

INTERVIEW/ Hisashi Owada: Education vital for international order based on cooperation

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Hisashi Owada, a former president and judge of the International Court of Justice, responds in an interview with The Asahi Shimbun. (Sayuri Ide)

As a diplomat and later a judge of the International Court of Justice (ICJ), Hisashi Owada has long struggled to find the proper balance between the ideals of international law and the reality of international relations.

In an interview with The Asahi Shimbun, Owada said he is working on an “Interaction between International Law and International Relations” academic forum that explores this dynamic.

He said he believes that an accurate understanding of this balance, which has been the subject of his diplomatic work and his academic research, “is the course for stability in the world.”

“In order to bridge the gap between international law and international relations, there will be a need for a multidisciplinary look at the various factors that affect a gathering of people, such as religion, culture and emotion,” Owada said.

After leaving the ICJ in 2018, he is focusing on educating the younger generation by bringing together students from Japan and Europe.

In the interview, Owada was asked what prompted his efforts to bring about stability through international cooperation in an increasingly chaotic world.

Excerpts of the interview follow:

Question: After serving on the ICJ for 15 years, a professorship chair has been named in your honor jointly by the University of Tokyo, your alma mater, and Leiden University in the Netherlands, where you are a professor emeritus. What led to the Owada chair?

Owada: It began when I was given the opportunity to speak at Leiden University while serving on the ICJ. I spoke about the history behind how Japan accepted international law after it opened up to the West as well as the background to the post-Cold War joint declaration issued by Japan and the European Community, which I was involved in. The students showed much interest. When I was about to leave for Japan, the head of Leiden University proposed the professorial chair to mark my contributions to the ICJ and the university. I accepted the offer as a forum for a cooperative effort with the University of Tokyo.

The main theme is “Interaction between International Law and International Relations” and over a six-year period the two universities will rotate annually in being in charge. The first session will take place at Leiden from October and the French international politics scholar Dominique Moisi will speak about the geopolitics of emotion. A workshop will be held over a one-week period involving about 10 students and professors each from the two institutions. I am very much looking forward to it.

Q: What is the aim of the chair?

Owada: The first is to examine the background to the emergence from the end of the Cold War and continuing into this century of the challenges to the international order

based on the rule of law and how to overcome those challenges. We will try to examine the issue from the standpoint of “Interaction between International Law and International Relations” that has been the topic of my diplomatic work and later research for my entire life.

In the 17th century, the Peace of Westphalia ended the religious wars in Europe and created the framework for a modern international order in which sovereign nations can coexist based on the core values of respecting sovereign borders and noninterference in the domestic affairs of other nations. Modern international law that developed from this had a strong prescriptivist tendency seeking to create a utopia and reached its peak with the Hague Peace Conference of 1899 that sought peaceful resolution of international conflicts.

In contrast, international relations studies emerged from the disillusionment that arose from two world wars and the rise of the Nazis. Its main argument is based on the recognition that the world is still dominated by the law of the jungle and that the main course is to accept the current reality of the world.

Due to the failure to bridge the gap between the ideal sought by international law and the reality that international relations face, there has been a detachment in the views toward the international community.

I believe that an accurate understanding of the “Interaction between International Law and International Relations” based on a broad view of history since the modern age is the course for stability in the world.

Q: You mentioned challenges to the international order, but are we not seeing that in terms of the confrontation between the United States and China as well as the chaotic situation produced by the novel coronavirus pandemic?

Owada: It is often said history repeats itself, but I feel the international order evolves in a spiral manner. We are now in an interlude in the course of that evolution. The chair will seek to move closer to the historical issues that will allow us to overcome such twists and turns. In order to bridge the gap between international law and international relations, there will be a need for a multidisciplinary look at the various factors that affect a gathering of people, such as religion, culture and emotion.

Q: Having taught at universities both in Japan and the United States, what do you believe will be the educational significance of this new chair?

Owada: That is where the second important role of the chair comes in. Since opening up to the West, Japan has been isolated geographically from Europe, which had been at the center of learning. As such, it undertook intellectual activities within its own unique culture and language that was also different from the former European colonies. I feel there is a need to test one's skills by engaging with others from a different school. I believe there will be an extremely large significance to having the University of Tokyo, which has a deep understanding of East Asian culture, learn at Leiden University, which is a training ground where students from around Europe gather.

Q: Are you also sending a message to the younger generation based on your own experiences?

Owada: Studying in Britain shortly after I entered the Foreign Ministry was a shocking experience. One can only understand after first living in such a society that “the rule of law” is a concept which established modern civil society because it was literally rooted in a real and animated history.

Another thing I realized for the first time when I went to the ICJ in my 70s is that positioned behind me during my diplomatic negotiations that I considered a personal battle was the nation of Japan. At the ICJ, regardless of where you are from, a mistake is a mistake and I feel I never before in my life studied and discussed legal issues in such a serious manner. It would be wonderful if the chair provided a forum for Japanese youth to engage in such activities with those from other schools.

Q: What did you mean when you described the chaotic global situation, including the U.S.-China confrontation, as an “interlude of history”?

Owada: For the chair, it will be up to the two universities to decide how history is handled, but if I were to express my personal view, the “international community” of which Europe was at the center after the Peace of Westphalia changed greatly after the two world wars. I am talking about globalization. The “international community” has transformed into one in which many of its member states are nations that gained independence from a colonial standing and where there is now a need to deal with issues related to the safety of humans that cross borders, such as global warming and the novel coronavirus pandemic. As long as societies exist for the peace and welfare of its members, I believe there will be no end to the current trend of the international community constructing order through cooperation.

Q: But how do you explain the Cold War?

Owada: I consider that Cold War to be an interlude in a Shakespearian play. Of course, a “balance of power” world similar to the 19th century did appear temporarily and was maintained through the fear that the United States and the Soviet Union would destroy each other if they entered into war. But even during that period, the main theme of the historical play continued to be globalization and it maintained its development.

The end of the Cold War was a “defeat” for the Soviet Union whose social structure could not deal with globalization. Once the interlude was over, the main theme of globalization should have entered center stage and efforts made toward a new age of cooperation that could have been called “the second Westphalia state system” that also included the newly emerging states. But the situation was misunderstood and led to the thinking that the end of the Cold War was a “victory” for capitalism centered on the United States.

Q: Are you saying the situation has continued until today without a resolution of that interlude?

Owada: The legitimacy given to an unbridled laissez-faire attitude as a governing principle has led to a delay in efforts to construct an international order based on cooperation. Dissatisfaction with economic disparity has led to societal fragmentation. This has created Trumpism in the United States, the Brexit movement in Britain and stronger nationalist sentiment in the other European Union member states where opposition has been growing toward allowing in immigrants and refugees.

In Russia, irredentism has emerged with the move by Russia under the long rule of President Vladimir Putin to annex Crimea. In China, revanchism designed to end the humiliation of colonial rule through the last century as well as public sentiment that makes light of international order has also strengthened.

Like Europe before the Westphalia state system, the various nations are now pursuing their own narrow interests.

Q: What can the ICJ do about that?

Owada: With the progress of globalization in the international community, the ICJ has broadened its activities by seeking to resolve territorial disputes in Africa, Central and South America as well as Southeast Asia in more recent years. It can play an even larger role as an organization to realize peace through international law. But the right to a trial does not extend to all international disputes and the largest problem is the need, in principle, for the consent of the nations actually involved in a dispute before a trial can be held. There is also the issue of whether all issues can be resolved through trials based on international law. The issue of how to improve current international relations still remains and it is up to diplomacy to come up with the wisdom to overcome that issue.

An Italian forced into labor by the German military during World War II sought compensation from the German government but was denied, and the case that reached the Italian Supreme Court was entrusted to the ICJ. When I was president of the ICJ, it ruled in favor of Germany by ruling that the Italian Supreme Court verdict was a violation of the international law principle that a “sovereign nation is not party to the right of trial of another nation.” But the ICJ ruling also included wording to avoid any misunderstanding that it absolved Germany of all responsibility for compensation and called on the two nations to enter into further negotiations to resolve the issue.

Q: If dispute resolution through diplomacy also helps construct the international order, doesn't that mean the responsibility of major powers such as the United States and China is also very large?

Owada: There is the joke that the Earth would unite as one if there were Martians, but with the end of the threat of the Cold War, the tendency has continued for each nation to pursue their own interests as they like. But if a dispute should arise between two nuclear powers, the possible result would be devastating. We must end this interlude as soon as possible to return the course of history to one toward constructing international order through cooperation. The role of diplomacy will be large in order to share a common global view and bring together the strengths of the nations, rather than try to contain a specific nation.

Q: What are national leaders in charge of diplomacy asked to do?

Owada: While respect for the will of the people is a fundamental point of democratic politics, a major precondition for that is that the people have the ability to grasp the

facts and make a judgment. Leaders given the task of governing should refrain from making arguments in the international community that place short-term interests as the national interest. The question is how to reflect national interests onto universal values and to convince the people on that matter. If we delve deeply into that relationship between leaders and the people, it becomes obvious that education is most important.

For leaders of authoritarian states, the maximum value is maintaining the governing structure so efforts are made on occasion to flame nationalistic sentiment. In that sense as well, education is important.

When I was still on the ICJ, I was invited by Chinese universities and I taught international law in Beijing, Chongqing, Xian and Amoy. What most impressed me was how studious the new generation of youth was and their questions based on a thorough reading of ICJ rulings.

Q: China has been making various maritime advances that appear to ignore international law. Can we still place expectations on the academic sector?

Owada: Those with the right intentions realize that international law is important for China's development so the task will be how to encourage such individuals. The Asian Society of International Law that I played a leading role in establishing 14 years ago includes scholars from China and Taiwan. While involvement by Asian nations that were previously under colonial rule in the creation of international law has been slow, I hold hopes of their active contributions from now.

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Born in 1932, Hisashi Owada was a career diplomat who served as vice minister for foreign affairs and U.N. ambassador before joining the International Court of Justice in 2003. He became the first Japanese president of the court in 2009 and served in that position until 2012.

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(This article is based on an interview by Naotaka Fujita, a senior staff writer.)