国立民族学博物館共同研究（若手研究者による共同研究）
アジア･アフリカ諸国における裁判外紛争処理の再編が旧来の多元的法体制に与える影響についての共同研究 第４回研究会

Joint Research on Alternative Justice in Asia-Pacific and Africa
Research Meeting at Minpaku on 4 July 2009

Time: 13:30-18:30

Place: Seventh Seminar Room, Minpaku (National Museum of Ethnology, Osaka)

Programme

13:30-13:40	Introduction
Session 1	Chair: *Rumi Umino* (University of Miyazaki)
13:40-14:40	“Legal Mechanisms for Environmental Justice and Intellectual Property Governance” *Claudia Ituarte-Lima* (UCL University of London)
14:40-15:40	Comments and Open Discussion Commentator 1: *Arinori Kawamura* (Japan Coast Guard Academy) Commentator 2: *Shin-ichiro Ishida* (Osaka University)
15:40-15:55	Coffee Break
Session 2	Chair: *Rumi Umino*
15:55-16:55	“Space for Alternative Justice: Locating Academia in Alternative Dispute Resolution” *Toru Yamada* (University of Hawaii)
16:55-17:55	Comments and Open Discussion Commentator 1: *Sayaka Takano* (University of Tokyo) Commentator 2: *Shin-ichiro Ishida*
18:00-18:20	General Discussion
18:30	Closing

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Abstracts

Legal mechanisms for environmental justice and intellectual property governance

Claudia Ituarte-Lima (UCL University of London)

Environmental justice and more equitable relations in the knowledge economy constitute common concerns for many people around the world. Hence an informed discussion about these concerns is needed, which includes stakeholders with both western and non western viewpoints. It remains a challenge to translate abstract legal notions to practice, for example "just benefit sharing" from the use of peoples' biodiversity knowledge. In 2002, Peru through Law 27811 established a legal regime for the protection of indigenous peoples' collective knowledge related to biodiversity. The regime's objective is to provide "fair and equitable distribution of the benefits derived from the use of collective knowledge". This paper analyses the Peruvian Law 27811 and critical events which crisscross institutions and prompt new ways of thinking thereby creating *sui generis* intellectual property rights (IPRs). Specifically, in the paper it is attempted to understand the reasons why people advocate or oppose agreements with IPR implications. The literature tends to polarize between the individual (Western) and collective (indigenous). In contrast, this paper proposes the analytical strategy of a continuum of the multiple holders of dimensions of IPR and of the nature of the resources owned. The paper shows that the main issues in the development of legal mechanisms for environmental justice and intellectual property governance revolve around who is legally recognised as an owner, what it is the nature of the resource owned and what are the means for effectively exercising rights and responsibilities associated with IPR. Regarding conflicts and tensions between the parties, often their negative dimension is highlighted. However, the empirical research in this paper has revealed not only negative dimensions but also the constructive possibilities of conflicts once they are there in terms of socio-legal innovation. Here previously unrelated facts are connected, which are associated with critical events linked to Law 27811. Moreover, the paper places this Law in a wider context of international current discussions in environmental law and policy thereby contributing to the development of alternative mechanisms for environmental justice in local and global arenas.

Space for Alternative Justice: Locating Academia in Alternative Dispute Resolution

Toru Yamada (University of Hawaii)

On March 2, 2006, a group of native Hawaiian activists and their supporters rallied at the University of Hawaii to protest the university's action of patenting three kinds of hybrid taro cultivars. Because of the cultural significance of taro in native Hawaiian tradition and current global movements in opposition bioengineering, the protest at the University of Hawaii received worldwide attention. On one side, the protesters criticized the university for being culturally insensitive to the native Hawaiian tradition, and expressed alarm over treating a life form (in this case, three kinds of hybrid taro plants) as private intellectual property. On the other side, the university officials and researchers defended their bioengineering research and patenting of the plants as a better way to protect the plants from commercially-driven big corporations. Throughout the dispute, university officials presented the university as an alternative to possible commercial exploitation and dispute. In this paper, I will examine how the university officials explained their rational on bioprospecting and patenting as a better alternative to commercial patenting.