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BABA Ken-ichi, Locus of Judiciary and Constitutionalism in Japan—Viewing from Recent Judicial Remuneration Decrease Cases—

Judicial remunerations in Japan have recently been diminished three times almost in a row. This came from the policy to adjust salaries of the public sectors to general income shrink due to the economic difficulties over the years. This first salary reduction of Japanese judges in the post war period was introduced with little conflicts, while the Constitution of Japan prohibits such decrease unconditionally.

This paper examines this incident and shows, through comparative method, that such an interpretation and a practice to admit general reduction under an unconditional prohibition clause was a rare one. The main cause of such an exceptional socio-legal phenomenon in Japan may attribute to “twist” of the resume, namely the combination of an Anglo-American liberal constitution with rather classic conservative judiciary, and to the political reality of the latter overwhelming the ideal of the former. Yet this unique combination may also have a potential to contribute to the global converging trend for the securer position of judiciary.

NAKASATOMI Hiroshi, Sex Trafficking of Women in the Post-Gender Era : Redefining Human Rights Regarding Sex

Although it is a serious system of sex inequality, sex trafficking of women continues to exist. Prostitution is a practice of systematic sex inequality because it promotes violence against women ; reinforces gender inequality ; and constructs gendered sexuality. The notion of “sex-work” is false in that it cannot explain why money is paid for sexual acts such as those in which one is bound like a slave and not able to “work” at all. Although the right of self-determination in sex has contributed to combating gender-based violence, it takes on a different nature when applied to prostitution. It denies treating prostitution as employed work, but accepts self-employed prostitution. When legalized as a self-employed profession, prostitution will dramatically expand gender discrimination and violence against women due to prostitution. We need to reinstate the personal right to human dignity in sex. Enshrining this personal right in laws would allow societies to outlaw the obtaining of sexual services in exchange for payment because prostitution would then involve the purchase of this inviolable right.

NAKAMASA Masaki, Medical Research and “Personal Rights” of the Patient

A university hospital is a multifunctional medical institute in which 3 different purposes, namely, “therapy” of the patients, “research” and “education” on the bodies of the patients are simultaneously pursued. However, there is no comprehensive medical law system in Japan which will coordinate these 3 purposes. The border line between “experimental therapy” and “established therapy” is not clearly drawn . Therefore, it often happens that clinical trials are carried out without clear informed consent on the execution of clinical research. In this essay

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we will see by way of example of two court cases about clinical trials at university hospitals how “the other interests” of the university hospital can infringe of the right of self-determination and the privacy of each individual patient. Furthermore, we will try to find ways to make transparent “Ikyoku” system so that we can somewhat control the biopower which permeates into our daily life so deeply in the hospitalized society.

SOMEYA Manabu, Right of Reply Reconsidered

In the modern Japanese society, the “Right of reply”, especially in broad sense, is not admitted. In this article, the author argues that the Mass Media has two aspects of free speech right, as an autonomous press and as an institutional structure of society. The right of reply influences only on the area of institutional structure of Mass Media freedom, and does not infringe the “negative” autonomous freedom. The government should not play a central role in this case, the author recommends an independent “Press Council”.

MATSUDA Emiko, The man whom Lü Hsün writes about and the voice which the man can not understand, and in addition the law

What is the most important purpose to protect by law? What is the order to be built by law? We must consider these questions.

To consider them we have to study some points ; how a man live in the society, what meaning a community have for a man, and why a man can not understand well what another man wants to tell him.

After studying those, we must consider the modern law system again. Besides we have to consider the first questions.

OKANO Yayo, Origins of Hope—Hannah Arendt and Politics of Remembrance

This paper refers to the ideas of Western political philosophy in order to explore where we can see the light of hope in contemporary Japan.

In the section 1, the paper rereads the argument by Judith Shklar, who once distinguished two genealogies of liberalism, “the party of hope” and “the party of memory.” Through her arguments, the paper criticizes the naïve belief that hope belongs to the bright future and that memory has nothing to do with the future.

In the section 2 and 3, we re-visit Hannah Arendt who influenced Shklar’s way of thought. Arendt’s theory makes clear where the crisis of contemporary society comes from, and that whether we can overcome its crisis depends on human abilities to remember and narrate.

In the final section, I take the issue of “comfort” women of Japanese troops as an example to show that Arendt’s argument on narrative is significantly relevant to the contemporary Japan. To conclude, power of hope to envision the future consists in opening a new horizon of past and reforming today’s status-quo.

KIKKAWA Takeo, Historical Lessons for the Liberalization of the Electric Power Industry in Japan

The purpose of this paper is to examine the process of the liberalization of the electric power industry in Japan and the recent setback of the liberalization. The liberalization of the Japanese electric power industry began in 1995, and progressed step by step until 2004. From a perspective making much of energy securities, however, the Japanese government intends to the perfect liberalization of the electric power industry scheduled in 2007 to be postponed. It asserts that the liberalization retard investments in atomic generation essential for energy securities.

This paper criticizes the above argument by the Japanese government. Its conclusion is that the continuation of the liberalization of the electric power industry will rather make the Japanese energy securities better through creating strong energy companies retaining international competitiveness.