

International Workshop

BEYOND COMPENSATION:
DEALING WITH ACCIDENTS IN
THE 21ST CENTURY

INTRODUCTION

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This international workshop grew out of some early conversations between Professors Miller and Morigiwa, who were introduced by Professor Matsumoto, prior to and during the time Professor Morigiwa was visiting the University of Hawaii at Hilo. It was designed to take the discussion of accident compensation beyond the usual boundaries of such conferences.¹ First, however, the workshop would include some discussion of issues that have been much mooted in the law journals and especially in the American Law Institute's recent Reporter's study of the American tort system:² the evaluation of various features of the tort system and recommendations for change, largely focussing on common law jurisdictions, especially the United States. Second, it would have a strong comparative law component, with comparisons being drawn between the accident compensation or tort systems of the four nations represented at the Workshop: Canada, Japan, New Zealand,

¹ It is also notable, perhaps, for the reason that, except for a few face-to-face meetings in Honolulu and Hilo, Hawaii, it was planned for the most part by electronic mail between Hilo and Honolulu, Hawaii; Honolulu and Japan; and, while Professor Morigiwa attended international philosophical conferences, between Honolulu and Europe. This is surely a tribute to the advanced state of international computer networks.

² PAUL C. WEILER, ET AL., AMERICAN LAW INSTITUTE REPORTERS' STUDY, ENTERPRISE RESPONSIBILITY FOR PERSONAL INJURY (1991) [hereinafter "ALI REPORTERS' STUDY"].

and the United States. Third, — and this is where the workshop began to move beyond more traditional discussions of compensation — questions of the socio-political function of accident compensation and tort law would be examined from the perspectives of both public policy and jurisprudence. Indeed, three of the Japanese participants, Professors Tanaka, Morigiwa, and Shimazu, were legal philosophers who had taken interest in this aspect in the face of the sedentary socio-political environment of Japan with its dearth of positive public participation in the political process. And finally, the participants were to give some consideration to the possible global implications of the various domestic law approaches to accident compensation or tort, thus putting the issue of how to deal with accidents in the larger context of national economic policy and international competition and cooperation systems. For example, to what extent and in what manner might the various national regimes have to be adjusted in order to better compete with each other in light of developing international economic considerations?

As the reader will note, the proceedings — the presentations as well as the comments — are relatively informal and usually conversational in tone; they do not contain the relentless dotting of “i”s or crossing of “t”s that is common to law review scholarship, nor is there a citation to the literature for every assertion of fact or law. This informality was deliberate: we were seeking an open discussion in which the participants could speak their mind freely without being burdened with the discipline of law review-style prose; we also wanted the discussion to be as accessible as possible to those participants and readers to whom English is a second language as well as to non-lawyers who may have occasion to consult these proceedings for ideas useful to their work.

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