

## Book Reviews

Setsuo Miyazawa, Weidong Ji, Hiroshi Fukurai, Kay-Wah Chan, and Matthias Vanhullebusch, eds., *East Asia's Renewed Respect for the Rule of Law in the 21st Century: The Future of Legal and Judicial Landscapes in East Asia* (Leiden: Brill/Nijhoff, 2015) pp. 343.

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This collection of articles provides an impressive one-stop shop for readers who want a landscape portrait of law in East Asia in the early twenty-first century. The breadth of coverage makes the task of a reviewer difficult, as each contribution stands on its own as a piece of scholarship about a particular topic in a particular place. Nevertheless, read together, the articles do achieve a sense of unity as a compendium of themes and trends in the region's legal systems.

The title of the book is provocative; it speaks of "renewed respect for the rule of law." That implies that a golden age of respect of law once existed, followed by a period of disrespect, now moving into a Rule of Law Renaissance. The stories told in the articles, however, do not fall neatly within that framework.

When, for example, was respect for rule of law running high in Japan? Chapters about young lawyers (Miyazawa et al.) and a proposed Civil Tribunal System (Takebe) give rise to the impression that, even now, law is not high in the public consciousness. The same universities that produced most of the country's lawyers before the law-school system began in 2004 continue to produce most of the country's lawyers. Despite lofty government promises of revolutionary change (more lawyers to provide more legal services to individuals in all parts of the country), the landscape looks much the same. To be sure, a few more lawyers dot rural areas and the overall population of lawyers has risen a bit. However, "rule of law" hardly seems like an idea that the public is racing to embrace. Indeed, Takebe suspects that the reason the Japan Federation of Bar Associations came up with its Tribunal proposal was "to create a pool of civil litigation in which young and 'superfluous' JFBA lawyers could serve as a legal counsel."

As with Japan, the sections about China give rise to the baseline question: when was the golden age of rule of law that China forsook and to which it is now supposedly returning? The Cultural Revolution half a century ago would be a convenient marker for absence of law. However, the period preceding it (starting from the establishment of the "New China") was one of political, not legal, primacy. Was the Qing dynasty, the Ming, or one of the others imbued with the rule of law or is this a concept that China is moving toward (if it is indeed doing so) for the first time?

The impression left by many of the articles is that rule of law today is more of a slogan than a fact. For example, a chapter on potential nuclear contamination of Tibetan water (Brown) includes an appeal to international law, specifically the International Atomic Energy Agency's Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management. Both China and the US have assented to the Convention.

However, Brown indicates the US has looked the other way, in order to support an American corporation that does a significant amount of nuclear-related business in China. If the US, which agitates for rule of law around the world, is willing to put money above legal principles, why should the Chinese government act differently?

The American government's embrace of the Japanese government's attempt to avoid the constitutional amendment process by simply "reinterpreting" the no-belligerency Article 9 to allow for "collective self-defense" is another example. In a contest between political expediency and rule of law, expediency wins. The message is not lost on other governments, including those discussed in this book.

Where shall we go for evidence of a resurgence of rule of law? Thailand? Even putting aside the fact that the current leader took power in a coup, the chapter on climate governance (Kridtiyaporn Wongsra) casts doubt "on whether the tradition of Thai civil law can truly cope with climate governance." Macao? It maintains a Portuguese legal tradition within a Chinese context. The chapter on post-colonial interpretation (de Castro Halis) notes that Macao operates as a Special Administrative Region of China, with a degree of autonomy similar to that of Hong Kong. Recent mainland intervention in Hong Kong, however, has many residents worried that rule of law may be a concept with a future that is in Hong Kong's past.

South Korea? Well, maybe. The chapter on women in the law there (Kim) says things are better than they were in the 1950s, when the first woman to pass the National Judicial Exam was denied appointment to the bench by no less a figure than the country's president. However, women in that country still face structural impediments that the law has not uprooted: expectations of a woman's role in caring for the home and a male-oriented workplace culture. The author cites legislation enacted to diminish or eliminate gender discrimination (and the 1948 Constitution itself, which embraces equality). So perhaps Korea is the example we have been looking for.

If the country truly has adopted rule of law as "the new paradigm," as the author suggests, when was the period of respect that has been renewed? Two possibilities: from ancient times until the seventeenth century or during the subsequent period when Confucian principles prevailed (and took away women's rights, the author says). Does the latter qualify as rule of law, even though its practices did not match "our" expectations of what kind of law should rule? What about Tokugawa-era Japan?

Rule of law may be a moving target. The US is certainly more rule of law-ish than most places on the planet, but it has had its failures, some of which I have mentioned in this review.

My scepticism that Asia is showing renewed respect for rule of law does not at all diminish my admiration for this book. Each of the chapters offers revelations of fact and insight, provided by authors who know their subjects well. One could not ask for a better collection of guides to legal developments in the region.

This book may not fulfil the promise of its title, but it certainly delivers on the subtitle, "The Future of Legal and Judicial Landscapes in East Asia." We can hope that future includes respect for rule of law, whether renewed or for the first time.

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