

## NAKAJIMA Kei, Ph.D. (Geneva), Ph.D. (Tokyo)

### Associate Professor | University of Tokyo

Institute of Social Science, 7-3-1 Hongo, Bunkyo, Tokyo 113-0033 Japan

T: +81 3 5841 4971

E: [kei.nakajima@iss.u-tokyo.ac.jp](mailto:kei.nakajima@iss.u-tokyo.ac.jp)

E: [kei.nakajima@graduateinstitute.ch](mailto:kei.nakajima@graduateinstitute.ch)

Personal website: [www.keinakajima.com](http://www.keinakajima.com)



### SHORT BIOGRAPHY

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Kei Nakajima is an associate professor of public international law at the University of Tokyo, the Institute of Social Science. He is formerly an associate legal officer at the International Court of Justice in The Hague. He received an LL.M. and Ph.D. from the University of Tokyo for his study on evidence and fact-finding before international courts and tribunals and a second Ph.D. from the Graduate Institute of International and Development Studies in Geneva for his work on the international law of sovereign debt dispute settlement.

### AREAS OF EXPERTISE

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- Public international law (*international dispute settlement; international legal theory*)
- Law and practice of international courts and tribunals (*jurisdiction and admissibility; incidental proceedings; evidence and fact-finding; litigation strategy; maritime and land boundary delimitation*)
- International economic law (*investment treaty law and arbitration; sovereign default and debt restructuring; WTO dispute settlement*)
- Private international law (*transnational litigation and arbitration; state contracts*)

### PROFESSIONAL EXPERIENCE

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Apr 2020 – present [University of Tokyo, Institute of Social Science](#) (Tokyo)

**Associate Professor of International Law**

Jan 2017 – Mar 2020 [International Court of Justice](#) (The Hague)

**Associate Legal Officer (Law clerk / référendaire)**

- Law clerk to H.E. Judge **Hisashi Owada**, H.E. Judge **Yuji Iwasawa**, H.E. Judge *ad hoc* **Jean-Pierre Cot** and H.E. Judge *ad hoc* **Navanethem Pillay**
- Involved in the following cases: ***Somalia v. Kenya*** on maritime delimitation in the Indian Ocean (preliminary objections; merits); ***Ukraine v. Russia*** concerning two international conventions (provisional measures; preliminary objections); ***India v. Pakistan*** on the Jadhav case (provisional measures; merits); ***Nicaragua v. Colombia*** on alleged violations of sovereign rights (admissibility of counterclaims); ***Costa Rica v. Nicaragua*** on land and maritime boundary delimitations (merits); ***Costa Rica v. Nicaragua*** on certain activities in the border area (compensation); ***Equatorial Guinea v. France*** on certain criminal proceedings (preliminary objections; merits); ***Qatar v. UAE*** concerning the racial discrimination convention (provisional measures requested by Qatar and by UAE); ***Iran v. United States*** on the alleged violations of the treaty of amity (provisional measures); ***Iran v. United States*** on certain Iranian assets

(preliminary objections); Advisory proceedings on the *Chagos Archipelago*; Armed activities on the territory of the Congo (*DRC v. Uganda*) (compensation); Two appeals relating to the *jurisdiction of the ICAO Council* brought by Gulf countries against Qatar; Application of the Genocide Convention (*Gambia v. Myanmar*) (provisional measures); *Guyana v. Venezuela* on the validity of the arbitral award delimiting boundary between the countries (jurisdiction)

Sept 2015 – Jan 2017 [Kobe University Graduate School of Law](#) (Kobe, Japan)

**Research Fellow**

- Organized international and investment law seminars and symposia
- Involved various educational, administrative, outreach, and PR activities of the LL.M. programme

Apr 2008 – Sept 2013 [University of Tokyo](#) (Tokyo)

**Doctoral and Post-doctoral Research Fellow**

- Fellowship funded by [Japan Society for the Promotion of Science](#)
- Joined study groups and involved consulting activities on international law and policy under the supervision of Prof. Kazuhiro Nakatani

Apr 2006 – Mar 2011 [University of Tokyo](#) (Tokyo)

**Teaching Assistant**

- Provided administrative and educational assistance to law professors in courses: public international law, international energy law, and environmental law

## **EDUCATION AND ACADEMIC DEGREES**

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Sept 2013 – Oct 2019 [Graduate Institute of International and Development Studies](#) (Geneva)

**Ph.D. in International Law**

- Thesis: “The International Law of Sovereign Debt Dispute Settlement” 418 pp.
- Received the Graduate Institute’s scholarship (2013-15)
- Received Prunier Foundation scholarship (2015-16)

Apr 2008 – Mar 2011 [University of Tokyo](#) (Tokyo)

**Doctor of Laws (Ph.D.)** (obtained in February 2013)

- Thesis: “Evolution in Evidence and Fact-Finding before International Courts and Tribunals: Theory and Practice” 290 pp.
- Editorial Assistant of the [Japanese Yearbook of International Law](#)

Apr 2006 – Mar 2008 [University of Tokyo](#) (Tokyo)

**Master of Laws (LL.M.)**

- Dissertation: “A Prolegomena to the Theory of Evidence before International Courts and Tribunals”, 184 pp.
- Received Mineichiro Adachi Scholarship

Apr 2002 – Mar 2006 [Waseda University](#) (Tokyo)

**B.A. in Law**

- Joined [Philip C. Jessup international law moot court competition](#), Shearman & Sterling international rounds, Washington D.C. (March 2004) as an oralist

## MEMBERSHIPS

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- [American Society of International Law](#)
- [International Law Association \(Japan Branch\)](#)
- [Japanese Society of International Law](#)

## LANGUAGES

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- English (full professional proficiency)
- French (professional working proficiency)
- Japanese (mother tongue)

## PUBLICATIONS

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### *Monograph*

- [Evidence before International Courts and Tribunals](#) (Shinzansha Publications, Ltd., 2016), 420 pp. [in Japanese].
  - Book Review by Yoshiyuki Lee, *Journal of International Law and Diplomacy*, vol. 115, no. 4 (2017), pp. 509-514 [in Japanese].
  - Book review by Yoshiyuki Lee-Iwamoto, *Japanese Yearbook of International Law*, vol. 60 (2017), pp. 416-420.
  - Awarded 50<sup>th</sup> Mineichiro Adachi Medal ([Mineichiro Adachi Memorial Foundation](#), 31 October 2017).

### *Journal Articles & Book Chapters*

7. “Beyond *Abaclat*: Mass Claims in Investment Treaty Arbitration and Regulatory Governance for Sovereign Debt Restructuring”, [Journal of World Investment & Trade](#), vol. 19, no. 2 (2018), pp. 208-247.
6. “Traditional and Modern Designs for International Law of Sovereign Debt Restructuring: A Way Forward”, in Holly Cullen, Joanna Harrington and Catherine Renshaw (eds.), [Experts, Networks, and International Law](#) (Cambridge University Press, 2017), pp. 230-256.
5. “Parallel Universes of Investment Protection? A Divergent Finding on the Definition of Investment in the ICSID Arbitration on Greek Sovereign Debts”, [Law and Practice of International Courts and Tribunals](#), vol. 15, no. 3 (2017), pp. 471-489.
4. “An Elusive Safeguard with Loopholes: Sovereign Debt and its ‘Negotiated Restructuring’ in International Investment agreements in the Age of Global Financial Crisis”, [International Review of Law](#), vol. 2016-3 (2016), 20 pp.
  - (4-a.) Republished in [Transnational Dispute Management](#), no. 2018-1 (2018).
3. “Evidence in Investment Treaty Arbitration: A Challenge for Public Law Paradigm of International Investment Law”, [Tokyo Review of International Law, no. 2](#) (2014), pp. 69-105 [in Japanese].
2. “The Rationales of Presumption and Inference before International Courts and Tribunals”, [Journal of International Law and Diplomacy](#) [*Kokusaiho Gaiko Zasshi*], vol. 108, no. 3 (2009), pp. 61-90 [in Japanese].
1. “Theory of Fact-finding before International Courts and Tribunals: With Special Reference to Burden of Proof”, [Journal of the Association of Political and Social Science](#) [*Kokka Gakkai Zasshi*], vol. 121, nos. 7 & 8 (2008), pp. 749-814 [in Japanese].

### ***Shorter articles and Working Papers***

2. "[Historic Rights and the Status of Insular Features in the South China Sea Arbitration](#)", Japan Institute of International Affairs, [The Rule of Law and Maritime Security in the Indian and Pacific Oceans](#) (Japan Institute of International Affairs, 2017), pp. 67-82 [in Japanese].
1. "[Tax Base Erosion and Profit Shifting \(BEPS\) and International Economic Law](#)", *Centre for Trade and Economic Integration (CTEI) Working Papers*, no. 2013-2 (Geneva: The Graduate Institute, 2013), 82 pp [with Isabel Lamers and Pauline Mcharo].

### ***Case Notes***

3. "Interpretation of *dispositif* and the Principle of *res judicata* in *Nicaragua v. Colombia II*", [Tokyo Review of International Law](#), no. 5 (2017), pp. 215-236 [in Japanese].
2. *European Communities—Customs Classification of Frozen Boneless Chicken Cuts*, WT/DS269/AB/R, WT/DS286/AB/R, Appellate Body Report (adopted 27 September 2005), [Oxford Reports on International Law](#) (ITL 100, 2016).
1. *Korea—Definitive Safeguard Measure on Imports of Certain Dairy Products*, WT/DS98/AB/R, Appellate Body Report (adopted 12 January 2000), [Oxford Reports on International Law](#) (ITL 064, 2015).

### ***Book Review and Miscellaneous***

3. "The South China Sea Arbitration", [JSIL Expert Comments](#), No. 2016-6 (2016) [in Japanese].
2. "The International Court of Justice: Present and Future", University of Tokyo, Institute of Business Law and Comparative Law & Politics, [IBC April 2011 – March 2012](#) (2012), pp. 13-14.  
➤ Report on the Comparative Law and Politics Seminar. Speaker: Judge Hisashi Owada.
1. "Gérard Niyungeko, *La preuve devant les juridictions internationales*, Édition Bruylant, 2005, xx+480pp.", [Journal of the Association of Political and Social Science](#) [Kokka Gakkai Zasshi], vol. 122, nos. 5/6 (2009), pp. 840-847 [Book Review in Japanese].

### **SELECTED SPEAKING ENGAGEMENTS**

16. "COVID-19 and International Law", Institute of Social Science Online Seminar, 30 June 2020 [in Japanese].
15. "Law and Practice of the International Court of Justice", Japan Bar Association, Seminar on the Practice of Public International Law, Bar Association Building, Tokyo, 26 December 2018 [in Japanese].
14. "Existence and Identification of Disputes", [The ICJ as the Main Judicial Organ of the UN: Recent Developments](#), Utrecht Centre for International Legal Studies, Utrecht University, Utrecht, The Netherlands, 9 March 2018.
13. "Summary and Comments", Book Review Seminar on Evidence before International Courts and Tribunals, Kobe University, Kobe, Japan, 4 November 2016 [in Japanese].
12. "Historic Rights and the Status of Maritime Features in South China Sea Arbitration", Japan Institute of International Affairs, Tokyo, Japan, 7 October 2016 [in Japanese].
11. "Mass Claims before Investment Treaty Arbitration between Creditor Protection and Regulatory Governance", Japanese Society of International Law Annual Meeting, Convention & Arts Center "Granship", Shizuoka, Japan, 9-11 September 2016 [in Japanese].
10. "South China Sea Arbitration between the Philippines and China", Japan Institute of International

- Affairs, Tokyo, Japan, 25 July 2016 [in Japanese].
9. "Interpretation of *dispositif* and the Principle of *res judicata* in *Nicaragua v. Colombia II*", Kyoto University International Law Seminar, Kyoto, Japan, 18 June 2016 [in Japanese].
  8. "Sovereign Financing between Development and Crisis: Revisiting Sovereign Debt before Investment Treaty Arbitration", [Kobe Seminar on International Economic Law 2016. Legal Issues arising from State Capitalism: New Trend in International Economic Law](#), Kobe University, Kobe, Japan, 7 June 2016.
  7. "Parallel Universes of Investment Protection? A Divergent Finding on the Definition of 'Investment' in the ICSID Arbitration on Sovereign Debts", [5th Conference of the Postgraduate and Early Professionals/Academics Network of the Society of International Economic Law \(PEPA/SIEL\)](#), University of Luxembourg, Luxembourg, 14-15 April 2016.
  6. "A Successful Reconstruction of a Dispute? Understanding the Jurisdictional Findings of the South China Sea Arbitration", Ho Chi Minh City University of Law Seminar on International Law, Ho Chi Minh City, Viet Nam, 28 March 2016.
  5. "An Elusive Safeguard with Loopholes: Sovereign Debt and its 'Negotiated Restructuring' in the TPP Agreement and Beyond", [2nd Kobe Seminar on International Investment Law 2016](#). Asian Challenges to International Investment Law: Viewing from Internal and Comparative Perspectives, Kobe University, Kobe, Japan, 29 January 2016.
  4. "Traditional and Modern Designs for International Law of Sovereign Debt Restructuring: Towards Sovereign Insolvency Law in the Decentralized Legal Order", *Experts, Networks and International Law*, [5th International Four Societies Conference](#) (ANZSIL/ASIL/CCIL/JSIL), Australian National University, Canberra, Australia, 1-2 July 2014.
  3. "The Philippines v. China Arbitration on the South China Sea", Study group on Allegations Made by Neighbor Countries towards Japanese Territory and Public Opinion, Japan Institute of International Affairs, Tokyo, Japan, 21 August 2013 [in Japanese].
  2. "Japan's Position on the Territorial Sovereignty over Takeshima Island", Study group on Allegations Made by Neighbor Countries towards Japanese Territory and Public Opinion, Japan Institute of International Affairs, Tokyo, Japan, 9 August 2013 [in Japanese].
  1. "An Analytical Framework for Evidence before International Courts and Tribunals", International Law Colloquium of the University of Tokyo, Tokyo, Japan, 6 July 2013 [in Japanese].

## **SCHOLARSHIPS AND GRANTS**

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14. [The Murata Science Foundation](#), Japan, Research-Grant (2020).
13. [Japan Society of Law and Institutions](#), Finance Law Research Grant (2020).
12. The Murata Science Foundation, Japan, Research Grant (2016).
11. [Japan Society for the Promotion of Science](#), Grant-in-Aid (2016-2017).
10. Japan Society of Law and Institutions, Japan, Finance Law Research Grant (2016).
9. Yamada Science Foundation, Japan, Research Grant (2016).
8. [Prunier Foundation](#), Geneva, Scholarship (2015-2016).
7. The Murata Science Foundation, Japan, Financial Aid for Travel Abroad (2014).
6. [Graduate Institute of International and Development Studies](#), Geneva, Scholarship (2013-2015).
5. [Suenobu Foundation](#), Japan, Scholarship (2013).
4. [Japan Society for the Promotion of Science](#), Grant-in-Aid (2011-2013).

3. [Konosuke Matsushita Memorial Foundation](#), Japan, Research Grant (2011-2012).
2. Japan Society for the Promotion of Science, Grant-in-Aid (2008-2011).
1. [Mineichiro Adachi Memorial Foundation](#), Japan, Scholarship Student (2007-2008).

## **CONSULTING AND OTHER PROFESSIONAL ACTIVITIES**

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- Research on the rule of law in the Indian and Pacific Ocean and country profiling in terms of maritime security, [Japan Institute for International Affairs](#), Tokyo (2016).
  - Member of the Study Group.
  - Lecturer at Summer Seminar on Maritime Security in Asia-Pacific.
- Legal internship at the [Office of the High Commissioner for Human Rights](#), Geneva (March 2014).
  - Internship at the Human Rights Committee of the International Covenant on Civil and Political Rights in its 110<sup>th</sup> session, reported to Prof. Yuji Iwasawa.
  - Provided legal analysis on state party reports, and drafted background documents for public meetings.
  - Attended closed meetings on individual communications and a follow-up procedure.
- Research on territorial and maritime problems surrounding Japan, [Japan Institute for International Affairs](#), Tokyo (Summer 2013).
  - Research assistant of the study group.
  - Report on the territorial dispute between Japan and Korea over the Island Takeshima/Dokdo.
  - Report on the Philippines v. China arbitration before the Permanent Court of Arbitration.
- Research on economic sanctions implemented by the United Nations Security Council, commissioned by [Mitsubishi UFJ Research & Consulting Co., Ltd.](#), Tokyo (Spring 2013).
  - Follow-up survey on national implementation of the UNSC resolutions.
- Research on marine energy resources exploitation and development policies, commissioned by [Japan Oil, Gas and Metals National Corporation \(JOGMEC\)](#), Tokyo (Winter 2009).
  - Comparative law and policy research on marine scientific research and related issues.