



Political - Legal Reflections on the Two Epochal "Antique" Documents on "Peaceful Use" in the History of Japanese Space Policy

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ABSTRACT

“ Analyzing on an object in the sphere of domestic law with the method of international law” has been already on the horizon in international law. For the lawyers of international law and space law, it is quite natural that they utilize the method of international law, whatever objects they may choice. The reason is that the characteristic of international law do not depend upon object in itself, but depend upon method in itself.

The object of this paper is the idea of Peaceful Use(IPU or PU)¹⁾ in Japanese Space Policy. The method to be applied to this analysis is the international law's interpretation theory on legal principles, i.e., the method of international law²⁾.

One of the aims of this paper is to explain critically the need of review on IPU in Japanese Space Policy; in particular with respect to the positive reconstruction of IPU through historical analyzing on the transfiguration and the mere shell of the Post-War Japanese Pacifism(PJP) as the starting point of IPU. The historical process of the transfiguration and the mere shell is as followed ,i.e.,“ from the ultra-nationalism in the pre-war Japan³⁾ to PJP in the post-war Japan, from PJP to IPU , and from IPU to IPU's regression.

1) In the drafting process of, 1967 Space Treaty, Japanese Government has insisted on the prohibition of military use. Conf.,Res.A/AC.1348/13: Recognizing that it is the common aim that outer space should be used for peaceful purpose only.

2) HIROSE Kazuko. Funso to Ho [*Conflict and Law*] . Pap.ed. Tokyo : Keiso shobo,2000. 1-9.

3) Cf., Maruyama Masao. *Gendai Seiji no Shiso to Kodo*[*The Thought of Contemporal Politics and its' Behavior Pattern*]. New. Ed. Tokyo: Miraisha, 2006.

In particular with respect to the interpretation theory, the meaning of the teleological, aims and objects school's approach on the interpretation of legal principles(P) has been emphasized. The reason is that the promising development of IPU will be realized by cooperating with the interpretation theory on P in international law.

At the end of the beginning, I'd like to quote K. Marx's thesis in order to make the positions and missions the lawyers of international law and space clear. It is as follows, i.e., "THE PHILOSOPHERS HAVE ONLY INTERPRETED THE WORLD IN VARIOUS WAYS - THE POINT, HOWEVER IS TO CHANGE IT."⁴⁾

Three Introductory Corollaries



1. The Crux of the Problem

1.1 Two Epochal "Antique" Documents

There have been two epoch-making and antique documents for Japanese space policy. One is 1952 Treaty of Peace with Japan,⁵⁾ another is National Space Development Agency Act(JAXA in existence).⁶⁾ These Epochal "Antique" Documents gave the origins and the development of the basic idea of Japanese space policy; peaceful use principle of space. This is not only the key word of Japanese national policy, but also Japanese space policy.

The former document is related to 1946 the Constitution of Japan. In the Preamble of the Constitution declared " We, the Japanese people, desire peace all time and are deeply conscious of high ideals controlling human relationship and we have determined to preserve our security and existence, trusting in the justice and faith of the peace-loving peoples of the world."⁷⁾ And more, Art. 9-1 of the constitution stipulated" Aspiring sincerely to an international peace based on justice and order, the Japanese people forever renounce war as a sovereign right of the nation and the threat or use of force as a means of settling international disputes. Following this article and paragraph, Art. 9-2 stipulated " in order to accomplish the aim of the preceding paragraph, land, sea, and air forces as well as other war potential , will

4) Cf., Marx, Karl. *Thesis on Feuerbach*.

5) Mainichi Shinbun sha, ed. *Tainichi Heiwa Jyoyaku [Treaty of Peace with Japan]* . Tokyo: Mainichi Shinnbun Sha, 1952. 1.

6) <http://law.e-gov.go.jp/haishi/S44HO050.html>.

7) Cf., The Constitution of Japan(November 3,1946).In particular with the Preamble and Art.9,

never be maintained. The right of belligerency of the state will not be recognized.”⁸⁾

PJP was also reconfirmed internationally in 1952 Treaty of Peace with Japan. This treat declared “ whereas the Allied powers and Japan are resolved that henceforth their relations shall be those of nations which, as sovereign equals, cooperate in friendly association to promote their common welfare and to maintain international peace and security……” In passing, the first title of peace treaty is “ Peace.” Japan and Japanese peoples must answer the call of duty on peace in domestic and international arena. It is evident that this acceptance or declaration/stipulation have been executed under the post-war confusion and “the Sturm und Drangum” of the reconstruction of her defeat. whether it is the passive or active acceptance and determination. What can be said concretely is that there has been some complicated calculations in Japanese side.

The latter document is the National Space Development Agency Act (revised to Law Concerning Japan Aerospace Exploration Agency in 2002).NASDA Act is established in 1969. The present law: 2002 the Law Concerning Japan Aerospace Exploration Agency succeeds NASDA act. Though I will raise problems on the 2002 JAXA law and the bill of “the Fundamental Law of space“ in later, first of all, I’d like to explain that the peaceful use principle is beyond Japanese space policy makers’ visibility.

This act accompanied with the National Diet Supplementary Resolution on Peaceful Use.⁹⁾ It declared Japanese space development shall execute essentially for the purpose of peaceful use. This act stipulated the peaceful use in the clause of purpose in article 1. “ National Space Development Agency shall be established, so far as exclusively for purpose of peace, to conduct development of rocket for satellite and launch satellite……. .” By the double resonance of NASDA act and the resolution, this purpose principle became to prevail to all of Japanese space policies.

This rigid textual or ordinary meaning of the word approach on peaceful use has been supported by the most of Japanese. This tacit and vast understandings has played to make the characterizing features of Japanese space development. Many foreign experts for space development have understood, in fact, characterizing features of Japanese space policy : “ a desire for consensus between all parties, a

8) Art.9 has been become a target of the amendment of the Constitution of Japan. Prof. Hasebe Yasuo explained Art.9 is principle different from rules. Put in his shoes, he would have said that Japanese Self-Defense Forces is not necessarily unconstitutionality.

9) Chuo Gakuin Univ. ed. Gentenn Uchu Hou [Original Text : The Law of Space] . Tokyo: Maruzen Planet, 1999. 8.

bottom-up decision-making process amongst the agencies, and respect for international communication .”¹⁰⁾ They could not understand IPU as far as the space development. There were not really the word “peaceful use” in their views. DR. Kuroda Yasuhiro, he is the most advanced and high talented rocketry engineer and scholar not only in Japan, but also in the world wide, has taught us that space development looks like Gordian Knot. The most impressive of his instructions was that the word of peaceful use is a kind of an expedient in order to accelerate Japanese socio-economical development during from the occupied period to the present. I could receive valuable hint from his teaching in setting up the problem in order to review IPU in Japan. These documents instructs us the intrinsic and historical relevancy of PJP and IPU.

1.2 Post-war Pacifism

In some interpretation controversies on principles in 1967Space Treaty, nothing is more absurd interpretation controversy than the non-military and non-aggression interpretation controversy on stipulated the conception of peaceful Use(CPU)in art.4. This absurd interpretation could be liken “ the unmatched tragedy of legal rhetoric. ” The more the idea of IPU for humankind’s survival is necessary, the more this conception seems to be unnecessary. This interpretation controversy was the very senseless result of “dancing controversy” on CPU interpretation . This absurd should be never overlooked. The following academic attitude should not approved: not releasing the any a vicious circle for the destruction of peace with interpretation as a legal technology, in particular with saying “they are ready for peace.”¹¹⁾

It is necessary, in the first place, to explain the cause of this “dancing” absurd. We could find out the cause in the historical sequence of from PJP to the PUP in Japanese space policy. The origination of PUP in Japanese space policy was PJP. It has been respected in the post-war Japan because it is the fixed line of national policy. All of her public activities have been bound by PJP a kind of legal and social norms. IPU as the core idea of Japanese space policy, for example, is the evidence of this political-legal binding. Japanese space policy, therefore, must be verified politically, legally and socially in the light of this fixed line of national policy; her space policy requests the compliance to PJP. IPU, however, have been requested to flexible understanding and utilization in the given political circumstances.¹²⁾ Because

10) Verger, Fernand., Verger, Isabelle Sourès and Ghirardi, Raymond. *The Cambridge Encyclopedia of Space*. Cambridge: Cambridge University Press, 2003. 96.

11) Cheng, Bin. *Studies in International Space Law*. Oxford: Clarendon Press, 1997. 513-522.

12) Hasebe Yasuo. “Heiwa shugi to Rikken shugi [Pacifism and Constitutionalism] .” *Jurist*.1260

the purpose of PJP has been set for Japanese independence and development. I can anyway say that the mission of respecting this idea as for Japan has constituted the spinal column of the post-war Japan. The substance of PJP, however, was not enough as good as its' word. The reason was that PJP had the different meaning, i.e., the second coming of Japanese ultra-nationalism in the pre-war Japan.

II The Transfiguration and the Mere Shell of the Idea

1. The Transfiguration: From the Post-War Japanese Pacifism to the Peaceful Use

What was PJP? It could be answered as follows for the time being, it was the fixed line of national policy of post-war Japan. This idea, however, includes different meaning, i.e., the alternative expression of some different idea. It can be said that PJP must be the alternative expression of Japanese ultra-nationalism(JUN) prevailed in the pre-war Japan. PJP included an idea opposite to PJP.

Since her defeat, Japanese fixed line of national policy has been the pacifism. It means that the reconstruction of Japan Reproduction was enabled to respect and maintain the pacifism. JUN was replaced to PJP. The Japanese have wised up to the vacancy or political expression of the word of pacifism. They must have thought as follows, they will be able to utilize the pacifism in order to realize heir reconstruction. The reason is that the Japanese has been requested strictly to be the peace-loving nation by the allied forces. They have learned how to use the word or the idea. In the same manner, they have experienced from the tactics as follows, so far as pray“ keeping peace”, and maintain their careful concerns to the word or the idea”, all were permissible so far as circumstances permitted. What has been requested was not the content, not only the word, i.e., slogan. We can said it “masked pacifism.” This technique may be as well called“ the intentional carrot-and-stick policy- technique (CSP). CSP has been thoroughly utilized not only in her national general policy, but also in her space policy.¹³⁾

CSP, in a sense, has caused the both of Japan and the Allied Nations to the possibility of CSP's utilization through mutual contesting of political-legal wits. The reason is that the allied nations have seemed to force Japan to accept PJP: Japan

(2004):56-67.

13) Cf., Nakano Fujio. *Nihon no Uchuukaihatsu [Space Development of Japan]* . Tokyo: Bungeishunju, 1999.39-77.

seemed to accept positively it. The aim or motivation of the both parties was different. For the Japan, it meant that the reconstruction of her national powers would not be disturbed, of course, that this accepting had to be consistent with her future independence and development. It meant also maintenance of stability, and protection against more sanction, reprisals and repressions. For the allied nations, it meant the right of inventions or use of force whenever its interests were endangered, i.e., the allied nations' military and political hegemony in Japan. Both parties have become to expand their imagination and understanding on JP expediently. The Japan has become to make it a fetish. The allied nations have become to make it nominalization. The discrepant ensemble of understandings on JP as been utilized with the expediency of both parties.

These negative derivations, what is worse, gave the Japan to the self-intoxication, and gave the allied nations to the excessive skepticism. What is to be called "bitter enemies in the same boat" of an idea succeeded ironically to the present JPU policy.

If, as the author says, PJP seems to have the inclination of CSP, the 2002 JAXA law and the bill of the Fundamental Law of Space should be emphasized sophisticated and subtle the revival of ultra-nationalism in pre-war Japan. The 2002 JAXA law really didn't introduce the word of peaceful use in it: the bill of the Fundamental Law of Space introduced this word in the paragraph of "the purpose." The positioning of this idea in these documents is, however, completely different. The NASDA act positioned this idea on the basic ground of the policy. The 2002 JAXA law didn't even stipulate this word. The bill positioned this word on the dead letter interpretation on this idea in the 1967 Space Treaty, far from Japanese characteristic interpretation on this idea in historical sense; it means the renunciation of Japanese characteristic space policy.

The "transfiguration of idea" in this case does not explain to transfigure the ultra-nationalism in the pre-war Japan to PJP. This explanation refers to the revival of a denied idea, i.e., the ultra-nationalism as a title of PJP in the post-war Japan. The abrupt and radical transfiguration of the idea with the mental blow has been observed generally in the situation caused by the defeat. It has been observed commonly that the abrupt and radical denial of the idea of Ancien-Régime would cause to strengthen the screw on it in-itself. If PJP has been intentionally utilized in order to facilitate the reconstruction and development of the post-war Japan, and as it ended in success, they must have expected "Good luck always repeats itself." They adopted, therefore, IPU instead of PJP for Japanese Space Policy.

In this way, the old mask, i.e., PJP has been covered with the new mask, i.e., IPU,

and it has been introduced into not only the Constitution of Japan, but also the NASDA Act. PJP and IPU have constituted the axis of the fixed line of Japanese national policy and her national space policy.

2. The Mere Shell: From Peaceful Use to National Interest Centricism

IPU in Japanese space policy, i.e., IPU in NASDA act, including 1969 resolution in Japanese Diet, has been inherited from PJP. It, therefore, should be presumed the succession of CSP. Its' succession caused to the mere shell of IPU. IPU put the double masks. It has been said PJP and IPU. Let's try to trace the history of the mere shell of IPU.

For what dose the Japanese utilized CSP? It could facilitate Japanese reconstruction and development, and could made possible the gathering support for Japan. In addition, Japanese CSP has fortunately made plant PJP, i.e., the deep reliance on the post-war Japan as the peace-loving nation. The Japanese could not remove the suspicion of the allied-forces and their nations. The Japanese has been insensitive to the suspicion. The Japanese has forgot entirely the utility and the technique or art of CSP. The Japanese space development has marched along their impractical enthusiasm for peace. Some Japanese intellectuals have ridiculed it peace-occultism. Let' try to observe this comical, in a sense tragedy, example on the launching rockets as a trunk transportation to space.

Launching rocket, whatever it may be the most primitive launching, is considered the first step of the space development. It condensed the basic or radical issues in space development. We could find out, therefore, not only such a issues in launching rocket, but also the nature of space-faring nations' space policy in it.

The first public experiment of launching rocket by Dr. ITOKAWA and his expert members in 1955 has been evaluated the great pioneering work. It may overestimation in the effect and sloppy in the learning. Because this way of evaluation will produce the underestimate and the nonchalance on the other works in this field. We must deny full deification, in particular with respect to the academic heroism and aggravation. When the first step of Japanese space development cut opened, there have been expanded the vast and thick stratum of rocketry engineers and researches in Japan. The rocketry already has started in the pre-war Japan, and has been succeeded to study of rocketry in the post-war Japan.¹⁴⁾ Dr. KURODA, the

14) Cf., *The Report :Space Cooperation with Japan · Arms Control Consideration* by Arms Control and disarmament Agency explained “ in order to obtain this decision , the dominant figures in Japanese

foremost authority in the rocketry in Japan, has started, for example, his engineering mission on 1951 in Purdue Univ. He was dispatched to the university in order to extensively study the rocketry. He explained us the study of rocketry has been, then, viewed with suspicion from foreign countries, especially U.S. .¹⁵⁾

Almost Japanese rocketry scientist and engineers, therefore, could excessively or carefully making appeal for peaceful use. The Japanese have become PJP and PIU to deify, and abandoned imperceptibly the development or the substantiation these ideas. They have made the cause of the mere shell of PJP and IPU. The tradition of PJP, on the other hand, has become restricted the Japanese as a their religion. They have made appropriate, though, use of their official stance and their real motive, and what to be said the self-deception has been making them forget the strategic and secure utilization of CSP.

On May,2008, a bill, the fundamental law of space(tentative name) passed by the House of Representatives. This bill takes effect one year later. The idea of this bill is national interest centrism. Some politicians, not statesmen, businesspersons, bureaucracy and scholars has spoken out that space should be used for realization of Japanese national interest. We can support this opinion. The interest of a result should be respected. We should consider that a secondary result is enough for national interest.

The word of peaceful use is not stipulated in an early draft stage of bill. Despite tremendous opposition from the opposition party, the ruling party stuck to its colours, i.e., the evasion of insertion of the clause of peaceful use. It was revised to insert this word, peaceful use, in the aim of Japanese New law as a result of compromise. The position of this word, however, were different from that of NASDA Act(not stipulation in JAXA law), and it was only one of the conditions of the aims. It was

space activity, particularly Professor Itokawa at the university of Japan [sic-really the university of Tokyo] have quite consciously distorted the conditions of cooperation with the United States. Professor Itokawa is understood to have close family association with the Prime Minister. Professor Kaneshige ([Japanese Chair of the U.S.-Japan Scientific Commission].....only last month told me that his continuing efforts to promote space cooperation with the United States had failed. He frankly confirmed the policy of deliberate distortion of our program.”

See Wernher Von Braun and Frederic I. Ordway III. *History of Rocketry & Space Travel*. New York: Thomas Y. Crowell Company, n.d. 93. We can understand the history of rocketry of the world including the pre-war Japan.

- 15) TAHARA Soichiro. *Sentan Gijyutsuno Topuranna Dokusou Ningen kokoniari*[*The Creative Person*]. Tokyo: Shinchosha. 1983,184-202. Cf., *Jet Propulsion*, Vol.26,no.10,part 1(1956)reported the experiment of Dr.Itokawa. Its' caption was “ the start of rearmament of the defeated Japan.”

not estimated with an absolute principle. It may be said that it is just one of conditions. This decision making proves a ruin of IPU, i.e., the Mere Shell of IPU.

III The mission of Japanese International Law and Space Law Lawyers



1. Role of Interpretation Theory

For the lawyers of international law and space law, their weapon is the theory. In this Corollarie, I decided to use the interpretation theory on principles as one of the weapons. In general, before examining about the “sollen”-interpretation on principles, I would like to explain the interpretation theory on legal principles of international law.

It is the very time that we, the lawyers of international law and space law, must encourage the evolution of space development in order to stand up space scale perils for our survival. This work, besides, will not be accomplished without peace in space. As military affairs always develop a pecking order, the equal cooperation is not realized in space. Space development, at any rate, must be aimed the survival of the human. The peace, therefore, is a union card. The absurd interpretation on PU of the art. 4 in 1967 Space Treaty must be re-interpreted; interpretation not for the justification of the military expansion, but for that of humankind.

What should international law do in order to accomplish her mission for the evolution of interpretation on peaceful use principle? This interpretation on the principle must be given a evolutionary or epoch-making means. One of them must be the manipulation of interpretation on principle in order to realize “Eunomia”¹⁶⁾ as P.Allott said; Eunomia¹⁷⁾ is the ideal of the human social world including space. International laws’ technology of the interpretation on principles generally has a rich manipulative ability. Eunomia in space including on Gaia will be realized through the revolution of the interpretation on peaceful use principle. This is an emergency mission for Japanese lawyers of international law and space law. If, as the author says, the central idea of Japanese space policy is IPU, the very time for the change of IPU has already come. A new idea must be given to IPU. It was not an idea rationalizing war and armaments and interest of individual nations. A new idea of Japanese space policy will be, probably, the human survival. Human survival will be

16) Allott, Philip. *Eunomia New Order For A New World*. Pap.Ed.Oxford: Oxford University Press.1990, 26-27.

17) OdA Minoru. “Maintaining Science Culture in Japan.” *Nature*. Vol. 391(1998):431.

an characteristic and universal idea in space policy. If the Japanese declare it as her policy, Japan would have a characteristic space policy. This policy would contribute to the strengthening of ability of Japanese space policy. This consistent utilizing of IPU have achieved the various useful results and discoveries with having various frictions in a field of space science. The late Dr. ODA Minoru appealed for the need of peace and free scientific research.¹⁸⁾ In any cases, we may say that the characteristic space development and peaceful use in space are inseparable.

How to accomplish this mission? There is a useful theory tool of international law. It is the interpretation theory on principles, i.e., principles distinguished from rules. The eminent public lawyer Robert Alexy wrote "the decisive point in distinguishing rules from principles is that principles are norms which require that something be realized to the greatest extent possible given the legal and factual possibilities."¹⁹⁾ It said that those who interpret on principles could interpret it within the range of their maximum optimization. This optimization requirement interpretation, i.e., the interpretation on principles must be supported by a large number of international actors. Those who interpret on principles must read, therefore, the persuadable trends of the time and the surroundings, and must reflect it/them in their interpretation on principle." The distinction between rules and principles becomes most apparent in the case of competing principles. What they have in common is that two norms, each taken on their own. Lead to inconsistent results when applied that is, they lead to two mutually incompatible concrete legal ought-judgments. What separates them is the way the conflict is resolved."²⁰⁾

There was another concealed theme in his remarks. It is how to read the changing historical trends which influence the interpretation on principles. It is a problem about the optimization requirements(OR).²¹⁾ It has effect on the interpretation on principle. It is composed of the political intensions of those who interpret on principles. The political intensions realize through the interpretation on principles.

What is the post-modern content of OR as a guideline for the interpretation on PU? It is surely "the exploration and use of outer space for human-survival." Outer space has been opened for the geopolitics space of human survival. The interpretation on PU principle must be practiced to match with this idea.

18) Alexy, Robert. *A Theory of Constitutional Rights*, Trans. Rivers, Julian. Oxford : Oxford Univ. Press, 2002, 47-48.

19) *ibid.*, Alexy., A theory, 48-49.

20) The same explanation is shown by Alexy., *A Theory*, 47-48.

21) *ibid.*, Alexy., *A theory*, 57-59.

2. The mission of Japanese lawyers of International Law and Space Law

How to read the historical changing nature and trend, and how to reflect these reading facts to the work of principle interpretation. It seems to be meaningful to quote again the view of R. Alexy. He explained “ the decisive point in distinguishing rules from principles is that principles are norms which require that something be realized to the greatest extent possible given the legal and factual possibilities. Principles are optimization requirements, characterized by the fact that they can be satisfied to varying degree, and that the appropriate degree of satisfaction depends not only on what is factually possible but also what is legally possible. The scope of legally possible is determined by opposing principle and rules.”²²⁾ In short, any principles have OR. The inside of OR is vacancy. Any parties could slipped their political intension on principle into OR, and try to realize their justification in the process of interpretation.

Then, what kinds of ideologies to be introduced into PU principle of 1967 treaties at the present time, i.e., OR on PU. What should be aimed OR is not military and national interest in itself, but the very human survival ideologies. The meaning of space development for human-survival is rising gradually. Most of space-faring states are, however, keeping their nationalistic policy. Outer space should be reconstructed as not Utopia, but Eunomia. New OR as PU will be useful for this reconstruction. The solely role of international law and space law lawyers role is to find the meaningful and significant trends of historical-legal idea or guideline in OR, and to make the persuasive interpretation theory on principles. What must, therefore, they do?

● One Concluding Corollarie

Discipline of Penetration to Identify the Means of the History and the Facts

Over the past decade, IPU was seemed to the immortal doctrine in Japanese space policy. As IPU has been connected tightly with PJP, it has been respected not only as the doctrine of Japanese space policy, but also the unified idea with PJP as the fixed line of national policy of post-war Japan. It should be developed substantially,

22) Matsui Takanori. *Uchujin toshiteno ikikata* [Our Humankind : How to live as a Creature in Broad Spce] . Tokyo: Iwanami Shoten,2003, 81-216. See e.g. Robinson, S George and White, Harold M Jr. *Envoys of Mankind : A Declaration of First Principles for The Governance of Space Society* .Washington, D.C.. Smithonian Institute Press,1984. Arnopoulos, P. *Cosmopolities : Public Policy of Outer Space*. Toronto : Guernica, 1998, 213-224.

as for Japanese space development related parties, it's the very time has come to take action for the development of the idea. It is whereby deeply implicative that R. Alexy's verbal sharpness on the interpretation of principles, the teleological or aims and objects interpretation approach for the substantialization of principles' idea is useful. Japanese international and space lawyers are requested to utilize actively his interpretation theory on principles in order to develop Japanese peaceful space policy. It is necessary for this work to discipline eyes to identify the means of the history and the facts.

What is the means of the history and the facts in the present. We have, already, got rich knowledge from space development and scientific adventures, in particular, knowledge on the origin and the future of the human as Prof, T.Matsui wrote in his works.²³⁾ Our human kind could create academic useful knowledge about the meaning of our existence. What we are thought is space faring should not be carried out for a variety of exclusive interests(special interests) but inclusive interests (community interests).²⁴⁾ The interpretation on PU should be carried out in accordance with human survival ensuring. The necessity on this work is "the discipline of the penetration to identify the means of the history and the facts. principles.

I propose this issue on the facts-find in legal reasoning process". The reason to be asked here is this issue connected with interpretation on principles. As above mentioned, interpretation on principle is required to grasp the changing social-historical trends, i.e., facts find. The importance of facts find for lawyers has only minor meaning. Because the conventional legal reasoning for facts find is performed by legal syllogisms. Syllogisms for them is useful tool. Facts are grasped to fit syllogisms reasoning. Facts to be grasped are legally arranged facts. This is not facts, but legally interpreted facts.²⁵⁾ Syllogisms could not be moved to the out of law. It is necessary, however, to grasp facts to interpret principles. Because parties must find out changing ideology included in OR as facts. How to find out not legally arranged facts? Many studies have been tried. Many hints has been proposed. For example, there are convenient and useful theory for international lawyers, the work of J.Esser. K.Larenz, K.Engisch, i.e., "the Statement of If-Then System." These authors have

23) McDougal, Myres and Laswell Harold D." The Identification and Appraisal of Diverse Systems of Public Order." *Studies in World Public Order*. New Haven : Martinus Nijhoff, 1987, 10-13.

24) *ibid*, McDougal,. *World Public Order*. 13-18.

25) AOI Hideo, " karu Engishu no Houtesugaku no kiso 1-2." [Über die grundlagen der Rechtsphilosophie Karl Engisch.i-2]. *HOGAKU*42-1(1978):1-58, 43-3(1979):3-110.

pointed out the necessity of the reassessment method on the way of facts find.²⁶⁾ The improvement of precision on facts find in syllogisms process is necessary for Japanese lawyers of international law and space law to prevent the arbitrary interpretation on principles and criticize the mere shell of IPU.

26) *ibid*, McDougal,. World Public Order. 13-18.