

Discussion in Session II

Two main topics were discussed in session II: one was “Comprehensive Dispute Processing” and the other was “reform of the judicial system”.

Professor Sato’s presentation on the topic of comprehensive dispute processing elicited comments relating to questions about the meaning of comprehensive dispute processing and why legal practices tend to be monopolized by licensed lawyers. In Japan, access to lawyers is poor, as their numbers remain very low, and costs are very high. This situation has resulted from institutional barriers and limits on the number of lawyers and judges under governmental policy. Thus, abolishing the monopoly of the lawyers has now become a crucial issue, and introducing professional training of arbitrators and mediators based upon real skills is now very significant.

Other interesting comments were made regarding Dr. Ahmad’s presentation; in particular that arbitration is increasingly becoming a part of litigation, especially among business people who are apt to place more emphasis on mediation or conciliation when settling commercial disputes. In this discussion, differences between the legal cultures of each country were cited, and an instance was mentioned in which victims do not always want only money and compensation. In some cases, they strongly desire a sincere apology. The judicial system, however, cannot always offer such remedies through the general legal dispute settlement system. Mental and psychological compensation are also an important factor in some countries. It was strongly stressed that the lawyer’s role is not only one-way; it is important to re-conceptualize the lawyer’s role in the modern society.

The other subject concerned reform of the judicial system. It was mentioned that a recent very crucial issue is to increase the number of lawyers in Japan to maximize access to justice. The American type law-school system is now being introduced, with the aim of producing 3,000 lawyers every year, which is triple the current number of new lawyers. This will be a dramatic change, because just a couple of years ago, only 500 new lawyers were licensed each year. In comparison, the judicial system in the Philippines introduced a license system with an annual examination given by the Supreme Court. Reform of the Indian judicial system was also explained with specific details about the transplanting of other countries’ legal education and training systems such as those of the United States of America and Europe.

The discussion ended as specific dates were provided for consumer protection and labor disputes in Malaysia, the Philippines, and Japan.