

IMLI *e*-News

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IMLI GOVERNOR AND PROFESSOR AT SOPHIA UNIVERSITY LECTURES AT IMLI

Professor Atsuko Kanehara (Professor, Faculty of Laws at Sophia University, Japan and Member, IMLI Board of Governors) visited the IMO International Maritime Law Institute (IMLI) and delivered a lecture on the ‘Relationship between Maritime Security and Law Enforcement under the Current Wide Understanding of Maritime Security’ to the IMLI Class of 2018-2019



Professor Atsuko Kanehara (Professor, Faculty of Laws at Sophia University, Japan and Member, IMLI Board of Governors) with Professor David Attard (Director, IMLI) and the IMLI Class of 2018-2019

Professor Kanehara began her lecture with a discussion of the concept of the use of force in international law where she analysed Article 2 (4) of the UN Charter and made a distinction between the use of force that is prohibited and that which is not prohibited. She analysed the difference between the use of force prohibited by international law and the use of arms accompanying law enforcement measures. Professor Kanehara discussed the ITLOS case of *The MV Saiga Case (No.2)* and other cases that admitted the distinction between the use of force and the use of arms accompanying law enforcement measures. Law enforcement measures can be defined by the relevant provisions of UNCLOS such as Articles 25 (2), 73, 110, 111. They provide

the legal framework under which the use of arms in conjunction with the law enforcement is distinguished from the use of force prohibited by international law. She also mentioned the standards according to which the legality is assessed of the use of arms for effective law enforcement measures.



Professor Atsuko Kanehara signing the IMLI Visitors Book

On the recent wide understanding of maritime security, Professor Kanehara explained that such broad understanding, in addition to the military threat, includes combatting various threats, such as terrorism, weapons proliferation, transnational crime, piracy, environmental/resource destruction, and illegal seaborne migration.

She emphasized that under the wide understanding of maritime security, to make the distinction would become difficult between the use of force, and the use of arms accompanying law enforcement measures. In order to make the distinction, a case-by-case approach would be critical, which considers various factors in individual and concrete incidents. The States taking law enforcement measures would bear heavy burden to prove that the use of arms is that accompanying law enforcement measures.



Professor Atsuko Kanehara delivering her lecture

Professor Atsuko Kanehara is a member of the IMLI Governing Board, since 2018. She delivered a special course of lectures at The Hague Academy of International Law in 2017, entitled “Reassessment of the Acts of the State in the Law of State Responsibility.” She was a member of the Board of the Bar Exam of Japan, appointed by Minister of Justice (2006-2015). She works as a Councilor of Advisory Council for the National Headquarters for Ocean Policy of Japan, appointed by Prime Minister (since 2016). She is a Council Member of both the Japanese Society of International Law and International Law Association Japan Branch. She is a member of the Committee of International Law Association on Baseline. She served as an Advocate for the Government of Japan in “Southern Bluefin Tuna” Cases (Australia and NZ v. Japan) and a Counsel for the Government of Japan in “Whaling in the Antarctic” Case.

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*** For further information please contact Dr. Buba Bojang (Editor, IMLI e-News) at publications@imli.org*