The Importance of the IBA Tokyo Conference in 2014
The Growth of the Legal Profession and the World Bar Association

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I. History of the IBA (International Bar Association)

The IBA is an associated organization consisting of the national bar associations and law societies of 136 countries around the world and the Japan Federation of Bar Associations (JFBA) is one of its long-standing full member organizations. It has thirty thousand individual members in addition to member organizations, and introduced a group membership system two years ago, thereby allowing law firms to be a member independently from the bars and the individuals. However, only the full member organizations are entitled to vote at the meetings of the Council, the governing body of the IBA. Through this mechanism, the IBA maintains its governance system as a world federation of national bar associations.

The IBA was first founded in New York by representatives of the national bar associations of all United Nations (UN) member countries at that time. It was inspired by the establishment of the UN in 1947, and has been called the ‘UN of bar associations’. Recently, it has also referred to itself as ‘the global voice of the legal profession’ and claims to be a representative of the legal profession throughout the world. The number of attorneys in the IBA member countries amounts to three million, six hundred thousand and it appears almost certain that this number approaches or equals the total number of attorneys on the earth.

Because of the Cold War or the East-West confrontation at that time, the IBA achieved less than was expected for a world bar association, and it instead grew as a forum for global networking, research and study for major law firms in the United Kingdom and the United States and for
international lawyers. Therefore, it was understandable that the IBA had a tendency, until recent years, to speak for the large law firms of the U.K. and the US on issues such as foreign attorneys practicing in jurisdictions other than their home jurisdictions.

Recently, the JFBA achieved significant influence on the organizational reform of the IBA. Having been motivated by foreign lawyers’ issues, the JFBA worked for the establishment of an international forum which may reflect the opinions of national bar associations worldwide. The IBA member bar associations supported this movement and it resulted in an organizational reform of the IBA. Unfortunately, JFBA members have not been fully aware of this contribution made by the JFBA.

In addition to organizational reform, Japan has gained greater influence on lawyers and legal communities throughout the world, despite that its number of members, twenty-five thousand, being relatively small. This is symbolized by the decision that the IBA world conference is due to be held in Tokyo in 2014.

11.  IBA Tokyo Conference in 2014

1. Tokyo’s Bid for the IBA’s Annual Conference in 2014

At the regular Management Board Meeting held in Dubai in February, 2009, the IBA decided to have its annual conference of 2014 in Tokyo.

Sydney had announced its candidacy as a site for the 2014 conference early on, and the IBA held a runoff between Sydney and Tokyo to decide the host city. Sydney is famous for its beautiful scenery, has suitable facilities for international conferences, and is culturally international and an English Speaking country. In addition, Australia is one of the most powerful member states of the IBA. Thus, it seemed that Tokyo had little chance of victory when Tokyo raised its candidacy last autumn. Moreover, the world financial crisis brought about the Yen’s almost double increase in value against the Australian dollar and consequently a near doubling of the cost if the conference was to be held in Tokyo. The sum of these circumstances indicated that Sydney had an overwhelming advantage over Tokyo.

While our campaign to host the conference started under unfavorable conditions, our friends among the IBA members were in favor of the JFBA and our bidding. In addition, the Japanese Government, the Ministry of Foreign Affairs, and the Tokyo Metropolitan Government strongly supported our bid to host the conference, and then Prime Minister Taro Aso himself sent out personal invitations to the IBA. We got to the decisive ballot at the IBA Management Board meeting held in Dubai and won by a large margin of votes, 12 to 3.

We currently plan to hold the IBA Tokyo Conference from 19 to 24 October in 2014, using the Tokyo International Forum as the main venue as well as the JFBA Auditorium Creo and other
meeting rooms. It is the first IBA Annual Conference in Asia east of Singapore and the first to be held in any non-Common Law, non-English speaking Asian country. This helps to prove that Japan is recognized as one of the bastions of the “rule of law” by lawyers around the world.

Before the establishment of the current format of the annual conferences, Tokyo had hosted the IBA world meeting in 1970. In recent years, the IBA has held a number of the specialist conferences on issues such as international arbitration, competition law, and corporate governance in Tokyo. Thus, Tokyo is not inexperienced in hosting major legal conferences, although it will be its first time to host the IBA Annual Conference.

2. IBA Annual Conferences

The IBA hosts numerous Specialist Conferences throughout the year around the world, and it’s Mid-Year Meetings (Spring Meetings) and Annual Conference in autumn are important events for IBA members.

During the three-day Mid-Year Meetings, the Council Meeting (the IBA’s governing body as previously noted), the BIC (Bar Issues Commission) meeting, specialist meetings on the public role of the legal profession, and other meetings are held. These meetings are designed for experts on the international activities of bar associations. They were convened in Amsterdam last year and in Paris this year.

The Annual Conference in autumn is the highlight of the IBA’s yearly events and all sections of the IBA hold meetings and give presentations throughout the week. It was held in Prague in 2005, in Chicago in 2006, in Singapore in 2007, in Buenos Aires in 2008, and in Madrid this year. The Annual Conference has received increasingly strong evaluations over the years and the number of participants has been growing dramatically year after year. 3,750 people attended in 2005 in Prague, 3,550 in Chicago, 3,850 in Singapore, and 4,550 in Buenos Aires, where not so many people were expected to attend because of its remote location. It is almost certain that Tokyo will see more than 5,000 delegates, due to its popularity, and it would not be unreasonable to expect 6,000 delegates. As an international conference held in Tokyo, the Annual Conference will be one of the largest ever, if not comparable to the Olympics.

The opening ceremony will start with a welcoming address by the head or equivalent competent authority of the host country, followed by more than two hundred sessions on public interest law and legal issues such as human rights, rule of law and peace, and on every area of business law including finance, antitrust, arbitration, M&A, and tax issues. The most prominent and leading attorneys in various fields will come together and discuss up-to-date topics, and therefore, it will provide the most valuable learning opportunity for legal experts.

Furthermore, social events including lunch, dinner, and entertainment will also be provided. Local law firms and major worldwide law firms compete to hold receptions and invite guests, so it
will also be a fun experience to tour around those events.

Two or three years ago, at an Annual Conference, I met with a Japanese eminent bankruptcy attorney, who was also noted for his academic career. He said to me; “Mr. Kawamura, I have just had an opportunity to have a face to face discussion with a certain world-famous attorney whom even I know only through his books and not personally. Moreover, there is a debate going on over brand-new legal problems which we had not yet even been aware of. I had not expected the IBA to be such a valuable opportunity. I regret not having attended these conferences until this time.”

Also, a one-day symposium on important public issues such as the “rule of law” is held. In Chicago, we denounced the inhumane treatment by the United States of prisoners of war kept in Guantanamo Bay, after being captured in the Afghanistan war. In Singapore, a keynote speech was delivered by Hisashi Owada, a member judge (currently President) of the International Court of Justice. In Buenos Aires, the human rights situation in Latin America was put on the agenda. I believe the political influence of each session was not inconsequential.

3. Commitment by the members of the JFBA

At this Tokyo Conference, JFBA members are expected to not only attend but also positively participate. The JFBA has already achieved remarkable results in the field of international public-interest activities such as legal technical assistance in the Kingdom of Cambodia, legal support programs for bar associations in developing countries and a human rights educational program for Iraqi attorneys (which will be mentioned later), all of which have been conducted in cooperation with the IBA. These international activities will be more effectively performed in collaboration with global activists through the forum of the IBA conferences. Many JFBA member attorneys are now engaged in activities through the IBA, which draw international attention, in areas such as finance, arbitration, and competition law. More young attorneys in Japan can make their debuts on the international scene if they actively participate in the Tokyo Conference.

Bar associations around the world are paying attention to the JFBA’s activities, and, accordingly, young Japanese attorneys will undoubtedly gain a larger level of response and support than they would otherwise be able to expect if they show initiative during the conference. Wonderful opportunities for internationalization await the legal profession in Japan during 2014.

Diplomacy of the Japan Federation of Bar Associations

1. Trilateral Meeting in Evian and Issues Regarding Foreign Lawyers

The so-called Gaihen problem which vexed the JFBA during the 80s and 90s centers around whether or not and to what extent foreign lawyers should be allowed to provide legal services in Japan through the legislation of the Act on Special Measures concerning the Handling of Legal Services by Foreign Lawyers. The issues surrounding foreign lawyers are not particular to Japan, as
we will discuss later, but are a common concern for bar associations around the world. The IBA refers to this problem as the cross-border legal practice issue. The issue was tentatively settled in 1994, when the Uruguay Round reached agreement, and thus the General Agreement on Trade in Services (GATS) became effective and the World Trade Organization (WTO) was established. At that time, the ‘Rice and Attorney’ problems in Japan were said to be the biggest obstacles to the Uruguay Round settlement. The JFBA held talks with and reached an agreement with representatives of the American Bar Association (ABA) and the Council of Bars and Law Societies of Europe (CCBE) at a resort area, Evian, near Geneva. The talks were arranged by Koji Tsuruoka, then-head of the Services Trade Division of the Ministry of Foreign Affairs. This is referred to as the Evian Three-Bar Meeting.

The meeting brought about such a strong result for the Japanese side that one high-profile American attorney, who had served as ranking official at the U.S. State Department, said in his work rather complainingly that the JFBA got a good shot. At the same time, the dialogue developed a common awareness among the three organizations that it would be preferable if issues on the legal profession could be settled through discussions among attorneys themselves. This is the philosophy of attorneys' autonomy and it is what the JFBA advocated in order to secure the independence of the legal profession.

2. The OECD and Paris Forums

Once the Uruguay Round was worked out, the Organization for Economic Co-operation and Development (OECD) convened a workshop on the trade in professional services and began discussions about the liberalization of such trade. The three bars which gathered at Evian were invited as representatives of the legal profession. Nozomu Obara, an attorney and then vice-chair of the Foreign Lawyers and International Legal Practice Committee of the JFBA, and I, then the chair of the Committee, frequently visited the OECD headquarters in Paris over a three year period during this time. We felt a sense of crisis about the arguments within the WTO and the OECD, which aimed to change the rules and regulations of legal practice in the framework of service trade liberalization. Therefore, we set up the Board of Committees on International Affairs within the JFBA to solidify our position first, and at the same time, worked on and succeeded in getting the OECD workshop to acknowledge the special characteristics of the legal profession in the chairperson's statement of summary. Furthermore, we called a conference of bar leaders of developed countries, the Paris Forum, to establish the fundamental principles on cross-border legal practices under the spirit of attorneys' autonomy. The Paris Forum was held at Maison du Barreau, the Paris Bar Associations Building, in November 1998, with presidents of the bar associations of all OECD countries and other major nations in attendance. The meeting successfully closed, having issued a communiqué which advocated the basic principles of attorneys' autonomy.
The success of the Paris Forum reminded the IBA of the newly growing power of bar associations and of the history of the IBA itself, organized as a United Nations of bar associations. In 2002, the IBA altered its Constitution and set up the Bar Issues Commission (BIC), aiming to preferentially reflect the opinions of the representatives of each country’s bar associations in the IBA's policy-making with regard to issues on bar associations and the legal profession. The issues surrounding foreign attorneys and the WTO were considered to be typical of these issues. I was elected to be the first chairperson of the BIC and it can be said that at that time the IBA steered toward a position in favor of the JFBA's ideas, which emphasize attorneys' autonomy.

III. The IBA and Judicial Reform around the World

1. The Rise of Global Mega-Firms

There are other reasons for the IBA to have changed their direction towards a more bar association-oriented attitude and for the bar associations around the world to have paid more attention to the IBA as a forum to achieve attorneys' autonomy since the beginning of this century. The first reason is the increasing globalization of attorneys and the growth of legal practices, which can be referred to as mega-corporatization. The second is the cross-border development of reform legislation of the attorney system, which has facilitated this growth and change. According to an American law journal, Clifford Chance, a London based law firm, is, at present, the biggest multinational mega-firm by revenue in the world, having a total of 2,654 attorneys, annual revenue of 266 billion yen and branch offices in 21 countries. Baker & McKenzie in Chicago became a multinational mega-firm with their aggressive global strategy, and is now the biggest among the American-based mega-firms, having a total of 3,626 attorneys, annual revenue of 218.8 billion yen and branch offices in 38 countries. Skadden, Arps, Slate, Meagher & Flom LLP, ranking 5th by revenue, was a minor law office in New York in the early 1970s, with little more than ten members, but drastically expanded during the heyday of M&A activities in the 1980s, and is now classified as an international mega-firm, having a total of 1,941 attorneys, annual revenue of 217 billion yen and branch offices in 12 countries around the world.

These mega law firms, also known as global mega-firms, are worldwide professional service companies. Modern law firms such as these are operated by worldwide partner meetings, comparable to general shareholder meetings, and managing boards, comparable to boards of directors which formulate corporate strategies, allocating a number of experts and vast budgetary allocations towards public relations, client handling, personnel training, information strategy, and employee welfare.

Although the overwhelming majority of these mega-firms have their head offices in the U.K. or in the U.S., they also have branch offices around the globe. Their attorneys and specialist staff
members come from all over the world, working actively across borders. Those multinational law firms which supply an excellent support system at work, enjoy a good reputation as firms. They tend to have a pleasant working atmosphere and are able to attract young and brilliant attorneys from across the globe. As these mega-firms gain power, it is obvious that matters will extend beyond the framework of autonomy and discipline of each country’s bar association.

2. Worldwide Trend for Deregulation of Legal Services

It was around the middle of the 1980s in the United States, and in the early 1990s in the U.K., when the Thatcher Revolution was coming to an end, that global mega-firms started to grow. Thus, this rise has taken place in the very recent past. Additionally, the growth of global mega-firms depended upon each country’s policy on the promotion of the service industry. The so-called Gaïban (registered foreign lawyers) issue, which troubled the JFBA for many years, came about as a result of the diplomatic policies of the United States and Europe on the promotion of trade in services.

On a global basis, international treaties such as the GATS and international organizations such as the OECD are promoting the liberalization of legal services across borders. At the same time, in the advanced countries of the West and the European Union (EU), people are attempting to eliminate the regulations on qualifications and area restrictions, to introduce legislation which allows attorneys to participate in joint enterprises with non-attorneys or to convert law firms into joint stock corporations, which has resulted in the mega-corporatization of law firms, and to enable fundraising in capital markets (in other words, financing through the issuance of stocks and bonds in the stock market).

Accordingly, judicial reforms in western countries have become industrial policies beyond the framework of the justice system, resulting in strengthening the competitiveness of their law firms in the global market by securing their free enterprise, financing capabilities, abundant human resources and access to large markets. Under such circumstances, global mega-firms have also increased their presence in Japan, as described below.

It is not only mega-firms which have been given the freedom to go beyond national borders. In 2007, the EU introduced a legal system which abolished all regulations (including immigration permission) for those engaged in professional legal services within the EU countries, including attorneys. Young people living within the EU area are able to enroll in a law school in whichever country they choose, and to practice as an attorney in any law firm or company in whichever country they see fit.

While the liberalization of legal services in Japan has settled down for the time being, through their tackling of the Gaïban issue, similar movements have spread to emerging markets such as China, Korea, Taiwan, India, etc. These countries will be integrated into the liberalization of legal services framework worldwide whether or not they choose to do so. Some countries are resisting
these trends, as Japan did in 1990s, but other countries like Saudi Arabia, Dubai, and Vietnam, which I recently visited, are willing to open their legal markets and attempt to invite foreign capital.

In this way, attorneys in the modern age are directly facing a huge global legal market. The working environment for attorneys now and in the future will be quite different from the one which we experienced in the past, where our practices were allowed only in our home jurisdictions. As a number of law firms are rapidly growing and globalizing and attorneys have more opportunities to practice across borders, the bar associations of each country are facing new challenges which they find it difficult to cope with on their own and they are in need of a world bar association.

IV. Judicial Reform and Globalization of the Legal Profession in Japan

Legal services in Japan are not immune from judicial reform movements around the world.

Global mega-firms have already established their presence in the Japanese legal service market. According to my research last year, some of the top ten ranking mega-firms worldwide already have a presence in Japan. Eight law firms out of the top thirty by number of attorneys, including one out of the top ten is a global mega-firm in Japan. Among the top 100 major law offices in Japan, 423 Japanese attorneys work for global mega-firms. These worldwide law firms play a major role in the Japanese legal industry.

Moreover, the growth of Japanese law offices themselves shows the effect of recent judicial reforms in Japan.

Before the government started to increase the number of attorneys in 2000, even the largest law office in Japan had less than 50 attorneys. Only law offices ranked in the top ten had twenty or more attorneys, and those ranking below tenth had less than 10. There were only 10 law offices which had more than 10 attorneys. A total of 314 attorneys worked for the top ten offices, which made up only 2% of all attorneys in Japan. At that time, Japan was still suffering from the bursting of the bubble economy and was struggling with the recession, which was more serious than that of 2009 in many ways. However, since 2000, law offices have started to grow rapidly.

Now the largest law office in Japan has 434 attorneys, which represents a nine-fold increase since the turn of the century. The total number of attorneys now working for top ten law offices is 1,960, and this number accounts for 7% of all attorneys in Japan. In 2001, only 23 law offices had more than twenty attorneys, but this had increased to 68 law offices by 2009. At present, some 250 law offices have more than 10 attorneys, while around 2,700 are private or managed by only one attorney. While these private law offices make up a great majority in number, attorneys working there constitute only around 10 percent of all attorneys in Japan. It has already become a myth that most attorneys in Japan belong to these private law offices.

Globalization and expansion of the occupational field are inevitable challenges for law offices
in Japan, as they are becoming increasingly organized and undergoing management reforms, while diversification of legal services and development of human resources are continuing to progress. Young legal professionals who have no chance or no intention to join traditional law offices are expected to expand their occupational fields and pursue a diverse range of careers. It will not be long before young Japanese attorneys begin to seek the EU-style liberalization of job opportunities across borders.

As a result of the judicial reform process, Japanese attorneys are beginning to follow a similar path of growth to the one already trod by attorneys in the U.S. and Europe. It is requisite for the Japanese legal community, in an age when 3,000 attorneys will be admitted to the bar every year, to explore possibilities for the legal profession in the future though the IBA.

For attorneys in Japan, the IBA is an indispensable forum for addressing the challenges of not only the Gaiben issue but various global issues of common interest.

VI. The IBA as a World Bar Association

I have said rather bluntly, on many occasions, that the IBA should change from a gentleman’s club of rich, global law firms to a world bar association which protects the independence of the legal profession worldwide, but presumably because of that bluntness, the old-guard faction of the IBA keeps their distance. My way of talking on this issue may sound rather rude to those who have maintained and developed the IBA so far. This is because I use an unreserved speaking manner even in my own language, and my English ability does not allow me to speak in a more sophisticated way than the simple, straightforward manner in which I speak.

Although I may be rather outspoken, what I am talking about points to the heart of the matter. As I mentioned before, I served as the chairperson of the Bar Issues Commission, and after that, I ran for the office of Secretary-General of the IBA. The race was against an extremely eminent lawyer strongly supported by the tradition-directed legal professions. The election campaign was more intense than that of the bid to host the Annual Conference in Tokyo, because the election was determined by a vote of the IBA full member bar associations of 136 countries. It turned out that I won the seat by a large margin and I felt not only the support of the bar associations around the world for my opinions but also that of their many expectations for Japan.

The Mid-Year Meetings in 2007 were convened in Zagreb, Croatia and the President of the Iraq Bar Association attended the conference along with the association’s delegates. At the Council Meeting I made a remark calling on the IBA’s support for the reconstruction of the legal system in Iraq, and at the reception that night I was introduced by my old friend, an Iraqi lawyer, to the President of the Iraq Bar Association. He said, “Mr. Kawamura, Japan is the only country which has come to Iraq and not killed any Iraqi people. All Iraqis know this well. Please come to help with our
efforts to rebuild the Iraq Bar Association.” He knew how to touch my heart. This prompted me to visit Ban Ki-moon, Secretary-General of the United Nations, and to lobby for assistance in various places along with the help of Yukio Takasu, Japanese Ambassador to the United Nations. These efforts resulted in the conduct of the “Training Programme on International Human Rights Law for Iraqi Lawyers,” co-hosted by the IBA and the JFBA and funded by the United Nations Democracy Fund. Fifty Iraqi lawyers were invited to the training programme which was held at the CEELI Institute, an organization based in Prague providing legal technical assistance to developing countries, from the 22nd to 26th of this March. The JFBA dispatched six lecturers to participate, including JFBA Vice President Tagawa, and held a workshop which summarized human right activities in Japan during the 60 years since the end of World War II.

I believe that the JFBA’s attitude which was shown in these IBA activities was remarkable. It was not a kind of preaching about human rights and justice from above, which can sometimes be typical of advanced countries, but rather that of talking together about how to restore justice and peace from difficult and contradictory situations, sharing experiences and suffering. From there, friendship and sympathy grew. I think this story shows the way we are to act in future IBA activities. I strongly hope that the JFBA will develop a project to help bar associations in Iraq and the Middle East in cooperation with the IBA.

In 1989 the Berlin wall fell, and the age of world mastery through ideology and military power ended. Instead, the notion of the rule of law emerged as a universal idea. It was a historical necessity that the IBA, which has a fundamental philosophy of establishing the rule of law worldwide, garnered the attention of people throughout the world and came to have a grand conference every year, after the 1990’s saw the end of the confrontation with the west.

Due to space limitations, I regret not being able to discuss the wide range of problems that the IBA is tackling as a World Bar Association, and I hope that I have conveyed my personal sense of mission at least to those who read this article. I pray this article motivates young Japanese attorneys further towards internationalization.