: National University of Lao School of Law and Political Science, Laos; and Royal University of Law and Economics, Cambodia.

VII. TECHNICAL INPUTS

1. Opening lecture 'On Rule of Law: why citizens follow the rules?' by Professor Takehiro Ohya of the Graduate School of Law on Feb 22nd 2005

"Rule of Law" and "Rechtsstaat"

- | | |
|-------------|--|
| Rechtsstaat | The government is run according to certain laws.
The content of the laws is not so much a problem. |
| Rule of Law | Not only the citizens, but rulers also, should follow the Law.
The Law is an idea on which certain positive laws based. |

Question How we could build Rule of Law up?

Making Law? ... ineffective, unenforceable, or unfollowed law
--> what is the condition for the people to follow certain law?

Hypothesis 1) Sanction

- | | |
|-------|--|
| | Give notice of sanction to who breaks the law. |
| Fault | The sanction realizes only when the illegal act was found by the officials.
i.e. The effect deeply relies on the possibility to be found (or, the possibility THEY expect). |

Hypothesis 2) Direct Surveillance

- | | |
|----------|---|
| | Watch how the citizens act directly, and put harsh sanction to the criminals. |
| Question | Can you find such direct surveillance in Japan, one of the developed countries? |
| cf. | The full quota of policemen is 243,261 in 2005 Japan.
i.e. the population per a policeman is about 520.
Meanwhile, the Japanese are generally following traffic rules.
(You can observe it at your nearest crossing)
The Japanese are generally following laws ON THEIR OWN INITIATIVE? |

Hypothesis 3) Legal Education

- | | |
|-------|--|
| | It must be the education to make the Japanese to follow the law. |
| Fault | Almost all Japanese have never had legal education. |
| cf. | Over 90% of Japanese go on to high school, but laws are never taught in there.
Criminal Law or Road Traffic Law are seldom taught in schools.
(If you are Law School student in university, the former will be taught)
The full number of lawyer (attorney) is 21178 (Feb. 2005).
The number of lawyers per population is...
about 1/20 of US, 1/10 of UK/Germany, 1/4 of France. |

Hypothesis 4) Following without intent

- | | |
|-----|---|
| 4.1 | Citizens are following the law without intent to do so. ... Acceptance as Social Norms. |
| eg. | Families, their friends, teach you not to cross the road on red light from your childhood.
When you fail to follow their suggestion, they will put you unofficial sanctions.
Many people learn some about traffic rules when they're trying to get drivers' license.
Few people study the law from which traffic rules derives.
--> Law is deeply based on social norms, which are enforced through many unofficial sanctions, daily education, customs, habits, and (sometimes) religious faith. |

- 4.2 Expectation that the others will also follow the law (Trust) --> Act based on this expectation.
e.g. If I could expect that the others will walk on the right side of the street, walking the left side alone is not a good idea.

Building Rule of Law ... Positive Cycle

Following rules --> Become social norm(or habit) --> Expectation --> Following rules ...

Failed Government ... Negative Cycle

Outwit --> Distrust (Only fool will follow rules) --> Failed Expectation --> Outwit...

What could we do? ... Building "The Trust to Law"

1) Reasonable Law Making

The law which no one can follow at reasonable cost will not be followed by anyone, and result in harming the trustworthiness of law as a whole e.g. in pre-WWII Japan ... From introduction to completion of new (western) education system, the Japanese government took over 30 years, divided into many stages of reformation.

2) Enforcement as a ladder

Enforcement is required UNTIL when people come to voluntary follow the law.

On the other hand, enforcement itself needs much cost. Too strong enforcement will make national budget worse, tax heavy, and make people unpleasant to follow the government.

3) Importance of Education

Especially to teach children to follow the rules only because they are fairly enacted rules.

4) Prevention of Corruption

Corruption harms the trust to government much. To prevent that to occur, not only intensifying the sanction, but also improving their treatment (e.g. payment, pension, social dignity) is essential.

Good Treatment --> Adoration to Government Office --> Peoples' Will to Study Hard

2. Introductory Lecture 1: 'Japanese Constitutional System and the Rule of Law' by Hidenori Moto, Professor of Graduate School of Law, Nagoya University

1. Historical Background of the Japanese Constitution

(1) From World Wide Perspective

1) The Birth of Modern Constitution

The concept of Modern Constitution has been born in western bourgeois revolutions.

17th Century: English Revolution

End of 18th Century: US Independence Revolution & French Revolution

Throughout these Revolutions, the concept and system of Modern Constitution has been established. Its key points are guarantee of individual human rights and popular sovereignty.

* John Locke's theory as prototype of the Modern Constitution

In his most famous book, "Two Treatises of Government" (1690), J. Locke tried to establish a theory which would reconcile the liberty of the citizen with political order under the English Revolution. In the center of his theory lies the idea of the independence of the individual person. Men are born free and equal in rights, and they have the right to protect their own property (= life, liberty, and estate). In order to protect their property well, men being unite into a community ('civil society') by agreeing with other men, establish government for the better administration of the law, and agree to delegate this function to certain officers. This is a "social contract"; powers of government are limited by its purpose, and they can be modified or rescinded by the authority which conferred them (right of revolution).

"Two Treatises of Government" (1690)

Chapter VIII Of the Beginning of Political Societies

95. MEN being, as has been said, by nature all free, equal, and independent, no one can be put out of this estate and subjected to the political power of another without his own consent, which is done by agreeing with other men, to join and unite into a community for their comfortable, safe, and peaceable living, one amongst another, in a secure enjoyment of their properties, and a greater security against any that are not of it. This any number of men may do, because it injures not the freedom of the rest; they are left, as they were, in the liberty of the state of Nature. When any number of men have so consented to make one community or government, they are thereby presently incorporated, and make one body politic, wherein the majority have a right to act and conclude the rest.

Chapter XIX Of the Dissolution of Government

222. The reason why men enter into society is the preservation of their property; and the end while they choose and authorise a legislative is that there may be laws made, and rules set, as guards and fences to the properties of all the society, to limit the power and moderate the dominion of every part and member of the society...

whenever the legislators endeavour to take away and destroy the property of the people, or to reduce them to slavery under arbitrary power...

by this breach of trust they forfeit the power the people had put into their hands for quite contrary ends, and it devolves to the people, who have a right to resume their original liberty, and by the establishment of a new legislative (such as they shall think fit), provide for their own safety and security, which is the end for which they are in society. What I have said here concerning the legislative in general holds true also concerning the supreme executor...

Locke's theory has a very important meaning for the concept of Modern Constitution. Theoretically, it changed an old order of the world into a new one: the order in which the King is at the top of the country into the other in which the individual is at the center of the world. Individual has 'natural rights', government should and may be established in order to preserve individual rights.

However real government might often injury individual rights, therefore Modern Constitution should be made in order to protect individual rights against government or state power.

2) Transformation of the Modern Constitution in 20th Century: towards “Contemporary Constitution”
The modern idea of Constitution was transformed in 20th century. In the latter half of 19th century, capitalist economic system produced serious social problems in developed countries.

Modern concept of ‘property right’ was very important for development of capitalist economy. The concept excluded every economic privilege (ex. privileges for guild from the King), everyone could compete freely in equal condition under the law. The free competition made development of capitalist economic system through ‘industry revolution’ in 19th century. But the free competition and developing capitalist system also made inequality in the economic situations among people. The concept ‘equality under the law’ was understood formally: this concept means that state should not treat people discriminatively, therefore state should not change the conditions among people. Capitalist system broadens inequality in fact, for it is the system which gives advantage to people who have capital and give disadvantage to people who have only ‘labor power’. The concept ‘equality under the law’ in formal sense doesn’t serve resolution of this situation. People divided into two classes: rich capitalist class (= bourgeoisie) and poor workers class (= proletariat). Workers considered that ‘economic freedom’ meant ‘freedom to poverty’, and organized labor movement from middle of 19th century in developed countries. They required rights of workers to exist and live every day against state ruled by rich class. Confrontation between state and workers class has reached its summit in the turning point of era from 19th to 20th century.

The German Constitution of Weimar Republic adopted in 1919 was an epoch of the transformation. The constitution was regarded as the most democratic one in those days, but it reflected compromise of German revolution after WW I (1914-18). On one hand, the republic introduced liberal-democracy system instead of sham-democracy by Kaiser (Emperor). On the other hand, the republic had to introduce a new concept of ‘human rights’ in order to rival socialist system in Soviet Union: ‘social rights’. In the Weimar Constitution, economic freedom and private property rights should be limited and social rights, e.g. ‘freedom to unite’ or ‘right to organize’ of workers, in order to protect life and rights of economic or social unfortunate people.

(2) In Japanese own History: on the Constitution of the Empire of Great Japan (1889)
In Japan in 1868, the ruling class of warrior was driven from governmental power and the TENNO seized the state power. This change is called Meiji Restoration, because the TENNO, namely the traditional King or Monarch in Japan, came back to the state power. Meiji Restoration was a kind of modern revolution that began Japan’s transformation from feudal agricultural society into a modern industrial society.

But Restoration leaders welded former feudal domains into a modern nation-state and established centralized governmental system before the enactment of the Constitution. And they cracked down on people’s political democratic activities, and established the centralized political institutions based on German (Prussian) Monarchy and bureaucracy, namely TENNO-system, cabinet, ministries, national and local administrative departments without local autonomy, police-system, judicial courts, universal education system, land tax system, conscript army etc.

Meiji Constitution of 1889, that was enacted by the Imperial Authority without popular participation, was modeled upon the Prussian Constitution of 1850. It was so-called Monarch-made-constitution.

The Meiji government had a policy of development to catch up the western developed countries, to build up ‘modern nation state’. Because Meiji government wanted to make international relationship with developed countries as equal as possible, it had to introduce modern legal system, including Constitutional law. The Government sent an inquiry commission to Europe in order to make a draft of Constitution. The commission has chosen German Preußen (Prussian) Constitution (1850) as a model, not French Constitution of the 3rd Republic (1875), because Prussia was constitutional monarchy, whose constitution didn’t stand upon ‘modern constitutionalism’ in the western sense. Prussian Constitution provided strong power of the Crown, and it had provisions about ‘Rights of Prussian’ and ‘Parliament’, but rights of Prussian could be restrained by statutes, and Parliament could not exercise legislative power without King’s consent. Therefore, Meiji government considered that Prussian Constitution was suited to Japan more than French Constitution of Republic.

The rights ‘guaranteed’ by the Prussian Constitution was not natural rights, but rights given by the King, therefore Prussian people could be deprived of these rights by statute. And legislative power of the parliament was imperfect, the governmental system of the Prussian Constitution was not parliamentary

democracy in the modern western sense, didn't stand upon popular sovereignty, and didn't have separation of powers.

Therefore in Japan, concept like the Prussian Constitution is called 'Sham (pseudo)-constitutionalism' in distinction from 'modern constitutionalism' in western developed democratic countries.

* Rule of Law vs. Rechtsstaat

The concept 'Rule of Law' and 'Rechtsstaat' (or 'state based on law', 'rule by law') is similar apparently, but in substance these two concepts are different in the important point.

Since the concept 'Rule of Law' has meant many things to many people, it is difficult to define the meaning of the concept briefly and exactly, but we can say that core of the 'Rule of Law', which was born in Anglo-American tradition originally, is that governmental power should be bound to strictly by law in order to protect individual freedom or liberty. The law exists to protect individual rights and liberties both in substance and in procedure. cf. J. Locke's theory In contrast to Anglo-American idea of 'Rule of Law', the German idea of 'Rechtsstaat', established in the 19th century (with Prussian Constitution), is unconcerned with the content of the law. It means only that administrative action should be based on a statute formally: 'administration by statute'. 'Rechtsstaat' assumes the superiority of the administrative power over the people and controls this superior administration through legislative statutes providing the grounds and framework of administration. The 'Rechtsstaat', despite a superficial resemblance to the 'Rule of Law', is very different, for it doesn't require that law itself should be 'right' or 'due', for the concept only form of statute is important. The 'Rechtsstaat', unlike the 'Rule of Law', is no means a principle for protecting individual rights and liberties. The concept 'Rechtsstaat' was born in Germany and inherited by Constitution of the Empire of Great Japan.

The basic principle of the Meiji Constitution was the absolute monarchy. According to the Meiji Constitution Art. 3, TENNO was 'sacred and inviolable', and sovereignty rested with him as the head of the Japanese Empire. The power of TENNO was absolutely great and strong by the Constitution from Art. 5 to Art. 14. TNNO had all powers to legislate, to execute, to judge, to command the armed forces, to declare war and make peace, and to conclude treaties. He had also emergency powers to maintain public order and declare a state of siege.

There was the Imperial Parliament, but it had only competence to support the legislative power of TENNO. Therefore, throughout the period of the Imperial Parliament, it was the practice for the prime minister to be appointed by TENNO on the recommendation of senior statesmen out of the Constitution. Thus, the Cabinet was responsible only to TENNO, but never to the Parliament.

From 1930 on army and navy officers involved themselves in a series of incidents that indicated their ability to intervene in civilian affairs. Key events included the 'Manchurian Incident' on September 18 of 1931, and the assassination of Prime Minister of party cabinet on May 5 of 1932, and a military insurrection on February 26 of 1936. In this year the party politics ended. Political parties lost their power and prestige and the military held sway over Japan politically, economically, and socially until the end of WW II. From July 7 of 1937 the Japan Imperialism began to invade and aggress against all over the land China, and from December 8 of 1941 began to conquer the Asian and Pacific countries.

A part of serious war crime and its responsibility of Japan is based on the Meiji-Constitution Regime and TENNO-System.

2. Character of the present Constitution of Japan (1946)

Establishment of the new Constitution changed and transformed the Japanese constitutional principles fundamentally.

sovereignty of the people ← sovereignty of Tenno (change of the sovereign)
renunciation of war and forces ← supreme command of the military by Tenno
democracy ← absolute monarchy
fundamental human rights of the people← limited rights of the subjects
influence by American Constitution ← influence by Prussian Constitution

Constitution of Japan is modern Constitution, and at the same time, it also has typically character of ‘contemporary Constitution’: universal character. On the other hand, J. C. has a character which is reaction of Meiji Constitution: Japanese particular character.

- 1) The Emperor without political power: J. C. started from decision against war of aggression in the WW II. Therefore J. C. deprived the Emperor of political power and gave only a status of symbol.
- 2) Radical Pacifism: at the same time, J. C. determined not to have any force in order to realize the peace of the world.

Preamble, para. 2

Article 9:

- 3) Human rights without restriction: before the end of WW II, human rights of Japanese people were violated by state through statutes, therefore J. C. guarantees many rights with no restriction. It means that even the statutes may not restrain ‘fundamental human rights’.

Articles 19, 21, 23 etc.:

* Respect of individuals: Article 13 Before the end of WW II, Japanese Constitutional system was totalitarian, there is no concept of individual. Therefore, new J. C. emphasizes ‘respect of individual’. Cf. J. Locke’s ‘life, liberty, and estate’

- 4) Several social rights: J. C. is influenced by German Weimar Constitution (1919). J. C. guarantees some social rights, in order to protect life and rights of economic and social unfortunate people under the capitalist system.

Article 25: right to maintain the wholesome and cultured living

Article 26: right to education

Article 27: right to work

Article 28: right of workers to organize , bargain and act collectively

- 5) Many provisions about criminal procedure: J. C. has more provisions about criminal procedure (Art. 31, 33, 34, 35, 36, 37, 38, 39, 40) than other western constitutions, because under the Meiji Constitution so many people was arrested and imprisoned without due process of law, at last many of them was killed by state.

- 6) Family clause with individual dignity and essential equality of the sexes: under Meiji Constitution there was ‘IE-seido’ under which women were discriminated against in the family extraordinarily, therefore J. C. makes a provision about family particularly, and guarantees individual dignity and essential equality of woman and man.

Article 24:

- 7) Parliamentary democracy: in order to realize the doctrine of popular sovereignty, J. C. adopts the parliamentary democracy system. The Japanese Diet is given roll of the highest organ of state power, because it is the organ to which people’s delegates belong. Article 41:

- 8) Judicial review system: in order to protect individual rights against political power, J. C. gives courts the power to review the constitutionality of any law, order, regulation or official act. Article 81:

3. Lecture 2: ‘On the Two Concepts of Kingship (Emperorship) in History’ by Professor Takashi Isobe of Graduate School of Law, Nagoya University, February 23, 2005, 10:00 am

Introduction

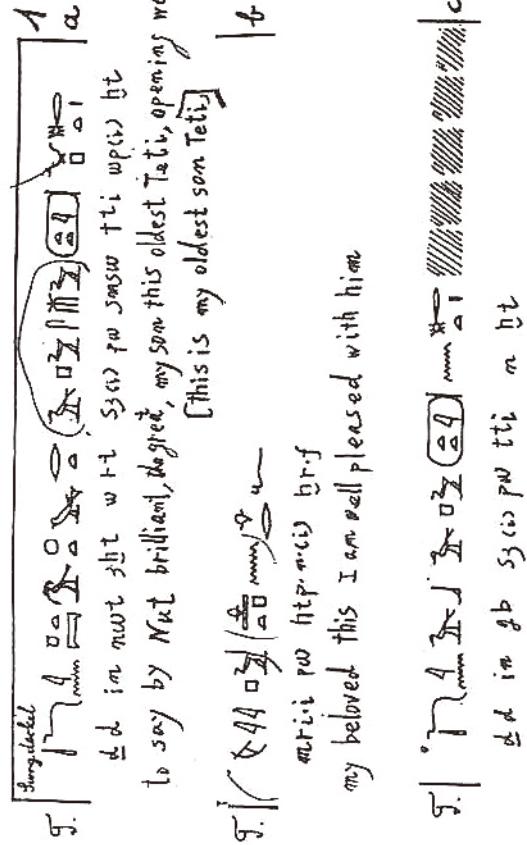
I’d like to discuss the theme of kingship today. I chose this topic, because during your stay here in Japan, you may get in touch with some aspects of Japanese culture, which has some relationships with the royal house of Japan.

Some democratic states have the royal house, but many states especially those with a presidential system do not have the royal house. The differences depend on each country’s history. However, when we think of this matter in terms of law, we will be confronted by one of the constitutional issues, namely the relationship between the kingship and the general principle of modern constitution.

The Imperial Throne shall be dynastic; we cannot choose the person who will be an Emperor. Nevertheless, he has some kind of prerogatives, which may even be provided by law, as if the law itself said that an emperor is outside of law. And therefore, the issue may be very simple. The existence of the kingship might be in contradiction to the spirit of the modern constitution which is based on the people’s right. Or, it might not be a contradiction but a harmony between them. If you take the former position, you might have to try to get rid of the kingship-article from the constitution. On the contrary, if you take the latter position, you might be expected to explain the positive meanings of the kingship in the modern constitution.

The issue may be very simple, but it will be a little difficult to get an answer to it, at least for me. Therefore, I want to make a detour, that is, to approach this issue by looking deep into the history and, if possible, coming back again to this modern era where we currently are, with some different alternative answers, and then we can discuss the matter together.

Sprach 1.



3. 16—4. 6

KATA MAEΘAION

8

σύρκητότες ἀφίκοντον αὐτὸν. 16 βαπτισθεὶς δὲ οἱ Ἰησοῦς εὗρις ἄρεβη ἀπό τοῦ ὕδατος· καὶ λέους ἡμέραθησαν [αὐτῷ] οἱ οὐρανοί, καὶ εἶπεν [τὸ] πρεματού [τοῦ] θεοῦ καταβαῖνον ωρεῖ περιστερῶν, [καὶ] ἐρχόμενον ἐν αὐτῷ. 17 καὶ θεοῦ φῶντι ἐκ τῶν οὐρανῶν λεγούσα, Οὗτος εἰστιν ὁ υἱός μου οὐαγμάτων, ἐπὶ τῷ εἰδόκησα.

16 And when Jesus was baptized, he went up immediately from the water; and behold, the heavens were open and he saw the Spirit of God descending like a dove and alighting on him; 17 and lo, a voice from heaven saying, "This is my beloved Son, with whom I am well pleased."

(content & syntax)

- 10 These descriptions of Jesus are very similar to the picture of Teti in the Pyramid Text.
 a Teti wp(i) opening the womb of heaven
 b Jesus the heavens were opened [for him]
 ☺ The voice comes from heavens in both cases
 b Teti mri i
 Jesus my beloved son
 ☺pass, ptc. present in both cases.

- 1^o Egyptian kings were considered to be gods. King Teti died temporarily and soon he was reborn from Nut, goddess of heaven, as the son of god, beloved of god. Because of this, Teti had a close blood relationship with goddess or god. There are two points resulted from this thought: (1) Egyptian Kingship was legitimated by a myth, and (2) The successor of the late King should be his son, but not any other person without blood relationship with Teti. Dynasty principle might have its own theoretical root at this mythological point.
- 2^o Our issue is:
 King Teti was a human being for us, but he was a god for ancient Egyptian people. Why was he considered to be a god? What was a main reason of this mythological way of thinking?
 The answer seems to be found especially in the social function of his political power. The King was able to enforce the people to work for flood control of the river of Nile, even against the people's will. The result was that the rich soils expanded all over the country.
 Agricultural lands are the basis of the people's life, so he came to be looked upon as a God. He gives a life to people.

- 3^o However, this is one side of the story. There is another negative side.
 The King was looked upon as a god, so he could do anything as his will without opposition of the people. Actually he did anything, but especially he carried out many kinds of projects of construction at the cost of people's life in order that the mythological world would be realized on earth and the people's belief in King as a god would be intensified. Therefore, in ancient Egyptian society, the people had to make considerable sacrifices for the King.

⁴ Japanese case ... if we have time enough to mention –

Jesus? Jesus is a son of a god and at the same time he is the son of David,

which means that he is a king from the point of the genealogy. He is a god and a king just the same as the Egyptian king, but according to Matthew's belief, Jesus chose the way to be killed as the king of Jewish people in order to save the life of that people.

Therefore, according to Matthew's view, King's most important role is self-sacrifice for the people, which is contrary to the image of the Egyptian king.

III John Locke 17th Century, England

He was a great political philosopher of the Glorious Revolution, also a theoretical founder of modern constitutions. His fundamental principles are democracy, human rights, rule of law etc. But, as he recognizes the existence & the role of king, even now, there appears some critics against him ex. Robert Horowitz.

According to this argument, what characterizes the wisest and best princes is not their obedience to and enforcement of settled law, but their service to the people. The scope of executive discretion is limited only by the proviso that it be used for the public good; "a good prince who is mindful of the trust put into his hands and careful of the good of his people cannot have too much prerogative" (§164). But since exceeding the bounds of constitutional or legal powers on the pretext of serving the people has been the constant practice of tyrants from time immemorial, "the public good" seems a dangerously vague and inadequate test of whether the prerogative is being properly used. The good prince and the tyrant are alike in that they both act outside the law and even contrary to it.

1^o Our issue is:

John Locke advocated the indispensability of the existence of the good king. Also, the 17th century England returned to the Imperial rule on the basis of democracy. What is the main reason of this Restoration of the Royal Rule which Lock insisted on?

2^o My personal view

As the 17th century Europe was the era of war, a king would have been expected to win the war by his charismatic leadership. But, I think, it is not the main reason of the restoration of the Royal Rule. The most important role of king was to end the war when the nation would lose the battle. In this case, King would bear all the responsibilities of the war by himself and, if necessary, he would end the war by his self-sacrifice for the people. The kingship is therefore not contradictory to the democracy in the thought of Lock. There may be the background of Christianity in this thought. (Sometimes, guerrilla warfare results in terrible damages among people.)

CHAPTER I THE EMPEROR

Article 1. The Emperor shall be the symbol of the State and of the unity of the people, deriving his position from the will of the people with whom resides sovereign power.

CHAPTER II RENUNCIATION OF WAR

Article 9. Aspiring sincerely to an international peace based on justice and order, the Japanese people forever renounce war as a sovereign right of the nation and the threat or use of force as means of settling international disputes.

1^o Japanese Constitution expects that the emperor would play an important role to make an international peace instead of being a leader of war.

Political Administration changes over time, while the royal house does not change because of its hereditary principle. This means that the royal house can do something good, which Political Administration cannot do. No matter how the policy of the government would be, an international peace has to be maintained.

At this point, the emperor can do good jobs as the symbol of the State, having nothing to do with governmental policies on-the-everyday-life-level.

2^o Japanese emperor can undertake international friendship on the foundation of mutual respect.

Article 7. The Emperor shall, with the advice and approval of the Cabinet, perform the following acts in matters of state on behalf of the people:

(1) Pronunciation of amendments of the constitution, laws and cabinet orders and treaties.	(7) Awarding of honors.
(2) Convocation of the Diet.	(8) Attestation of instruments of ratification and other diplomatic documents as provided for by law.
(3) Dissolution of the House of Representatives.	(9) Receiving foreign ambassadors and ministers.
(4) Proclamation of general election of members of the Diet.	(10) Performance of ceremonial functions.

(5) Attestation of the appointment and dismissal of Ministers of State and other officials as provided for by law, and of full powers and credentials of Ambassadors and Ministers.
(6) Attestation of general and special amnesty, commutation

as a member of government

as a member of government

4. Special lecture: ‘Rule of Law and Needs of Legal Assistance - In the case of some Asian countries in the process of shifting to the market economy- Present situation and Agenda of Legal Assistance Project in Asia’ by Professor Emeritus MORISHIMA Akio, Director of the Geographical Environment Strategy Research Institute

Since the corruption of the Soviet Union in 1981, the most communist countries had to change their government regime and moved into the market economy. Even if the countries like China and Vietnam which maintain the communist regime have been involved in the global market economy. The centralized planning economy system under the communism is very different from the competitive free market system under the capitalism. Apart from the government system or the public law system, the basic principles of the private law or the law concerning daily life and transaction of private persons under the market economy are as follows:

- ① As a party of transaction, all individuals have equal legal status.
- ② The ownership of property, especially of land is exclusively protected for the owner.
- ③ Between the equal individuals with free will, each party is legally bound only by the contract or agreement between the party.

The countries in the process of shifting from the centralized planning economy to the market economy have to introduce the legal system which is not only technically unfamiliar for them but also socially and politically unacceptable, at least for the time being. Japan received the Western legal system when it modernized in the 19th century but it took decades to adjust its society to the different cultural Western product. In the case of current Asian countries’ shift to market economy, the pressure of globalization is extremely strong since these countries need foreign investments and international investors strictly require these countries to introduce Western market legal system, such as mortgage, land registration etc. Vietnam and Cambodia have to introduce the market legal system as soon as possible to participate in the global markets. China has also tried drafting several market laws to improve its market economy and to participate in WTO. These countries needs technical information of the market law and have requested Western countries including Japan to provide technical assistance to accelerate their efforts to change the legal system.

(Reference)

Japanese Approach toward Legal Development Assistance (Law and Development)
Professor Emeritus, Nagoya University, Akio Morishima

Japanese strategy of the official development assistance in the legal sector is fundamentally different from that of the law and development movement of the United States in the 1960s. The goal of the legal assistance project is to provide the countries in the process of transition from socialistic economy to market economy with necessary information and resource training to establish legal institutions appropriate enough to participate in the global market. Its methodology is as follows: to organize Japanese expert groups to draft laws or to advise drafting laws: to dispatch those experts to the partner country and to hold discussion meetings with lawyers of the partner country: to conduct field studies, if necessary. LICA (Japan International Cooperation Agency) sends long term experts to the partner country to coordinate project works. The Japanese experts do not make any final decision on the draft

law but always seek for consensus with partner experts. For the purpose of capacity building, judges and government officials are invited to Japan to participate in a four-week seminar.

The philosophy of Japanese Legal Assistance is the partnership or equality between the two parties. Of course, the country of transition does not have the appropriate market legal institutions. The society itself is currently far behind the developed countries. However, the law of the country has to function in the society. Even when a country has an ideal legal system, it is not the law of the country if the system does not work in its society. Japan received European legal system in the 19th century and took long time to adjust to our own culture and society. That is the reason why we request our partners to take initiatives in making final decisions. Needless to say the countries of transition inevitably have to shift to market economy. In this sense we have to show our partners what are the merits and demerits of a legal institution and other alternatives of the market law. However, we refrain from imposing our preference on our partners.

Last few years the World Bank has been interested in the coordination of legal assistance projects of international organizations and governments under the name of Rule of Law. The idea could be to improve the governance and democracy of developing countries under judicial control. As an idea it is not bad, but each country has its own tradition of judiciary and the check and balance between the administration and judiciary varies from one country and another. If the assisting country imposed its own idea of judiciary, the transplanted system will not work in the society of the assisted country.

Having described the experience of Japanese legal assistance, I would like to make my personal comment on the Law and Development in the United States. I learned it when I stayed at Yale Law School in 1971. When former colonies in Africa achieved independence in the 1960th, they needed assistance to establish their own new governments. I suspected that, taking that opportunity, the US tried to extend its political influence to Africa by exporting US legal system to the countries of former European colonies and to strengthen the political power against the Soviet Union. However, since the legal institution is a part of the superstructure of the society, a mere transplantation of legal system may not root into the society. Despite the legal institutions the dictatorship has prevailed and the administration has lacked governance in many countries in Africa.

So far Japanese legal assistance project has covered only private laws (transaction laws) and extended to the countries in the process of transition from socialist economy. But some countries such as Indonesia are interested to receive assistance and the assistance to some public law areas such as the jail administration law is requested. We have to reexamine our assistance policy from the broader perspectives and formulate the long term strategy for the legal development assistance.

5. Lecture 3: ‘Civil Dispute Resolution in Japan,’ by Mr. ISHIGURO Shigeji, Japanese attorney at law on February 23, 2005

1. LEGAL PROFESSION

How judges, prosecutors and attorneys are trained?

Unified training, but separate career system

After having passed bar examination, trainees undergo a-year-and-a-half training at the Legal Research and Training Center.

On graduation, trainees choose to become judges, prosecutors, attorneys or others.

In recent years, a certain number of lawyers have been appointed to be judges.

Can you trust Japanese judges?

Yes.

Japanese judges are fair, clean and diligent

No bribes

What is the role of attorneys?

Are Japanese attorneys independent from the government?

Attorneys are granted freedom and independence in their duties, and guaranteed a high degree of autonomy. Attorneys are not subject to the supervision of the courts, Ministry of Justice, Office of the Prosecutor, or other public authority. Only the Bars have the power to guide, supervise, and discipline attorneys. The Bars are managed by their member fees and administered independently without outside interference.

Every attorney is required to register his or her name with the JFBA through the bar association that he or she intends to join. Accordingly, if an attorney is disbarred for serious wrongdoing, he or she can no longer practice law.

Full autonomy of the Bar

Establishment of their own rules and regulations

Independent screening of the qualifications of attorneys and registration of attorneys

Power to take disciplinary action against attorneys

2. DISPUTE RESOLUTION

People tend to hesitate to file a lawsuit. Why?

Being involved in a trouble is a shame, even for victims.

People are not familiar with attorneys. Attorney's fee is unpredictable.

Win or lose? ... You cannot predict the result. High risk.

Lawsuit is costly and sometimes ends up as a waste of time, money and energy.

How people resolve their dispute?

Negotiate?

Get someone's help? Ask the assistance of a gangster?

Give up? ... People who have a power can victimize weak people.

『Case 1-1,2』 *

Recent trend – What impression do you get from Sumitomo v. UFJ case?

3. JUSTICE

『Case 2』

A sales girl visited a young blue-collar worker at his apartment and solicited him to buy a piece of land in the far north of Japan. She explained that a railroad station of the Shinkansen (super-express) line would be built nearby in a few years and the price of the land would jump up. He agreed to purchase the land for one million yen and signed the contract. After he failed to pay, the Seller filed a suit. At the trial, it was proved that the land was located deep in the mountains and the actual price was 10,000 yen at most. Does he have legal obligation to pay the price he agreed on?

What is justice?

Is the judicial power strong enough in Japan?

In this case, the judge decided it was against public policy to enforce such an unfair contract.

There are many judges who have a strong sense of justice, but some don't.
For judges, it is easier to depend on documentary evidence. In order to make a decision that contradicts documentary evidence, a judge has to give a good reason to persuade the parties and the superior courts.

4. LITIGATION

(1) Procedure

Hearings (oral argument)
Arrangement proceedings of point at issue and evidence
Examination of witnesses and parties

Is litigation expensive?

Yes.

Filing fee is expensive, e.g. 170,000 yen for 50,000,000 yen suit

Is civil procedure efficient?

No.

Time consuming Approximately two years

In a trial, there are two stages. The first is the arrangement of points at issue and evidence. The second is the examination of witnesses and parties.

After filing a suit, several oral proceedings and arrangement proceedings are conducted. Plaintiffs and defendants submit their papers explaining the ground of their claim as well as documentary evidences to support them.

These proceedings are conducted on roughly once a month basis. Therefore, it takes at least several months, in many cases more than a year, before this arrangement of points at issue and evidence is finished.

After most of the claims and documentary evidences have been submitted, hearing of witnesses and parties begins.

Is it difficult to speed up the procedure?

In the initial stages, parties do not know what claims and evidence the other party have.

Submission of claims and evidence is the responsibility of both parties.

But often, parties need the power of court in order to collect evidence.

(2) Evidence collection

『Case 3』

When a worker sat on a chair in the factory, the chair suddenly fell down. It was a one-legged chair and the seat came off the leg. She fell backward and broke her hip bone.

She filed a suit against the seller of the chair as well as her employer. The seller argued that the chair had been used beyond the durability. She tried to prove that there had been a defect in the chair. Did she succeed in collecting the evidence?

Is it difficult to collect evidence?

Yes.

Is there a discovery system?

Yes, but Japanese discovery & interrogatory system are not so strong.

Common response is "We don't have that document."

Is there a punishment for a false testimony?

Some witnesses give false testimony after swearing an oath.

However, judges do not try to punish them.

Parties who hide disadvantageous evidence can win the case.

Judges should take more positive role and cooperate with parties in collecting suitable evidence.

If the power of court remains weak, people will lose the trust in judiciary.

(3) Settlement in court

Is settlement in court common in Japan?

Yes. Roughly 60% of cases are finished by settlement at court.

Who attempts to effect a compromise, the same judge who examines the case?

Judges can recommend settlement at any time.
The same judge who renders judgment takes care of settlement procedure.

(4) Enforcement of judgment

Is enforcement of judgment difficult?

Execution of judgment is difficult.
To find a hidden asset is not easy.

5. ADRs

Are mediation proceedings at courts popular and widely utilized?

Yes.

Inexpensive

Attorney representation not necessary

Easy procedure...no requirement of preparation papers and evidence

Quick settlement

Agreement has the same effect as a court judgment

Are there ADR systems managed by bar associations?

Arbitration center at bar associations

Mediators are attorneys and experts.

(cf. Court mediators are appointed from lay people, attorneys, experts and others.
Therefore, ability of mediators varies.)

Are there ADR systems managed by NPOs or the government?

Mediation by Government

Free mediation for labor dispute

Arbitration & Mediation by NGOs

Automobile accident center

Japan International Commercial Arbitration Center

* 《Case 1-1》

Top court dismisses Sumitomo's appeal against UFJ-Mitsubishi Tokyo merger

The Supreme Court on Monday dismissed an appeal filed by Sumitomo Trust & Banking Co. against a high court decision that revoked a lower court ban on merger talks between UFJ Holdings, Inc. and Mitsubishi Tokyo Financial Group, Inc.

The irrevocable decision has paved the way for UFJ and Mitsubishi Tokyo to go ahead with full-fledged negotiations to merge into the world's largest bank.

The top court handed down a decision on a petition by Sumitomo Trust that had been seeking a provisional disposition banning merger talks on the grounds that it had agreed with UFJ Holdings to take over UFJ Trust Bank Ltd.

Dissatisfied with the top court decision, Sumitomo Trust is poised to launch a lawsuit, demanding that a court confirm that it has the exclusive right to hold merger talks with UFJ Trust.

On May 21, UFJ Holdings and Sumitomo Trust signed an agreement under which UFJ would sell an affiliate, UFJ Trust, to Sumitomo.

However, after deciding on July 13 to enter merger talks with Mitsubishi Tokyo, UFJ unilaterally scrapped its agreement with Sumitomo Trust.

Angered by the move, Sumitomo Trust filed a lawsuit, asking the Tokyo District Court to ban UFJ from holding merger negotiations with Mitsubishi Tokyo. Simultaneously, Sumitomo filed the petition with the same court, asking for a provisional disposition to block merger talks between UFJ and Mitsubishi Tokyo until the court hands down a ruling on its lawsuit.

In the petition, Sumitomo claimed that the agreement with UFJ is legally binding.

The district court sided with Sumitomo and provisionally banned UFJ and Mitsubishi Tokyo from entering merger negotiations.

In response to an appeal by UFJ, the Tokyo High Court overturned the decision. The high court did uphold the district court's view that the agreement that Sumitomo Trust had with UFJ Holdings for exclusive talks aimed at merging UFJ trust with Sumitomo Trust is legally binding.

Nevertheless, the appeal court concluded that Sumitomo and UFJ could no longer go ahead with their merger talks because their mutual trust has collapsed and there is no point in banning UFJ from entering merger talks with Mitsubishi Tokyo.

Sumitomo then appealed the decision to the Supreme Court.

(Compiled from Mainichi and wire reports, Japan, Aug. 30, 2004)
<http://mdn.mainichi.co.jp/news/archive/200408/30/20040830p2a00m0bu010000c.html>

《Case 1-2》

The Wall Street Journal (Copyright (c) 2004, Dow Jones & Company, Inc.) Wednesday, July 28, 2004 Deals & Deal Makers

Court Limits Japan Bank Merger Talks

UFJ Is Ordered to Halt Trust-Unit Negotiations With Mitsubishi Tokyo, Jeopardizing Deal

By Martin Fackler in Tokyo and Henny Sender in New York

In a surprise decision, a Tokyo court ordered UFJ Holdings Inc. to stop some parts of its takeover negotiations with Mitsubishi Tokyo Financial Group Inc., a ruling that could jeopardize the creation of the world's largest bank. The ruling by the Tokyo District Court blocks UFJ from holding further negotiations about its trust-bank unit, which were being conducted as part of Mitsubishi Tokyo's planned acquisition of the UFJ group. That takeover, announced July 16, would create a megabank with \$1.75 trillion in assets.

Yesterday's court order followed a complaint by another Japanese bank, Sumitomo Trust & Banking Co. In May, Sumitomo Trust reached an agreement with UFJ about buying UFJ Trust. According to people familiar with the arrangement, the two banks agreed to exclusive talks on a sale for a two-year period. Two weeks ago, UFJ said it was scrapping the agreement with Sumitomo Trust to clear the way for Mitsubishi Tokyo's takeover of the entire UFJ group. Sumitomo Trust's move to seek a resolution in court -- and the court's decision to grant that request -- is the latest sign that Japan is becoming a more confrontational and legalistic society. Japan traditionally has avoided legal confrontations, and bankers said it was unprecedented for a court to intervene in a bank tie-up.

In the past, banks would have relied on back-room negotiations, or quietly taken their dispute to the country's once-powerful bureaucrats. Deregulation and Japan's long economic funk have robbed the bureaucracy of some authority, and the once-genteel banks are resorting to bolder measures.

"It represents a paradigm shift on the legal side," said Veronica Taylor, head of the Asia Law Center at the University of Washington in Seattle and a former visiting law professor at Tokyo University. "It shows a more legally aware business mind-set in commercial dealings. The days of unspoken understandings underpinned by personal relationships are fading away."

Mitsubishi Tokyo said the court decision was "unexpected." UFJ called the ruling "extremely unfair" and said it will appeal. Speaking privately, officials at UFJ and Mitsubishi Tokyo expressed hope that the decision would delay -- but not derail -- the takeover, which was expected to be completed by the middle of 2005.

If the appeal fails, officials at UFJ and Mitsubishi Tokyo said the most likely outcome would be for UFJ to try to strike some out-of-court deal with Sumitomo Trust, possibly involving payment of compensation. A Sumitomo Trust spokesman said his bank is ready to start talks with UFJ, though he didn't say what it would take for the bank to drop the complaint.

Experts also said the case reflected the growing voice of shareholders, who once largely were ignored by Japanese companies. This change partly has been driven by the increasing stakes in companies in Japan held by foreign investors, who have been the most active buyers of Japanese stocks in recent years. Shares of all three banks trade in the U.S., and foreigners own more than 30% of Sumitomo Trust.

But even Japanese institutional investors are learning to make more demands on management, as Japan's aging population worries more about the returns on its pension-fund investments. Experts said Sumitomo Trust may have been pressured to take legal action to demonstrate to stockholders that it was taking their interests seriously, even if it eventually seeks some sort of negotiated settlement with UFJ.

Sumitomo Trust, one of Japan's biggest banks with assets of \$136 billion, has turned the dispute into a public drama by making no effort to hide its anger -- something also once almost unthinkable in consensus-driven Japan.

People familiar with the matter said UFJ top executives informed Sumitomo Trust only two days before the announcement of its takeover by Mitsubishi Tokyo.

"They just told us all of a sudden," Sumitomo Trust spokesman Naoki Sugihara said. "We were shocked that they would cancel something so critical without at least consulting us first."

As is normal in Japan, the basic agreement between Sumitomo Trust and UFJ didn't specify penalties if either side reneged, people familiar with the agreement said; this indicates the mind-set that parties historically have brought to the table.

"We suggested a breakup fee to Sumitomo Trust," says one lawyer who worked on the deal. "But they rejected it, saying the business must be based on trust."

While Sumitomo Trust can ask the court for damages, Japan doesn't have a history of judges awarding large ones. Ms. Taylor says Japan has no concept of punitive damages yet. Taking control of UFJ Trust would have made Sumitomo Trust Japan's biggest trust bank in terms of assets with 50 trillion yen (\$455 billion). Since UFJ walked away, Sumitomo Trust's share price has fallen about 14%.

**6. Lecture 4: ‘Toyota’s Legal Compliance and Risk Management,’ by Mr. OWAKI Morio,
General Manager of the International Legal Affairs, the Department of the Legal Division at
the Toyota Motor Corporation**

**Toyota’s Legal Compliance
and Risk Management**

February 23, 2005

Morio Owaki
Head of International Legal Dept.
Legal Division
Toyota Motor Corporation

1. Recent Corporate Scandals

- 95 \$1 billion dollar loss cover-up by the New York Branch of a Japanese bank
- 97 Illicit transactions between a bank and a “Sokaiya” or racketeer shareholders
- 00 Concealment of product defects by a car company
- 01 Deceptive labeling by a food company
- 02 Use of illegal ingredients by a food company
- 02 Use of illegal ingredients in meat buns by a fast food chain store
- 02 Computer system down by a major Japanese bank
- 02 Use of intoxicated water and illegal flammable powder by a theme park
- 02 Concealment of inspection result by a electric power company
- 04 Enforced recall of heavy vehicles and criminal charges

Confidential

2. Impact of Corporate Scandals

- Risks materialized by corporate scandals
 - Negative press coverage, resignation of top executives, adverse impact on stock price/rating, consumer boycott, governmental intervention, etc.
 - Lead to bankruptcy or dissolution in some cases
- Background of scandals
 - Top executive’s posture;
 - Work environment where employees refrain from reporting bad news up-the-ladder to top executives;
 - Limited communication between staff and executives.

Confidential

3. Review of Compliance at Toyota (1)

- Toyota’s management leaders have established and maintained firm management policies, which have been recognized and respected by everyone working with Toyota.
- 1935 “Toyota Precepts” (message of Sakichi Toyoda, the founder of Toyota)
- 1992 “Guiding Principles of Toyota” (revised 1997)

Confidential

3. Review of Compliance at Toyota (2)

- Toyota has cultivated special corporate culture, whereby every employee is encouraged to find problems or issues i.e. something different from what each employee is aiming for, and to solve them.
 - “Genchi Genbutsu” (Go and See Approach)
 - Go to the sources to find the facts, analyze them, build consensus and achieve goals at our best speed
 - Spirit of “Toyota Production System”
 - Quickly identify problems, seek root cause of the problems and take an appropriate remedial action
 - Work environment
 - A line-worker is allowed to stop the entire production line in order to spot problems. Even bad news to the management are appraised.

Confidential

4. Developing the Corporate Culture

- Human resources development is key to the good corporate culture.
- In order to maintain our good corporate culture, it is essential to keep the cycle of the program (A) and (B) running.

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    graph LR
        A[Human Resources Development<br/>(Develop compliance-oriented personnel)] <--> B[Good Work Environment<br/>(Mutual education and check)]
        B --> C[Good Corporate Culture<br/>(Aggregate of good work environment)]
        C --> A
    
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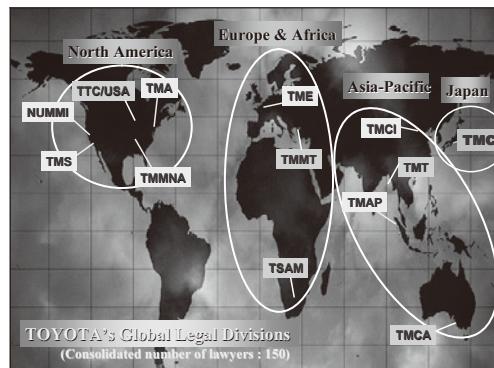
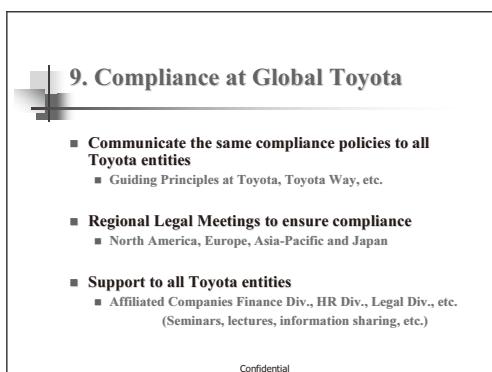
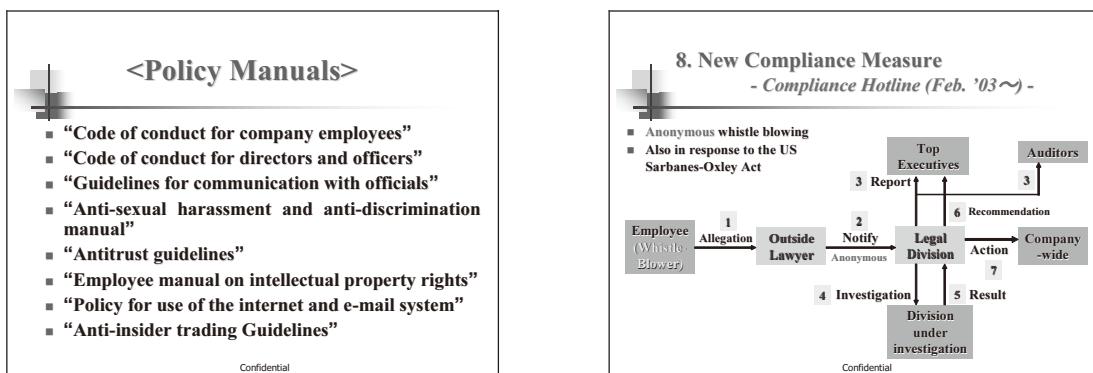
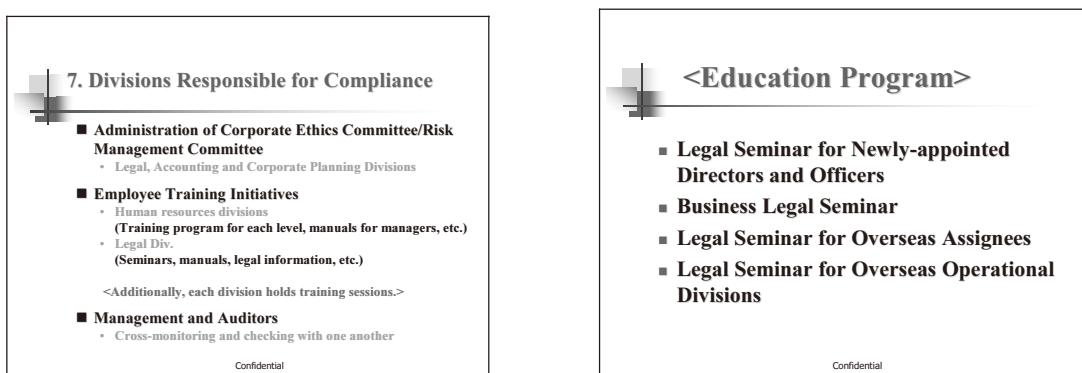
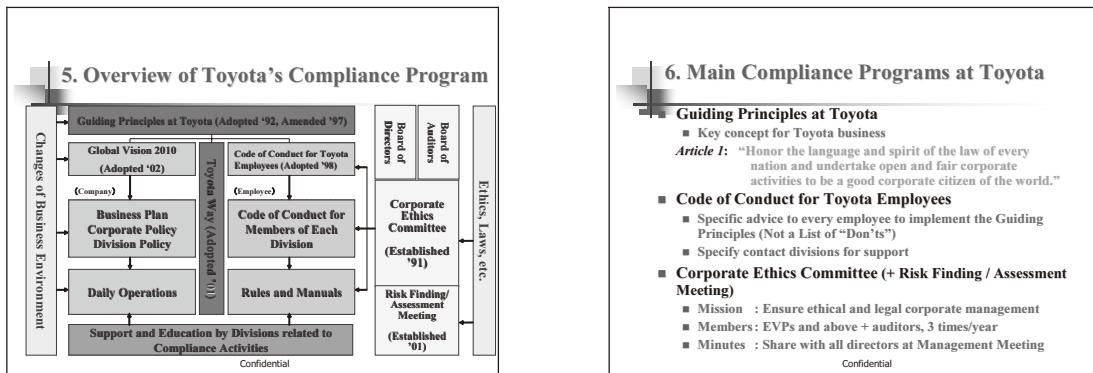
Program (A)

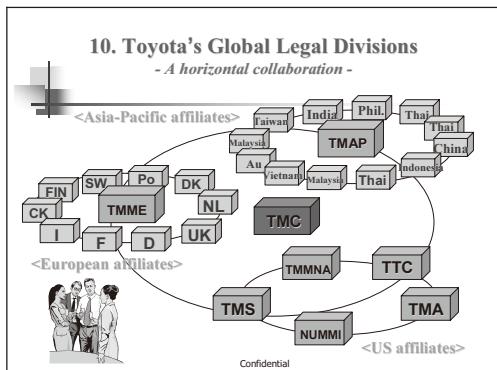
- OJT,
- Training by level, etc.

Program (B)

- Guiding Principles at Toyota,
- Code of Conduct,
- Corporate Ethics Committee, etc.

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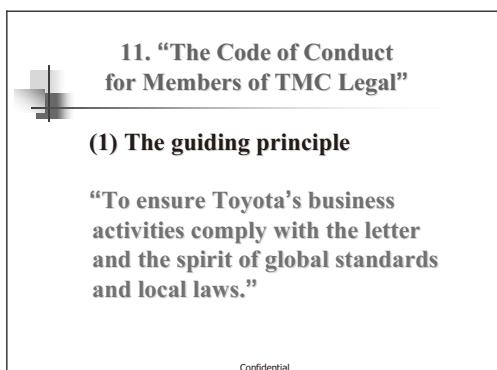




11. "The Code of Conduct for Members of TMC Legal"

- In August 2000, TMC Legal adopted "The Code of Conduct for Members of TMC Legal".
- A higher degree of ethics than other employees, more sophisticated philosophy and mission are expected.

Confidential

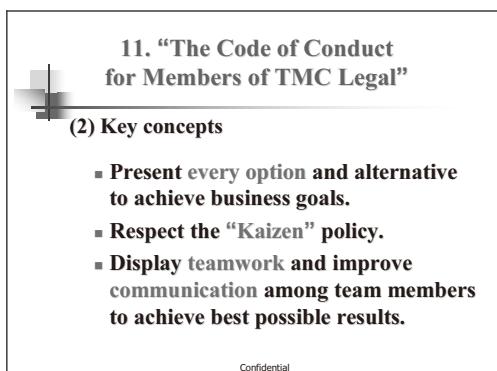


11. "The Code of Conduct for Members of TMC Legal"

(2) Key concepts

- Find, assess and quantify risks to help the management make judgments and decisions.
- Communicate clearly with client divisions, and persuade them to do what is right.
- Be reliable business partners.

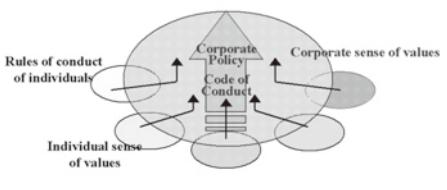
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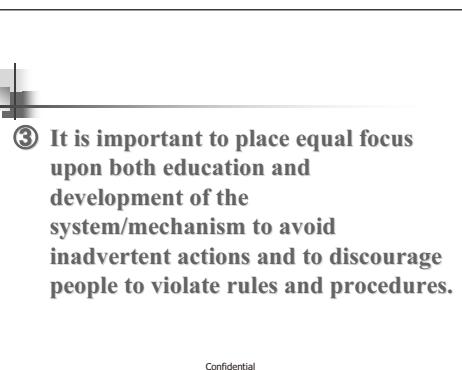
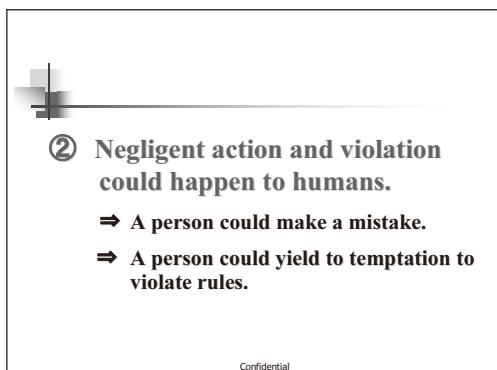
12. Challenges

(1) Difficulties to establish compliance in organizations

① Organizations consist of humans



Confidential

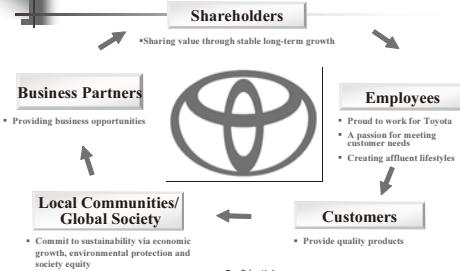


**(2) Challenges for the future
(promote the strengths and overcome the weaknesses)**

- ① To further improve the “Toyota Way” and enforce it
- ② To enhance the global compliance network further
- ③ To establish a strategic initiative to develop human resources who have a higher degree of sense of compliance.

Confidential

13. Corporate Social Responsibility



Confidential

Most Respected Company

- Toyota is the world's third “Most Respected Company” (FT)
- Toyota is the Sustainability Leader in the automotive industry for the second consecutive year! (Dow Jones)



Confidential

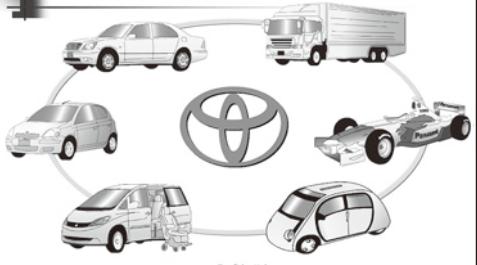
Our Goal

- Our goal is always to become the most respected company in the world !



Confidential

Thank You!



Confidential

7. Presentations by the three instructors from partner institutions:

7-1) A report on ‘The Current Issues of Legal Education at Royal University of Law and Economic (RULE) and How It Contributes to the Development of Human Resources in Cambodia,’ by Mr. LY Chan Tola, Professor of Law at the Royal University of Law and Economics, Cambodia (RULE) held on 23rd February 2005

Professors

Distinguished lecturers

Delegates

Students

Ladies and Gentlemen

It is a great pleasure and honour for me to be here with other distinguished lecturers. Before going straight to my presentation on the current issues of legal education at Royal University of Law & Economics (RULE) and how it contributes to the development of human resources in Cambodia; let me first thank Mr. Saburi Haruo and the Nagoya University graduate school of law staffs and students for their warm welcome and hospitality.

RULE was the first and sole public higher education institute in the Kingdom of Cambodia.

It was first established in 1948 as the “National Institute of Laws, Politics and Economics”. In 1957, the Faculty of Law and Economics was incorporated into the Royal University of Phnom Penh and gave birth to a few thousand lawyers. Unfortunately, under the Khmer Rouge Genocide regime during the period from 1975 to 1979, all educational facilities including schools and universities were closed. It was reopened in 1986 as a training school for high ranking civil servants of Khmer popular republic, trained by the trainer officers from Vietnam and the former East Germany.

Fortunately, right after the signing of the Paris Peace Agreement on the 23rd of October 1993, the under-graduate program of Law and Economics (five year bachelors program) was restarted at the Faculty of Law and Economics. On the 16th of July 2003 this faculty became the Royal University of Law and Economics (RULE).

Since the downfall of the Khmer Rouge regime, Cambodia has had to reconstruct its material and human infrastructures. Among the few thousand students holding bachelors of law at the Faculty of Law (and Economics) since 1948, only 6 survived. They are now very old but some are still working in higher institutions of Cambodia. We can count:

- Mr. Loeung Chhay, Former Dean of the faculty of Law and Economics;
- Mr. Chhor Leang Huot, Deputy;
- Mr. Dith Munty, President of the Supreme Court;
- Mr. In Neang, Under Secretary of State at Ministry of Justice;
- Mr. Kung Phirun, Former Director of Royal School of Administration and now judge at Supreme court;
- Mr; Hangro Raken, General Prosecutor of Appeal Court.

To realize the above objective of reconstruction of the country, RULE has continuously played the key role in developing human resources in legal field by its legal education program. Since its reopening in

1991, RULE has trained thousands of students who are now working in every corner of the country (I). Many challenges are faced by RULE (II).

I. Contribution of RULE in Developing Human resource of Cambodia

Realizing that the public and private sectors are the two pillars supporting the development of Cambodia, RULE sets its broader objective; traditionally, RULE's sole objective was to develop human resources for the public sector. Now, the objectives are enlarged to include the private sector as well. Various training programs in law and business administration were established and rapidly developed and recognized.

A. Academic Programs

The educational term/grade level system has been divided into semesters, with 8 semesters in the period of 4 years for the bachelor's degree program. RULE offers academic programs with strong emphasis on legal, public administration, economic and business education.

i. Graduate Degree programs

Graduate school of law

- Master in Public administration: study in Khmer
- Master in Private law: study in Khmer
- Master in International Business Law and Corporate Counsel: study in French and English

ii. Undergraduate Degree program

1/ Faculty of Law

- Bachelor in Law: study in Khmer
- Bachelor in Law: study in English
- Bachelor in Law: study in trilingual: Khmer, French and English

2/ Faculty of Public Administration

- Bachelor in Public Administration: study in Khmer

The total number of law students at RULE actually is:

Under graduate: 2,072

Post graduate (Master): 591

Year after year, RULE has been proud of sending many talented individuals to both the public and private sectors. RULE's alumni are now working in various government ministries, private companies, international organizations, Non-governmental organizations, liberal professions (most are lawyers) and judges and prosecutors.

Along with the roles of supplying competent human resources to Cambodia's society, RULE serves another role as the gateway of Cambodia to the world. This role is proved by a vast cooperation with international institutions and universities through the exchange of students and faculty members.

B. International Academic Exchange

Increasingly, Cambodian universities have come to be involved in international academic exchange. However, RULE is exceptional. When RULE claims to be involved in international exchange, it does real exchange. About 70 professors from numerous foreign universities are officially invited to give lectures to RULE's students in the 2003-2005 academic years. Moreover, there are 17 permanent lecturers who are active in delivering lectures on campus. In addition, RULE has also concluded agreement for academic exchange with a total of 21 foreign universities and research institutions. Each year, RULE's students have opportunities to continue their studies in various partner universities in France, Taiwan, Japan, Korea, Vietnam, Thailand and the United States of America. The following are partner universities and their scholarship granted to RULE's students. On average, there are about 30 scholarships per year.

1. Nagoya University, Japan
2. Waseda University, Japan
3. University of Transnational Law and Business, Republic of Korea
4. Andoung National University, South Korea
5. Daejong University, South Korea
6. University of Michigan, USA
7. English Language Institute, USA
8. Asian Institute of Technology (AIT), Thailand
9. Institut Universitaire d'Etude du Développement (IUED), Switzerland
10. Centre Franco-vietnamien pour la Gestion, Vietnam
11. International Law Center, Vietnam
12. University of Cantho, Vietnam
13. Ecole Supérieure du Commerce de paris (ESCP), France
14. Centre d'Etude et de Recherche appliquée au management (CERAM), France
15. Université Lumière Lyon 2, France
16. Université Jean Moulin Lyon 3, France
17. Université de Paris, Sorbonne Paris IV, France
18. Université de Panthéon-ASSAS Paris II, France
19. Université de Panthéon, Sorbonne Paris I, France
20. National Cheng Kung University, Taiwan
21. State University of Oviedo, Spain

Even though we have had success in developing the legal human resources in our country, RULE has faced many issues.

II. The current issues in legal education at RULE

A. Toward the ambiguity and lost of legal system identity

Cambodia is a civil law tradition country because it was colonized by France last century. After the Paris Peace Agreement, Cambodia gained a new constitution which adopted a liberal democratic regime with a market economics. There has been a lack of laws and regulations. To fill these gaps, Cambodia depends largely on the foreign aid. Each donor country provides financial help and technical assistance to assist Cambodians in preparing laws and regulations. Each donor tries to apply its legal systems to Cambodia. As result, we have, for example, the Land Law in 2001 (US model # 1989 version, French model), the project of Law on Commercial enterprise (mix system of civil and

common law), the project of law on Commercial Court (Canadian and Thailand model), Project of Civil and Civil Procedure Code (Japan), the Penal and Penal Procedure Code (France)..... This adoption of foreign legal systems creates very big problems to not only RULE, but also Cambodia. At RULE, most of its law professors are graduates from France. They are therefore familiarized with the Civil law system. Even with their high capacity, it is very difficult for them to understand the concept of each new law and transfer it to the students.

I would like then to take this opportunity to propose to you the establishment of a so-called “Professor Exchange Program” that can be a Research or tour study. This will let us all have a better understanding of each country legal system and education.

I also wish to propose the Japanese government and Nagoya University offer scholarships to our professors so that they can continue their postgraduate formation in Japan. Until now, Nagoya University has given scholarship to only students. When they complete the scholarship they do not want to teach at the University because the private companies provide greater attraction. So, please consider the provision of postgraduate scholarships to our professors.

B. Non-specialized oriented formation and lack of Laws and regulations

Different from the Common law countries, our formation is based on theory only. Our alumni, to become professional, have to study a further one or two years. For example, if they want to be lawyers or judges and prosecutors they have to first pass the selection examination and study one more year at Centre for Lawyers Training and Legal Professional Improvement or Royal School of Judges and Prosecutors respectively.

C. Lack of Documents and research papers and materials

- Very few documents are available in Khmer;
- Most documents are in a foreign language; for example English or French, however many are old editions;
- There are significant hurdles for students to conduct research;
- Internet access is limited and expensive.

Professors

Distinguished lecturers

Delegates

Students

Ladies and Gentlemen

Thank you for your attention.

7-2) A Report on the ‘Background to legal education in Laos conducted by the Faculty of Law and Political Science at the National University of Laos,’ by Mr. Silithip Somsack, the Faculty of Law and Political Science, National University of Laos

A. The Faculty of Law and Political Science is the only Law School in the Lao PDR and was established in 1986 by the Ministry of Justice. The first academic year was in 1987, when a 3-year bachelor degree course started, with legal studies as a major. Then the faculty developed its specialised curriculum, which was accepted as the one and only higher education course in Law for the country, in 1996.

In 1997, according to the agreement between the two ministries, the Ministry of Justice (MoJ) and the Ministry of Education, it changed its name to the Faculty of Law and Political Science (FLP), as it is known today.

The FLP employs 62 teaching staff, including 8 teachers who are currently studying abroad and 1 who is based at the Lao National University. The number of Legal and Political Science teachers is 31. Each year, the faculty invites in more than 10 experts from the MOJ in as visiting lecturers. They are employed in the Office of the General Prosecutor, the Supreme Court, and at NOSPA (the National Institute of Politics and Administration) and other agencies.

Today, the faculty has more than 1,500 students studying Law and Political Science, including 700 studying on Special evening & lunchtime courses. The academic year 2004 - 05 is the second year of the Special program, which provides night time study.

The Faculty of Law and Political Science is the sole institution in the Lao P D R which is responsible for training lawyers, jurists, and administrators, in order to meet the needs of National Human Resource Development in the area of Law and Political Science, throughout the country.

The Faculty council is composed of the dean and deputy deans and heads of departments. The FLP is managed by the deputy deans, each of whom is responsible for one of the four departments; namely Administration, Academic affairs, the Library, and Student Activities.

The FLP has four departments with sixteen divisions, which are as follows:

1. The Administration Department has four divisions; namely, Finance, Personnel and Policy, Documentation, and Foreign Affairs
2. The Academic Affairs Department has four divisions; namely, Law, Political Science, Academic affairs, and the two Foreign Language Divisions (English & French)
3. The Library Department has four divisions: namely, Book Purchases and Donations, Book Loans, Documentation and Cataloguing
4. The Student Activities Department has four divisions: namely, Sports, Performing Arts, Cleaning and Security.

A few years ago, the faculty started a major Human Resource Development program, to improve the professional competence of administrative staff and teachers. Several numbers staff have been sent on training courses, involving both short-term and long-term study in Laos and overseas. Moreover, the FLP has a policy of regular in-service training to encourage the employees and staff to improve their professional skills, which can include short in-house seminars & workshops, regular classes in English and practical on-the-job training.

B. The Curriculum

The faculty offers three specializations: Law, Political Science and International Affairs¹. As from October 2004², the curriculum for the B.A.(Bachelor of Arts) degree is spread over five years, with one year of foundation courses at the School of Foundation Studies on the Dong Dok campus, followed by four years at the faculty, where the focus is on the major subjects of legal issues, administration and international affairs.

C. Department of Law

The student who studies in this field should complete a total of 178 credits, of which 33 are provided by the School of Foundation Studies (Dong Dok) while 145 consist of the main subject of law at the FLP. Before graduating, students must complete 2 months of field studies in different judicial organizations such as a local court, a prosecutor's office or a lawyer's office, before submitting their academic papers and taking the final exam. The objective of this program is to develop the students' knowledge of legal matters through training, and to establish a professional attitude towards legal issues. This is to be achieved through both theoretical and practical course components. The practical training includes work experience within the Courts and Ministries. Special attention is given to improving communication skills, including communication with non-lawyers, and to developing a sense of ethical behavior.

D. Department of Political Science

The student who studies in this field should complete a total of 183 credits, of which 33 are provided by the School of Foundation Studies (Dong Dok) while 150 consist of the main subject of political science at the FLP. Before graduating, students must also complete 2 months' field study or work practice with different local authorities and ministries, after which they should submit their academic papers and take the final exam.

The objective of the Department of Political Science is to improve students' understanding of legal matters through training and to develop their professional attitude towards legal matters.

The purpose of the program is to provide the students with enough knowledge in legal matters and administration. This will be achieved through both theoretical and practical course components. The practical training includes on-the-job work-practice within ministries, local administration or within the private sector. Special attention is given to communication skills, ethical behavior, and administrative theory.

E. Department of International Affairs

The objective of this department is to give the students knowledge and understanding of the International Policy of the Lao Government and of its international relations with other countries. Students should know how to apply their knowledge in practice and how to conduct international scientific research, based on a combination of national and international principles. Those who graduate from the department of International Affairs should be professional experts in their field, with diplomatic skills and a clear grasp of, and acceptance of, international ethics, as well as being patriotic.

¹ This New department was set up in October, 2004 through corporation between MOFA, the Institute of Foreign Affairs and the Faculty of Law and Political Science, Lao National University.

² Before 2004 the FLP curriculum consisted of two years at the School of Foundation Studies and tree years more at the FLP.

The purpose of this program is to provide the students with enough experience of international matters, academic research, political, diplomatic and international principles. This will be achieved through both theoretical and practical elements in the training. Special attention is given to the diplomatic skills required for working with international relations, as well as an awareness of ethical behavior.

The student who studies in this field should complete a total of 180 credits. 33 of these are provided by the School of Foundation Studies (Dong Dok) while the other 147 are for the main subject and are provided by the International Affairs Program at the FLP. Before graduating, students must complete 2 months of field studies with the Ministry of Foreign Affairs (MOFA) or (and) with other ministries or international organizations and submit their academic paper, in addition to sitting the final exam.

F. International Co-operation

Academic exchange and international cooperation are very important for the development of the FLP. In recent years, the FLP has established relationships with the following countries and institutions:

1. The school of Law at Nagoya University in Japan (since 1999), where several lecturers have studied for their Masters' Degrees
2. support for the French Language Section from the member-nations of Francophonie
3. The Swedish International Development Agency (Sida) through its aid project for Strengthening Legal Education at the FLP. We are currently in the second phase, which started at the end of 2003 and will run until December 2008. The main objectives of this project are:
 - Improved professional and pedagogical competence among lecturers;
 - Improved capacity in management and administration;
 - Improved motivation of students.

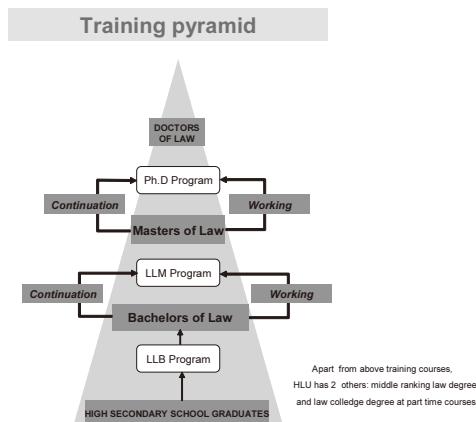
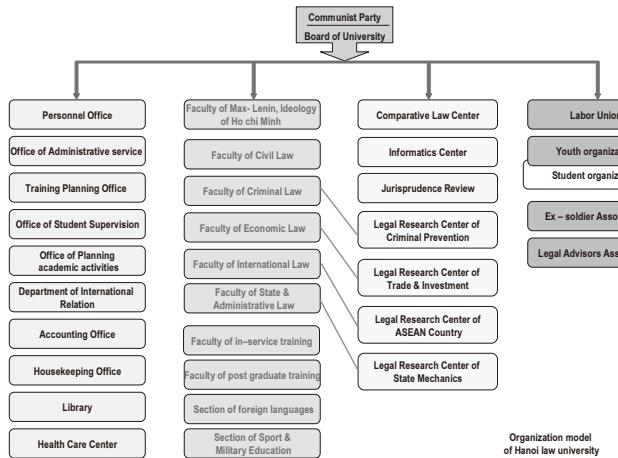
In addition, the FLP is planning for future academic exchanges with the School of Law at the University of Hanoi and with other faculties of law in South East Asia and even possibly in other parts of the world.

G. Current Situation

The FLP's aim is to be more in line with international work standards. To achieve this, its objectives are to upgrade working conditions, improve management and administration, as well as to provide Personnel Training and Human Resource Development for all members of staff, according to their job descriptions and individual needs. It is hoped that the government of Laos will give permission for the faculty to continue with its special courses at lunch times and in the evenings. These provide opportunities for the increasing number of students who have successfully completed upper-secondary school and who wish to study law, without making existing daytime classes too large.

Today, in Laos, there is an increasing demand for lawyers, jurists, and administrators in many areas such as business and private enterprise. The FLP is an institution which is responsible for satisfying the needs in both the public and private sectors. In conclusion, the FLP should improve its teachers' skills and knowledge, to meet the needs of students and society, by providing knowledgeable and effective lawyers, who will work towards improving legal standards throughout the country.

7-3) A report on ‘The Current Issues of Legal Education at Hanoi Law University and How It Contributes To the Development of Human Resources in Vietnam,’ by Mr. Pham Hong Quang – Hanoi Law University of Vietnam



I. HANOI LAW UNIVERSITY – HISTORY AND DEVELOPMENT IN BRIEF

The present Hanoi Law University was founded on the November 10th 1979 by the Decision 405 of the Council of Ministers (now the Government) on the basis of merger of the Law Faculty of the Hanoi University and the Vietnam School of Law under the initial name Hanoi College of Law. In 1982, the Judges Training School was also merged in to Hanoi College of Law. From July 6th 1993, it was renamed Hanoi Law University (HLU).

HLU is the biggest law training center in Vietnam at the present time³ and is designated to be the

³ Up to now, the number of law schools and legal training institutions is more than 12: Hanoi Law University which is organized under the Ministry of Justice and is the principal institution for undergraduate and graduate legal training (LL.M and PhDs of Law program). The University also offers a part time program in Hanoi an almost all provinces for people who hold a position, which require a law degree. Ho Chi Minh Law University, which is organized under the Ministry of Education and Training (from 20 March 1996). Faculty of Law at the Hanoi National University, which is administered by Ministry of Education and Training. State and Law Institution, which is established by Government. There are 8 other smaller institutions offer LL.B and other legal professions including:

center of law training, law education and legal research that plays an important role in the development of human resources in the legal field. The University now offers LL.B, LL.M and Ph.D of law programs⁴. Teaching staff and students of the University carry out various legal research and participation in drafting legal acts.

HLU has 8 Faculties and 2 subject Sections that are belonged to The Board of University; 13 Departments and 4 legal research centers belong to 4 faculties and one belongs to the Board of University⁵. The University has in its disposition 247 lecturers, 199 staff, among them 47 Doctors and 134 Masters of Law. The percentage of lecturers under the gender is 53,8% (Female) and 46,2% (Male)⁶. Besides, the University has a number of visiting professors, Doctors Masters of Law and Researchers from various Universities, Institutions and State agencies (such as Ministry of Justice, the People's Supreme Court, The Institution of State and Law) and other foreign professors for training at Master's Level (France, Sweden...).

HLU has just organized the Ceremony of 25 years of Foundation and Developments and was granted the Independence Medal by State President in the last November of 2004.

II. THE CURRENT ISSUES OF LEGAL EDUCATION AT HANOI LAW UNIVERSITY

1. LL.B Training Program

1.1. Training Objectives

- General Objectives

To train bachelors of law having good political and moral standards, being devoted to work for people, possessing good knowledge and professional competence inherent to a bachelor of law and having good health to meet the requirement of the cause of industrialization, modernization and building up the State governed by Rule of Law in Vietnam.

- Specific Objectives

To provide students with fundamental comprehensive knowledge of law and other related social sciences; to equip students with scientific method of thinking with good approach of finding and solving theoretical and practical legal issues; to form basic concepts of specialize legal areas; to acquaint students with practices of agencies and organizations in order to make the University's graduates in to legal professionals capable to settle the matters common and pertaining to the training fields and to research higher legal education.

1.2. Forms of training

- Full time: 4 years
- Part time: 3 years for persons who already have BA Degrees in other specialties and 5 years for others.

1.3. Admission

- The entrance exam: Under the Standard National Exam held at every July of the year.
- Applicants must take an entrance exam in 2 sections: Section A: The entrance exam is carried out on 3 subjects: Mathematics, Physics and Chemistry. Section B: The entrance exam is carried out on 3 subjects: Literature, History and Geography.

The Faculty of Law of Hue University; The Faculty of Law of Can tho University; The Faculty of Law of University of Police and University of Security; The Faculty of Law of Ho Chi Minh National Politic Institution; The Faculty of Law of National Administrative Institution ; Judicial Institution which is founded by Government (former name as Legal profession training school belonged to Hanoi Law University); The college of procuracy; The school of training as court's staff; and some Faculties of Law of private Universities and open Universities in Hanoi and Ho Chi Minh cities such as: Phuong Dong, Dong do, Van Lang... See the report on the assessment of the improvement of Vietnamese legal system and legal education made by Ministry of Justice in 2001, Page 11.

⁴ Apart from these, HLU is in charged of training 2 other types: the law college degree and the middle ranking law degree that are often applied to legal officers at grassroots in locality

⁵ The legal research center of the state mechanics belongs to Faculty of State & Administrative Law; The center of criminal prevention belongs to Faculty of criminal Law; The center of trade and investment belongs to Faculty of Economic Law; The center of ASEAN belongs to Faculty of International Law; The center of comparative law belongs to the Board of University.

⁶ See the Book " Hanoi Law University – Foundation and Development during past 25 years (1979- 2004) published in November 2004.

1.4. Structure of training program

LL.B training program of HLU consists of 2 close related and reciprocal parts: General training and professional training.

- General training

Courses of the General Part are structured pursuant in to the framework set up by the Ministry of Education and Training curriculum for Universities and Schools of social sciences⁷.

- Professional training

Professional training courses are divided in to 3 sections: Basic, Specialized and Field study.

+ Basic courses cover knowledge of different branches of laws. They are required for all students⁸.

+ Specialized courses are designated to go deeper to some branches of law that will be needed for the students belong to specialties faculties have chosen to practice in the future. They are required only for the students of given specialization⁹.

+ Field study courses are determined on the basic of the general and specific objectives of training program and the specialization that students have chosen. Students are sent to various agencies and organizations whose activities are relevant to student's work after graduation. Field study courses provide students with opportunities to develop practical skills and to gather date for graduation thesis.

1.5. Training Length

The total number of credits during 4 years of training is 191 (not including 11 credits of training as a reserve soldier), among included:

+ General training courses consist of 52 credits. (Each credit equivalent to 15 periods of time in the class, each period of time is 45 minutes).

+ Professional training courses consist of 129 credits, among included: Basic courses consist of 107 credits. Specialized courses consist of 12 credits. Field study courses consist of 10 credits.

+ The final examination or the graduation thesis presentation consists of 10 credits.

* During past 25 years, HLU has trained 46.556 LL.B and the thousands of legal staff having been trained in the part time law courses.

Number of full time course students currently enrolled at HLU is around 4.000 students. Each year, the average number of enrolled students is around 900 to 1.200.

2. Post-Graduate Training

2.1. LL.M Training Program.

HLU stared LL.M training program since September of 1993. During past 10 years, HLU has trained 373 LL.M and the total number of Master course students now is 202 among 21 researchers from HLU included¹⁰.

Presently, HLU offers LL.M courses on 5 specialties namely:

- + Theory on State and Law
- + Economic Law
- + Criminal Law
- + Civil Law
- + International Law

The specialties of Constitutional Law and Administrative Law will be offered in the very near

⁷ It requires 52 credits and consists of 14 subjects as follow: Max – Lenin Philosophy; Political Economics; Scientific socialism; History of Vietnamese communist Party; Ho Chi Minh ideology; Informatics; Foreign languages; History of State and Law of Vietnam and the World; Constitutional Law; Comparative law; Technique of drafting a legal document text; Physical training and soldier trading. See the book of " Structures of LL.B legal training program" published by HLU in 2003, Page 7.

⁸ It requires 107 credits and consists of 44 subjects as follow: Sociology; Philology; History of the world civilization; Vietnam culture basis; Logics; Theory of State and Law; Administrative Law; Criminal and procedure Law; Civil and procedure Law; Family law; Trade law; Labor law; Commercial law; Bank Law; Land law; Law on environment; Private international Law; Public International Law; International Trade Law; Administrative litigation law; intellect property law; Investment Law; Criminology; Social security law; International economic relation. See the book of " Structures of LL.B legal training program" published by HLU in 2003, Page 10.

⁹ It requires 12 credits. The number of subjects belongs to each specialties faculty that consists of 2 types: compulsory subjects and selected subjects. See the book of " Structures of LL.B legal training program" published by HLU in 2003, Page 12.

¹⁰ See the Book " Post Graduate Training in the past 10 years ", published by HLU December 2003. Page 10. Up to now, until the end of 2004, the number of LL.M trained is 500. See the Book " Hanoi Law University – Foundation and Development during past 25 years (1979- 2004) published in November 2004, Page 19.

future. LL.M training program is scheduled for 3 years and consists of 105 credits, among included: Fundamental training courses consist of 26 credits¹¹; Basic law courses consist of 36 credits¹², Specialized law courses consist of 13 credits¹³ and Graduation Thesis consist of 30 credits.

For each academic year, HLU enrolls from 50 to 60 LL.M students from over 300 applicants.

2.2. PhD of Law Training

HLU stared PhD training program since July of 1994. During past 10 years, HLU has trained 40 PhD of Law and the total number of PhD students now is 46 among 25 researchers from HLU included¹⁴.

PhD Program of HLU lasts for 5 years for those who do not have LL.M Degrees and 3 years for those having these Degrees. The specialties for PhD Program are the same as for LL.M Program (5 Specialties).

The difference in training program for students of LL.M and PhD Program reflects in 3 papers required in regard of the latter and dissertation that must be presented and defended successfully before the University Examination Board and then to the National Examination Board established by the Ministry of Education and Training.

* Apart from the above 3 types of training, HLU also trains students with a middle ranking of legal degree (2 years after the completion of high secondary school); law college degree (3years after the completion of high secondary school). These courses are opened for those who cannot be enrolled at university, especially for those who work concerning the legal field at grassroots.

3. The training cooperation with the foreign partners

- HLU has trained and granted LL.B, LL.M and PhD Degrees for foreign students from People Democratic Republic of Laos, Cambodia, Yemen Republic with the total number of 68 among them 1 PhD, 7 LL.M and 60 LL.B; adopted the foreign post graduate students from China, Sweden, Japan to do research at HLU.

- HLU has cooperated with the University of Paris II (France) to train 2 courses of LL.M Program in Vietnam (by French languages). The total number of graduated students now is over 40. 3 Masters of Law was trained in France for 1 year.

- HLU has cooperated with the Lund University (Sweden) to train 1 course of LL.M students in Vietnam (by English languages) with the total number of 34 Master candidates. 6 Masters of Law was trained in Lund University for 9 months.

- HLU has cooperated with the Faculty of Law, Nagoya University (Japan) and sent 2 LL.M students to study in Japan for 2 years.

- Some candidates for the training LL.M courses and PhD courses having been selected for studying oversea in the scope of Projects on “ Strengthening Legal education in Vietnam” funded by Sida; “ Cooperation on training International Trade Law “ in the content of cooperation agreement signed between Ministry of Justice and Vietnam- America Trade Council.

4. Achievements in brief

HLU during past 25 years has gained some remarkable results as follow:

- Legal status: HLU is the biggest and reliable legal education institution in Vietnam, which is directly organized under the Ministry of Justice.
- Improvement of University’s Staff and Lectures and mechanic organization: The total number of Staff from the foundation of HLU is 67 (17 lecturers included). The current total number increases 6.6 times in which the number of lecturers increases 16.5 times, the number of lecturers having post graduate level increases 40 times. The organization of HLU has been improved with the re-arrangement of numbers of faculties in accordance with the training specialties, the foundation of 5 legal research centers belong to each faculties and the Board of University.
- Grade, Size and Quality of Legal Education: HLU is a legal education institution with 5 levels: middle ranking at law degree; law college degree; LL.B degrees, LL.M degrees and PhDs degrees.

¹¹ The required subjects consist of 2: Max-Lenin Philosophy; Foreign languages. The selected subjects consist of 2: The method of teaching undergraduate and The methodology of science research.

¹² The required subjects consist of 8: Theory of state and law; Economic law; Constitutional law; Administrative law; Criminal law; Civil law; Public International Law and Private International Law. The selected subjects consist of 5: Criminal procedure law; Civil procedure law; Labor law; Labor procedure law; Economic Law;

¹³ 6 subjects: Theory of State and Law; Economic Law; Criminal Law; Civil Law; International Law; Criminology and criminal investigation.

¹⁴ See the Book “ Post Graduate Training in the past 10 years ”, published by HLU December 2003. Page 11. Up to now, until the end of 2004, the number of PhDs of Law trained is 50. See the Book “ Hanoi Law University – Foundation and Development during past 25 years (1979- 2004) published in November 2004, Page 19

- During past 25 years, HLU trained 51.472 legal staff (50 PhD of Law, 500 LL.M, 46.556 LL.B, 417 those having law college degree and 4.097 those having the middle ranking degree).
- Foundation and Improvement of the training specialties: HLU is the earliest institution in charged of training the postgraduate degrees and the legal profession (judges, court's clerks and other legal professionals).
 - The structures of training program and methods of training: To met the demand with the framework of legal training given by Ministry of Education and Training; to combine the both theoretical and practical legal training; to update the new legal teaching method (case-study method, using projector).
 - Scientific research: During past 25 years, HLU has carried out 13 Nation –wide projects, 37 projects at ministerial rank and 30 institutional projects. Jurisprudence Review has appeared before legal audience since 1994 and shortly after become one of the famous and prestigious law journals in the country. 97 textbooks and reference books published by HLU now are regarded big achievement of a University with the age of 25 years old.
 - Library: HLU's library is one of the most biggest law libraries in Vietnam that has on its selves 100.000 titles of books and textbooks, 500 seat reading room and computerized searching system. The library is under the SIDA project's Fund applying information technology (the software Libol), developing electronic stocks, widening access to Internet to better serve the cause of teaching, studying and doing research.
 - International relations: HLU cooperates with a number of universities, institutions and international organizations in the 3 following forms:
 - + Cooperation based on bilateral comprehensive agreement: (3) China University of Political Science and Law; Faculty of Law of Nagoya University (Japan); Faculty of Law of Vientiane National University (Laos).
 - + Cooperation in joint-training LL.M courses: University of Paris II (France); Lund University (Sweden).
 - + Cooperation in specific fields: Some universities of France, Sweden, German, Singapore, Australia, America; some international organizations as SIDA, ADB; The Vietnam- American Trade Council.

HLU was granted the Labor Medal by State President 3 times (1980, 1989, 1994) and the Independence Medal at the third level (the most noble reward granted by State President) at the age of 25 (November, 2004).

5. Some remain problems concerning the legal education at HLU at present time
- The renovation of the legal training program and legal teaching method is still slow and incomprehensive among faculties. The problems laid down in the condition of basic infrastructure, facilities, the big amount of student number, and the quality of lecturers.
- Some lectures do not pay much attention to update the information, to renovate the skill of teaching while some others violates the regulation on training and taking exams.
- The legal training program still seems to be more theoretical than practical training. Students lack of chance to read the legal files from courts or other state agencies. Field study courses seem to be in formality.
- Some students are not really good at studying and doing research since they do not get used with the active way in approaching legal materials. Some other studies 2 universities at one time or interests in earning money outside.
- Quality of legal lecturers
- Teaching facilities, library, Internet access, standard study room, and model law courtroom.
- The output of the law graduation students

III. THE CONTRIBUTION OF LEGAL EDUCATION TO THE DEVELOPMENT OF HUMAN RESOURCES IN VIETNAM

1. Resolution of the 9th Vietnamese Communist Party Congress

The 9th Vietnamese Communist Party Congress approved the strategy of the economic- social development in the period of 2001 –2010 in which the overall objective is to enhance the renovation

process that makes Vietnam become an industrial and modern country integrated in the world and Asian region in the year of 2010. Some basic goals are as follow:

- Building the state governed by rule of law (based on the socialist legal principality).
- Operating the market economy with the socialist orientation.
- Maintaining the political stability and upgrading the army forces and security.
- Reforming legal system and enhancing the overall process of public administrative reform and justice reform, improving the legal education to contribute the development of the human resources in legal field and to make state organizations, officials and all individuals obey the law strictly.
- Improving the democratic, progressive process and social equity.
- Integrating in to the international economy in active way.

2. Report on the assessment of developing Vietnamese legal system and legal education in Vietnam made by Ministry of Justice

In 2001, Prime Minister assigned to Ministry of Justice in coordination with some state agencies (Supreme People's Court, Supreme People's Procuracy, Government Office...) to make report on the all besides assessment of the development of Vietnamese legal system and the legal education and promulgation. In the scope of this presentation, I would like to focus on the legal training, education and promulgation.

2.1. The content of legal training, education and promulgation.

- Legal training: 3 types
 - + The basic legal training: LL.B, LL.M, LL.Ph.D
 - + The legal professionals training: Judges, Lawyers, Prosecutors and other legal professionals.
 - + Upgrading the legal knowledge for the legal experts and state officials at part time course.
- Legal education and promulgation:
 - + Legal information
 - + Legal promulgation, legal education and conciliation at grass root.

2.2. The assessment of the factual situation

- The number of law schools and legal profession training institutions: More than 12 (3 main legal education institutions are HLU, HCM LU, Faculty of Law of National University and Justice Institution founded by Government) training the legal profession.
- Above law schools and legal profession training institutions have trained a great number of legal experts and state officials to meet the demand of improving the human resource in legal field. Up to the year of 2001, 62,236 LL.B, 716 LL.M and 51 PhDs were granted degrees and more than 550 judges, 200 other legal professionals were trained at the Justice Institution¹⁵.
- The education strategy of Vietnam puts the goal to reach the ratio of 24 LL.B graduates per 1,000 persons, but the ratio at the present time is 6/1,000. This ratio is very low compared to other countries in the region that confirms the importance of the legal education task in Vietnam today.
- Number of Bar Associations: 61. Almost provinces throughout the country have a bar association. Bar association is a kind of social organizations (professional) that belongs to Fatherland Front Committee at provincial level. Ministry of Justice has its own specialized department to administrate the bar associations.
- Membership of bar associations until August 2001 throughout the country is 1736 lawyers (Ho Chi Minh city: 329 lawyers, Hanoi: 93 lawyers, Bac Kan and Kontum (the least number of lawyers): 4 lawyers). The need for lawyers are still great in the whole of Vietnam. The yearly demand is between 70 – 80 new lawyers at provincial level.
- The number of legal officers at provincial level (especially at grassroots) with the high quality is still low. According to the statistic made by Sida Project, in the poorest provinces in the South of Vietnam, there are 202 legal officers at provincial level, out of which 120 have an LL.B degree, 2 have LL.M degrees, 32 have a university degree other than law, 17 have just a college degree. At the district level, there are 440 legal officers, out of which 189 have LL.B degrees, 0 LL.M degrees, 39 have a university degree other than law, 29 have just a college degree. At the commune level, there are 189 legal officers with a LL.B status 0, college level 42, degree from a university other than law 0, 141 passed the short term professional training course.

¹⁵ See the report on the assessment of the improvement of Vietnamese legal system and legal education made by Ministry of Justice in 2001, Page 12

- Ministry of Education and Training has just given the framework for legal teaching among legal training institutions through the country, however it lacks of the connection and synchrony. Some legal training institutions pay much attention to the profit more than real quality (some open and private universities)
- The legal training method is still theoretical. The training scale seems not to be reasonable that make the situation of lacking legal experts with high standard at factual work.
- The number of experience and high-qualified legal lecturers is still low. The legal lecturers in universities often lack of factual knowledge, lack of chance to approach the legal files from the law courts and other state agency concerning the settlement of citizen's complaints and denunciations...Some of legal lecturers with (the LL.M even PhDs degrees) are not good at foreign languages that lacks of chance to upgrade the legal information from Internet, foreign documents and prevent them from taking the deep research on foreign law and directly discussing with other foreign legal experts in the law fields concerned.

2.3. The overall objectives to the year of 2010

- Training the reasonable quantity of legal officers (judges, lawyers, prosecutors, investigators, notary public officers...) with high quality in both moral and professional aspects.
- Up to the year of 2010, there should train the legal officers with the quantity of about 40.000 that consist of 7 – 8.000 judges, 17– 18.000 lawyers, 3 – 4.500 civil judgment executors, 8 –10.000 notary public officers and 7.000 legal staff at justice organs in province. The legal officers are upgraded the legal knowledge and other professional skills every 5 years¹⁶.
- Sending a reasonable of the legal officers and legal lecturers to further study abroad to upgrade foreign legal knowledge and gain experiences from the concerned issues.
- Inviting the experiential foreign legal experts in the fields concerned to give lectures in law universities, setting up the international conferences.
- Standardization of the legal training institutions throughout the country: legal training structure program, teaching facilities, library system, standard legal textbooks and quality of lecturers.
- Increasing the number of legal lecturers and instructors in which the ratio of lecturers per students is 1/25 for basic legal education and 1/10-15 for legal profession training.
- Drawing the number of excellent and experiential judges, lawyers and state official to give lectures and discussion at legal training institutions.
- Improving the working, researching condition and salary system for lecturers and other legal officers.

3. Some measures to improving the legal education at HLU aiming to contribute the development of human resources.

- Structure of legal training program:
 - + Carrying out in effect the framework of legal training program for LL.B made by Ministry of Education and Training.
 - + Proposing the Ministry of Education and Training to open 2 new specialties (constitutional Law and administrative law) for post graduate legal training.
 - + Improving the content and the quality of legal training for each specialty faculty.
 - + Paying attention to improve the practical skills for law students such as: watching the model of real court, performing a law court, reading a real court file, drafting a legal paper (legal decision, contract...).
- The form of training and the teaching method
 - + Maintaining the 5 types of legal training: middle ranking at law; law college; LL.B, LL.M and Ph.D.
 - + Focusing on the new teaching method: using the projector, taking the case study method, watching the video of a model court. Students can prepare the topic in group then present and discuss in the class with the instruction of lecturers.
 - + Improving the teaching facilities, law library system, Internet access and attracting much more students and lecturers to update legal information.

¹⁶ See the report on the assessment of the improvement of Vietnamese legal system and legal education made by Ministry of Justice in 2001, Page 34

- + Increasing the number of legal students and other legal officers professionally trained at HLU (2005: enrolled LL.B students 1.200 (full time course); 1.800 (part time course); 80 LL.M and 20 PhDs ; 800-1.000 (middle ranking at law degree and law college degree).
- Quality of legal lecturers
- + Organizing some groups of lecturers to taking study trip in local provinces to enrich the factual knowledge or taking study trip oversea funded by the legal aid projects. (Sida project now has carried the program of sending legal lecturers to teach law at grassroots in some provinces in the South of Vietnam).
- + Improving the foreign languages knowledge for legal lecturers by opening the regular courses with different levels.
- + Increasing the number of legal lectures trained in the postgraduate degree both in or outside of country.
- Legal research activities
- + Encouraging the ability of doing research and writing academic papers among students and legal lecturers. The jurisprudence review should be upgraded in both quality and quantity to meet the demand of exchange legal information.
- + Improving the legal textbooks system and encouraging the lecturers and other experience legal experts to write reference books.
- + Organizing much more conferences and workshops(also international level) to attract high ranking legal experts in or outside country dealing with the legal issues concerned.
- + Carrying out much more nation wide projects, ministerial and institutional projects (2005: 1 Nation wide project; 2 ministerial projects; 12 institutional projects).
- Examination and assessment
- + Reforming the test question form.
- + Elimination the negative points from the assessment
- + Building the center of assessing the quality of legal education.
- Organization
- + Establishing the science and legal training council belong to the Board of University.
- + Consolidating the legal status and activities of 4 legal centers belong to each specialty faculty and the comparative law center organized by Board of University.
- + Setting up the Legal English Department.
- + Improving the role of Vietnamese and French Legal Center. (Proposing the establishment of other foreign legal centers like Vietnamese and Japanese Legal Center).
- Others
- + Improving the living standard (the new salary system for civil servants made by government).
- + Teaching facilities and basis infrastructure (standard study room)
- + Strengthening International cooperation (Exchange students and professors program among legal institutions in the world)
- + Foreign legal aid.

VIII. ANNEXES

1. Programme schedule (actual schedule in detail)

	Activities	VENUE
Monday February 21		
	7:40am: Arrival at the Chubu International (<i>CHUBU KOKUSAI</i>) Airport – Leaving the Airport by minibus (picked up and accompanied by Nagoya University Graduate School of Law (GSL) staff and students)	Chubu International Airport
	• Transportation to Nagoya University. Registration at the CALE Forum Hall at the Center for Asian Legal Exchange (CALE) of Nagoya University and small orientation by SOLV members and international students of our School – getting to know each other session	CALE Forum Nagoya University
	12:00am: Lunch Break	Campus Restaurant (C/R)
	1:00 pm: Inauguration of the Programme Addresses by Professor Saburi Haruo, Dean of the Graduate School of Law Addresses from Coordinators of each collaborating organization	CALE
	1:30pm: Programme orientation and pre-session	
	2:00pm: Campus guidance by SOLV (the members of the School's Foreign Student's Support Group – School of Law Volunteers)	Campus
	Check in the Guest House at Nagoya University	University Guest House
	Supper with foreign students enrolled in the School from the same country	
Tuesday February 22		
	10:00am: Opening lecture titled, 'On Rule of Law: why citizens follow the rules?' by Professor Takehiro Ohya of GSL	CALE
	00:00am: Lunch at University Restaurant	C/R
	1:00pm: Introductory Lecture 1: 'Japanese Constitutional System and the Rule of Law' by Professor Hidenori Moto	CALE
	6:00pm: Welcome dinner party at the University Restaurant hosted by Dean Saburi Haruo Address from Vice President, Professor Shinichi Yamamoto, of Nagoya University	Universal Hall, 2 nd floor of Symposion
Wednesday February 23		
	10:00am: (2): Lecture 2, titled 'On the Two Concepts of Kingship (Emperorship) in History': by Professor Takashi Isobe of GSL	CALE
	Lunch	
	1:00pm: Lecture 3: Civil Dispute Resolution in Japan, by Mr. Shigeji Ishiguro, Japanese attorney at law:	
	3:00pm: Lecture 4: 'Toyota's Legal Compliance and Risk Management,' by Mr. Morio Owaki, General Manager of the International Legal Affairs, Department of the Legal Division at the Toyota Motor Corporation	CALE
	Supper (SOLV)	
Thursday February 24		
	9:15am: Start for the court from university (Gathering at the entrance of the School of Law) by university bus 10:00am to 11:30am: Field Trip to the Nagoya District Court	Nagoya District Court
	Lunch	
	1:30pm to 4:00pm: Field Trip to the Nagoya Prison transported by university bus (Staff in charge: Professor Teruyuki Yamamoto, & Saori Okuda)	Nagoya Prison
	Dinner party at Japanese restaurant: <i>Hida Nomiakai</i>	
Friday February 25,		
	9:00am: Check out (students) 9:30am: Presentations by the 3 instructors from partner institutions; Mr. Ly Chan Tola from Royal University of Law and Economics in Cambodia, Mr. Silithip Somsak from the Faculty of Law and Political Science, National University of Laos and Mr. by Mr. Pham Hong Quang from Hanoi Law University of Vietnam, on the "The current issues of legal education at each university and how it contributes to the development of human resources of each country." Professor Yoshiharu Matsuura chairs this session and also reports on the legal education system in Japan.	CALE
	Lunch	

	1:00pm: Home Stay Programme: Exchange overseas students visit the AICHI EXPO 2005 partnership local city and towns – Vietnamese students moved to <i>Miwa-cho</i> (partnership with Vietnam), Lao students to <i>Tahara-shi</i> (Laos), and Cambodian students to <i>Kouda-cho</i> (Cambodia) by public transportation	Home stay
Saturday February 26	Cultural Exchange with host families at the respective partnership local town.	Home stay
Sunday February 27	Free exchange with host families 4:00pm: SOLV members pick exchange students up at the local stations Supper with SOLV members	Home stay
	Leave for the University guest house	
Monday February 28		
	10:00am: Special Lecture: Rule of Law and Needs of Legal Assistance - In the case of some Asian countries in the process of shifting to the market economy- Present situation and Agenda of Legal Assistance Project in Asia, by Professor Akio Morishima, Director of the Geographical Environment Strategy Research Institute	Nagoya University CALE
	12:00am: Lunch meeting with Professor Emeritus Akio Morishima	
	1:30pm: Field Trip to Kyoto , traditional city of Japan, by a chartered bus. One-night stop at the hotel. First, visit to <i>MATSUMOTO – SHUZO</i> (Sake Brewer). Professor Yasunori Honma will join and lead this trip. One-night stay at the <i>Kyoto-Daigo-Hotel</i>	Kyoto city
Tuesday March 1 (continued)		
	Visit to temples & shrines: <i>Sanjo-Sangen-Do</i> , <i>Kinkaku-ji</i> and <i>a Heian –shrine & Nijo-Castle</i>	Kyoto city
	After supper, back to University	Nagoya University
Wednesday March 2		
	10:00am: Students Exchange Programme: Series of sessions organized by students: Group Discussion by students: Preparing for the presentation/ Theme : Peace Based on the Rule of Law- Sub-themes 1) How to construct a government based on the Rule of Law? And how can other countries help in this process? / 2) What kind of system should Asian countries construct to develop and maintain good relations within the region?	CALE
	12:00: Lunch	
	1:00pm – 4:00pm: Session one: Presentation by Working Group 1 on sub-theme (1) /Presentation by Working Group 2 on sub-theme (2)	Seminar Room No. 21 & 22
	6:00pm: Social activities: <i>NABE (Japanese Soup)</i> Party organized by SOLV (Japanese students)	GSID 1 st floor
Thursday March 3		
	10:00am: Session two: in discussion groups involving students from respective countries on the specific topics, selected at the session one.	CALE
	12:30: Visit to the Sonny EMCS Corporation the <i>Kohda Tech</i> (one of the Techs of SONY EMCS Corporation)	Sonny EMCS Kota Tech
	Supper	
Friday March 4		
	9:30am: Final session (cont'd) : Summary presentations on the entire program by representatives	Seminar Room No. 21 & 22
	Lunch	
	2:00pm Closing ceremony: Certificate of Completion was awarded to each overseas participants and to a representative of SOLV / Addresses from the Dean of the Graduate and School of Law, Professor Haruo SABURI / Educators from 3 countries 2:45 – 3:45pm Comments on the discussion from all participants 3:45 – 5:00pm: Report drafting	CALE
	5:30pm-8:00pm: Farewell party, hosted by the Dean of the Graduate School of Law, Professor Saburi (8:00pm: Submission of the reports from students)	
Saturday March 5		
	Free exchange time and preparation for returning to each country	Free
	Supper	
Sunday March 6		
	Gathering at the School of Law / Moving to the <i>Chubu- Kokusai</i> Airport by minibus	
	Departure from the <i>Chubu Kokusai</i> Airport (10:30TG645 便)	

2. Discussion manual (2005/02/18)' by Mr.Toshiya Kaminaka, a SOLV member

1 . The purpose of the Students' Exchange Discussion

To advance the mutual understanding of law culture between Asian countries through dialogue between 4 countries' students.

2 . The group and the parts

Sub-themes (1): How to construct a government based on the Rule of Law? And can other countries help in this process?

Sub-themes (2): What kind of system should Asian countries construct to develop and maintain good relations within the region?

4th grade Nami Uefuji, ©Hitomi Kagiya, Kanako Saeki(chairperson), 2nd grade Yasuo Asai, Yuka Oyama, Hiroko Katagiri (clerk)、Eri Kumada、Hitomi Goto, 1st grade Kaori Ogino

※The overseas students are divided into two groups. Each group includes two people from each country.

※① The leader of the group. The leader gives a presentation of the Position Paper and presents the opinions after the discussion.

3 . The process of the discussion

M2 Emi Makino (chairperson) ,4th grade Masanori Ito、Yukino Hattori (clerk)、Kazuki Nagata、Fumi Nishida
3rd grade Nobuyuki Aoki, 2nd grade ©Chiaki Asaoka、Toshiya Kaminaka、Yoko Fukuda, 1st grade Yoshiki Ishikawa, Hirotaka Sawada、Kayo Morishima

3/2 **[AM]** The presentation from each country about Position Paper (about 10 minutes), Place CALE For

[PM] Session I : Each group starts the discussion. The chairperson leads the discussion. And the members narrow the focus of the topic and express opinions freely.

Time : 14:00～17:00, Place : School of Law's seminar room 21,22

Theme 1	Theme 2
Cambodia (10min.)	Cambodia (10min.)
Laos (10min.)	Laos (10min.)
Vietnam (10min.)	⇒ Vietnam (10min.)
Japan (10min.)	rest (5 min..) Japan (10min.)
question and answer (15min.)	question and answer (15min.)
	conclusion of chairperson (5 min.)

3/3 **[AM] Session II :** Conclude the opinion of each group.

Time : 10:00～11:30, Place : school of law's seminar room 21,22

10:00～10:30 conclude the discussion of the day before, and determine what to present

10:30～11:30 reach the conclusion

(The closing time is brought forward because the Sony visitation is to be made in the afternoon

3/4 **[AM] Final session :** presentation of each group

Chairperson Dr. Koung Teilee, Time9:30～11:30 Place CALE Forum

9:30～9:50 presentation of Theme 1 group

9:50～10:20 question and answer

10:20～10:30 rest

10:30～10:50 presentation of Theme 2 group

10:50～11:20 question and answer

11:20～11:30 conclusion of chairperson

[PM]

After the closing ceremony, representatives of each country expressed their feelings about the discussion.

Chairperson Mr.Kuong Teilee, Time 14:30～15:30, Place CALE Forum

4. Note

- The purpose of the advance lectures is that every student has a common understanding of the discussion. So students who participate in the discussion should take the lectures.

3. Overseas Participants

Students from Partner Universities

Laos				
	Phommahaxay Phourattana (Do)	Phonvisay Alina (Alina)		Boupha Sinhalath (Evan)
Vietnam				
	Nguyen Duc Nam (Nam)	Le Thu Ha (Ha)	Nguyen Thu Nguyet-Moon (Nguyet-Moon)	Trinh Huong Lan (Lan -Orchid)
Cambodia				
	Pheakday Cheat Hang (Cheat)	Nou Kalyaney (Kaly)	Yean Solina (Solina)	(Kim Keo Reaksmei (Kim)

Instructors from Partner Universities:

Laos	Silithip Somsack	Lecturer of Politics in Faculty of Law and Political Science, National University of Laos	
Vietnam	Pham Hong Quang	Teacher of the department of Administrative Law and Constitutional Law, Hanoi Law University	
Cambodia	Chan Tola Ly	Professor of Business Law and Labor Law, Royal University of Law and Economics	

4. Participants of Japanese Students (SOLV members)

		<i>Nagoya University SOLV members</i>
Full-time participating students		
2 nd year	Eri Kumada Toshiya Kaminaka Yasuo Asai Chiaki Asaoka Keiko Hayakawa Yoko Fukuda Hiroko Katagiri Hitomi Goto Kayo Morishima Yoshiki Ishikawa Hirotaka Sawada Kaori Ogino Masanori Ito Fumi Nishida Hitomi Kagiya	
1 st year		
4 th year		
Supporters		
4 th year	Yukino Hattori Kanako Saeki Nami Uefuzi Kazuki Nagata	
3 rd year	Yuka Oyama	
2 nd year	Nobuyuki Aoki	

5. Visiting lecturers

- Professor Emeritus Akio Morishima, Administrator of Geographical Environment Strategy Research Institute, Nagoya University Prestigious Professor
- Mr. Shigeji Ishiguro, Japanese attorney at law, affiliated in the Nagoya Bar Association
- Mr. Morio Owaki, General Manager of the International Legal Affairs, Department of the Legal Division at the Toyota Motor Corporation

6. External support and resources:

- **Legal Institutions: The Nagoya District Court and the Nagoya Prison**
- **Business area:**
 - Toyota Motor Corporation Legal Department – sending an instructor for lecture
 - The Sony EMCS Kohda Tech:
 - Mr. Yoichi Fujioka, Senior General Manager and
 - Mr. Hiroshi Kawai, Senior Manager of the General Affairs at the Human Resources & General Affairs Division of the Sony EMCS Kohda Tech
- **Kyoto trip:**

- Mr. Yasunori Matsumoto, Executive Director of the *Matsumoto Shuzo* (Sake Brewer), and
- Dr. Tomokazu Yoshida, Director of the International Exchange Association in Kyoto, Naturalist

• Home-stay Program:

Three Local Governments in Aichi Prefecture:

- Mr. Tatsuo Katoh, Mayor of Miwa-cho
- Mr. Tokumitsu Kondo, Mayor of Ko-ta
- Mr. Kouichi Shirai, Mayor of Tahara-shi

The International Associations:

- The Tahara-shi International Association
- The Kota International Association, and

Host families:

- 11 Host families living in the above local communities

7. University internal support

- Vice President of Nagoya University, Dr. Shinichi Yamamoto
- Director of the International Affairs Office of Nagoya University, Mr. Yasuchika Hojo
- Staff of the International Affairs Office of Nagoya University, Ms Nami Yokoya
- 15 foreign students from Cambodia, Vietnam and Laos of the Graduate School of Law
- Center for Asian Legal Exchange (CALE), Nagoya University

8. Lecturers from the Graduate School of Law

- Professor Takashi Isobe
- Professor Yoshiharu Matsuura
- Professor Hidenori Moto
- Associate Professor Takehiro Ohya

9. Internal Support from the Graduate School of Law

- Professor Yasunori Honma
- Professor Mitsuki Ishii
- Professor Teruyuki Yamakoto
- Professor Masanori Aikyo
- Professor Kazutaka Sugiura
- Professor Katsuya Ichihashi
- Professor Mamoru Sadakata
- Professor Hajime Wada
- Professor Kaoru Obata

10. Executive organizers at the Graduate School of Law, Nagoya University

- Professor Haruo Saburi, Dean, the Graduate School of Law, Nagoya University
- Mr. Keiichi Yokota, Administrative Head of the Graduate School of Law,
- Associate Professor Kuong Teilee of the Center for Asian Legal Education, Nagoya University
- Assistant Professor Saori Okuda, International Students Advisor of the Graduate School of Law
- Ms Tohko Hayakawa, Staff of the International Students Office

11. Reference materials

- List of the students exchange programmes (outbound) at our School (1999.10~2004.3)

Date & Duration	Countries	Institutions visited	Number of participants
Oct 7–13 1999 (7days)	China	Xian University of Politics and Law / Fudan University/ Visit newly developed industrial sites	15
Sep 30-Oct. 4, 2000 (5 days)	Mongolia	National University of Mongolia School of Law and Home Affairs / Diet, Ministry of Justice and Home Affairs / Courts	3
Dec 24 – 30 2000.12 (7 days)	Shanghai, China	East China University of Politic and Law/ China University of Political Science and Law	14
Mar 1–6, 2001 (6 days)	Hanoi Vietnam	People's Court, Supreme Court / JICA Office/ Institute of State and Law / Supreme Office of Public Prosecutor Toyota Motor Corporation, Vietnam / Hanoi Law University/ Ministry of Justice	13
Dec 22 2001– Jan 2002 (12 days)	China	Fudan University School of Law/ Toyota Motor Corporation 四川 / South West University of Law and Politics	17
Sep 24 – Oct 1, 2002 (8 days)	Uzbekistan	Tashkent Institute of Law/ University of World Economy and Diplomacy, / Samarkand State University/ Diet/ Supreme Court/ Supreme Economic Court / Court/ Embassy of Japan/ JICA	18
Dec 21–30, 2002 (10 days)	Cambodia	Royal University of Law and Economics / NGO/ Court / Bar Association / Minister of Justice/	10
February 23 to 31, 2003 (7 days)	China	East China University of Politics and Law/ Mitsui Bussan Trade Corporation / Shanghai Toyota Industries / Law firm / People's court / International Economic Trade Arbitration Committee	13
March 15 – 22, 2004 (8 days)	Austria	University of Linz, Faculty of Law / Linz High Court / Linz District Court / Austria Diet / High Court / Supreme Court / Ministry of Justice	15
March 7-11, 2005 (5 days)	Taiwan	National Taiwan University College of Law / National Chengchl University, College of Law / Ministry of Justice / Taiwan High Court / Taipei City Hall	8

- List of the number of overseas students enrolled in Graduate School of Law & School of law (as of April 7th, 2005)

	Graduate Program for academics/		Graduate program for professionals/		LIM Special Program	LL.D Special Program	LLM Special Program/	Exchange student/ NUPACE		Graduate research student	Undergraduate research student	Undergraduate	Japanese Language Students	Total
	Master	Doctor	Master	Doctor	Master/	Doctor/	Master/	Under-graduate/	Graduate/					
China	4	6	3						1			3		17
Korea	5	2	4							1	1	1		14
Uzbekistan			1	6	2	2			1	1				13
Cambodia			1	2	6		3					1		13
Vietnam			1	2	5		2							10
Mongolia					6	2								8
Laos					4	1								5
US								4						4
Taiwan	3													3
Thailand		1		1								1		3
Indonesia					1		1							2
Filipin				2										2
Hungary										1		1		2
UK							2							2
Brazi				1										1
Australia			1											1
Greece					1									1
Myanmar				1										1
Italy									1					1
Madagascar				1										1
Latvia				1										1
Bulgaria												1		1
Egypt											1			1
	9	11	10	6	34	4	10	7	3	3	2	7	1	107

Editors of the Report: Saori Okuda (Editor-in-chief), Kuong Teilee & Tohko Hayakawa, Nagoya University

English Review: Mr. Rossa Muireartaigh, who briefly reviewed Chapter I to V

Photographs: EO staff and SOLV

