intrigued by Mami Hiraike Okawara's discussion of research on Japanese legal terminology (Chapter 63), in which she explores the linguistic origins of a number of legal terms and discusses the barriers legal terminology presents for understanding by ordinary Japanese. And I imagine anyone who has sought to teach Japanese law to non-Japanese (or, for that matter, anyone who has sought to teach US law to non-Americans, or even, to which I can attest from many years of experience, many of those who have sought to teach Japanese law to *Japanese* students) can sympathize with the central issue addressed by Bruce Aronson in his essay (Chapter 64): the enduring power of stereotypes and the difficulties involved in trying to overcome those stereotypes. As Aronson frames the issue in the very first sentence of his essay, "We all too often still encounter efforts by legal generalists and the general public to find the 'essence' of law in Japan and other Asian countries, and to rely on popular stereotypes rather than careful analysis" (p. 653). Based on his own careful analysis, and by reference to the unceasing efforts of Miyazawa himself, Aronson offers the following prescription: "As illustrated by Miyazawa's research, the best way to avoid such harmful stereotypes is to treat Japan as a 'normal' country – that is, use the same research and analytical methodologies that are utilized for any country without resorting to essentialist cultural arguments" (p. 655).

I hope and trust the above examples provide a sense of the richness and variety of the essays. In sum, this *festschrift* represents an important contribution to the fields of Japanese and Asian law and to socio-legal research. I would be remiss, however, not to mention two additional important considerations for potential purchasers. First, as alluded to earlier, virtually three-quarters of the essays (53 out of 71) are in Japanese, making them inaccessible to those who do not read Japanese. This trait is especially pronounced for Volume 1, in which only four of the 32 essays are in English. A second important consideration is the price. Each of the two volumes bears the list price of $155, meaning the two-volume set costs over US $300. Given the size of the *festschrift* and the great care that went into its production, the price is understandable. Nonetheless, the combination of these two considerations is likely to represent a significant obstacle to purchase by many potential individual buyers, especially those who do not read Japanese. That said, this is such a rich and valuable collection of essays, dealing with a wide range of fields and issues, that I would hope it finds a place in the library collection at every institution with a genuine interest in Japanese law.

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Rule of Law in China

Weidong, Ji, *Building the Rule of Law in China: Procedure, Discourse and Hermeneutic Community*, Vol. I (Abingdon/New York: Routledge, 2017) pp 202. Hardcover: £130.00.

Weidong, Ji, *Building the Rule of Law in China: Ideas, Praxis and Institutional Design*, Vol. II (Abingdon/New York: Routledge, 2017) pp 207. Hardcover: £130.00.

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China's transformation in the 40 years since 1978 has been a world historic phenomenon. Deng Xiaoping's "reform and opening" unleashed major changes in virtually every aspect of Chinese life. Law has been part of this story from the beginning—not the lead element of the story by any means, but an integral part of the unique process of modernization that continues to unfold in China.

This English-language collection of articles by the distinguished Chinese legal scholar Ji Weidong is a rare and invaluable contribution to the West's understanding of contemporary China, particularly China's complex, incomplete, and still uncertain path toward the rule of law.

The subject of Ji Weidong's collected essays is exactly what its title says: *Building the Rule of Law in China*—the ongoing process of "building." But there is a unique twist: Ji Weidong is not only someone whose writings actively seek to advance the rule of law in China; he is also a major theorist, deeply immersed in the legal and social theories developed around the world, including in China through its long history. This book is a work of theory and of practice. It is both advocacy about what China needs to do to move forward in building the rule of law and also a contribution to legal theory in seeking to understand and explain what has been happening.

The book also reflects Ji Weidong's unusual career path, which has taken him from his upbringing and university study in China to a doctorate degree in Japan, research in several Western countries, more than a decade as a professor of law at Kobe University in Japan—and then back to China, where he is now the dean and chair professor of Shanghai Jiao Tong University's Law School, one of the most prestigious positions in China's legal community. The essays here are a remarkable series of meditations on how China's legal development looks through the lens of deep and highly sophisticated understandings of legal systems and legal theory around the world.

To radically simplify a work of abounding complexity, this collection of essays seems driven by three themes above all: (1) the need for the rule of law in modern societies and modern China; (2) the inescapable diversity of legal systems given the different cultures and societies that produce and are governed by those legal systems; and (3) the central importance of "procedural justice" in achieving the rule of law in China.

The first theme about China's need for the rule of law is, in fact, the theme of Ji Weidong's entire professional life, which has overlapped with modern China's intense debates about its legal system and legal reform. Indeed, he believes that "the rule of law should take priority over democracy"—although he recognizes that political reforms are necessary if the rule of law is to be established (Vol. II, Chapter 7). In the 30 years after the revolution that brought the Chinese Communist Party (CCP) to power in China in 1949, it was not apparent to China's leaders that China needed a strong modern legal system and the rule of law. But, after the start of "reform and opening" in 1978, China's leaders began to discuss the need for a modern legal system of some sort. Only slowly and unevenly, however, did China's leaders take concrete steps to establish one. They were motivated primarily by their efforts to build a modern economy, which requires "rules of the game" and a relatively predictable institutional environment for investment. In addition, the turmoil of Mao Zedong's later years and China's new stage of rapid social development also demonstrated a need for a strengthened legal system to promote order, address public grievances, and respond to greater rights consciousness.

But, in Ji Weidong's account, it was not until the 1990s that China embarked on strenuous efforts to build a modern legal system. Progress has been made—many new laws and regulations have been adopted, many new legal institutions established and strengthened. The CCP's guiding documents have been amended to embrace the fundamental policy

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"to govern the state by the rule of law and construct a socialist state under the rule of law" and ruling in accord with China's Constitution—giving legitimacy, at least at a general level, to the aspiration and effort to establish the rule of law in China. (These aspirational goals, however, do not yet extend to judicial enforcement of the Chinese Constitution itself—"judicial review" of the constitutionality of laws, which is widely practised throughout the world—a reality that Ji Weidong proposes changing through a two-step process (Vol. II, Chapter 9.) The "core task," Ji Weidong believes, is judicial reform—he calls it "the most fundamental topic in the field of jurisprudence." But the "building" is clearly incomplete and ongoing; China is certainly not yet a rule-of-law society.

A second major theme of this book is that legal systems in different societies will inescapably be different. Although he builds on ideas about law and legal system experiences from around the world in arguing that China needs the rule of law with an independent judiciary playing a central role, he rejects the idea that legal reform in China should proceed simply by transplanting best practices from other countries. That would be both wrong and unworkable. In making that argument, Ji Weidong draws on legal and social theory from around the world as well as a deep understanding of China's own history and scholarship. Western readers will be struck by the influence he attributes to Carl Schmitt, Friedrich Hayek, Friedrich Carl von Savigny, Richard Posner, and contemporary "law and society" theorists and social psychologists—"as well as the Chinese interpretation of their basic discourse." He also singles out Deng Zhenglai and Liu Xiaofeng as the two Chinese scholars whose influence has been greatest and whose work remains most important to reckon with—figures largely unfamiliar to Western readers.

Overall, he emphasizes that China's "reception of Western legal theories [has] been very selective," in part because "the government regards the selective and mixed reception as its consistent position," but also because selective incorporation accords with the traditions and conditions in China. An effective legal system must fit the society and culture in which it exists. This belief has affected what recommendations Ji Weidong makes for his country. A similar belief, I should add, also has affected my own work over the past 20 years in both government and academia to engage Chinese legal experts in co-operation and exchanges to assist them in their legal reform efforts.[1]

A third major theme of the book is the centrality of "procedural justice" in law, especially in the courts. This theme is richly generative in the book's essays.[2] At the bottom, "procedural fairness" is the essence of justice and the source of judicial legitimacy both in individual cases and as judicial institutions. "A losing party's acceptance of an unfavorable judgment comes from procedural justice, not a wishful reliance on political persuasion, repression, or public opinion." For Ji Weidong, procedural justice involves a wide range of foundational elements, not simply procedurally fair rules for the trial of individual cases. Procedural justice also includes judicial independence and judicial impartiality, a strong legal profession that can effectively bring and handle cases, professional norms for the interpretation of laws, professional discourse itself, judicial opinions that give reasons for substantive results—indeed it includes the basic "reflective elements of law" (Vol. II, Chapter 8).

1. Gewirtz (2003).
2. This theme spans the entire timeframe of the essays in this book—indeed it is developed at particular length both in a major early essay from 1992 that opens the book (Ji (1993)) and in a major essay from 2012 that is Chapter 8 of Vol. II (Ji (2013)).

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In emphasizing "procedural justice," Ji Weidong of course knows as well as anyone that traditional Chinese law puts a greater emphasis on "substance" than "procedure," which, to this day, he writes, has created an "anti-procedural tendency" that "hinders the development of procedural law." Indeed, his 1992 article, "The Significance of Legal Procedure—A Perspective for Analyzing China's Construction of Its Legal System," is a major achievement and reform salvo precisely because it opened up and so subtly explored largely new territory for China. "Procedural justice" is not only a central and neglected part of establishing the rule of law in China. "Procedural justice," Ji Weidong argues, is also particularly suitable to emphasize at a time of great change in China when substantive values are in much flux and greatly contested. At such a time, it is often "wise to convert value issues into procedural ones in order to break the political deadlock" (Vol. 1, Chapter 1).

For myself, I doubt that the substantive value choices can be regularly avoided, and that procedural justice is enough by itself to establish the legitimacy of legal institutions, earn public trust, and bind together a divided society greatly in flux. But procedural justice is an essential part of building the rule of law and a good and stable society, and it is especially important in the Chinese context. There have been areas of progress in advancing "procedural justice" in China over the last 25 years, but Ji Weidong is straightforward in describing the continuing difficulties, explaining and analyzing what has caused them, and proposing steps forward. He writes with insight about a very wide range of procedural reforms, and his ardour remains undiminished. For example, he is particularly vivid and enlightening in addressing two very recent features of China's judicial landscape that some in China consider to be reforms but that he considers totally at odds with procedural justice: "computer sentencing" and encouraging "public opinion" to influence judicial judgment. Each has been defended by some as a way to constrain judicial discretion. Ji Weidong very much recognizes that tools and approaches to constrain judicial discretion are essential, but he is eloquent and incisive in arguing that this discretion must be bounded in other ways.

Ji Weidong is neither celebratory nor pessimistic about modern China's progress in building a legal system. As a reformer, he is moderate and vigilant; as a theorist, he is analytic. He underscores the progress that has been made as well as the advances that have not been made—"unfinished business," as he calls it (Preface to the English translation). His is emphatic and specific about many steps that must be taken to make further progress, but at moments he questions whether legal reforms can succeed in "breaking out of [a] vicious circle" that limits reform. He does not explicitly acknowledge that, in trials of political dissidents, all bets are off. But he clearly acknowledges that broader "political reform is indispensable to [the legal reform] process" and he laments that the leadership's current priority to "maintain stability" has "delay[ed]" necessary political and legal reforms. He sees his contribution to be as much in analyzing the historic and social dynamics that are in play as in drawing up detailed plans for reaching an end-state.

Indeed, it is probably implicit in Ji Weidong's thinking and methodology to question whether there is such a thing as an "end-state" to social reforms. The forces at play are too complex and multi-directional for that. Moreover, Ji Weidong's "procedural" mindset undoubtedly makes him appreciate the dynamics and the value of "means" as much as the perfectibility of "ends." Both realism and theory see the rule of law everywhere as requiring a constant process of "building." (I write this essay as my own country, long seen as the exemplar of a rule of law country, is facing challenges that reinforce the need never to take the rule of law for granted and to be ever-vigilant in maintaining and improving it.)

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The book's title, therefore, is best read to refer both to China's efforts and to Ji Weidong's own efforts in "building" the rule of law in China. It is no accident, I think, that this great achievement of Ji Weidong's scholarly career is a collection of essays written over a period of 30 years. These 30 years in his own life parallel the 30 years of China's most focused effort to create a modern legal system. The excitement and achievement of this book are in part that it captures a vast intellectual and personal journey against the backdrop of China's historic transformation.

In this journey, Ji Weidong studies the intellectual fruits of numerous countries, explores the vast historic learning of his own country, spends more than a decade living and teaching in Japan, and then—with indefatigable energy and curiosity—returns to China as the energized dean of the law school at one of China's great universities. Each essay in the collection is a sustained meditation at a particular period in Ji Weidong's life as a scholar. Taken together, they chronicle a unique life in the law and make up a unique record of a mind wrestling with enduring and universal questions about law and China-specific and time-specific complexities. We are very lucky that Ji Weidong, as he tells us, resisted the notion that he should revise these essays for this collection to impose a greater appearance of unity. What we have is a truer embodiment of the ongoing process of "building."

In truth, Ji Weidong cannot know what China's future holds, just as I cannot know what the US's future holds. And of course our two countries each faces an uncertain future alongside the other: an established power and a re-emerging power that need to find, and have not yet found, enduring terms of coexistence. The English-language publication of this book can be a symbol and evidence to "the West" of some of China's remarkable achievements and the resources China has to surmount the challenges it faces. And I hope that this essay is at least a small symbol of the mutual respect and shared aspirations that are possible between China and "the West."

For all the monumentality of this book's subject matter and learning, it is a surprisingly moving document. It is moving as an achievement of one mind grappling with tremendous forces of history and transformation. It is moving in that it begins in idealism and this basic idealism endures when challenged by recurring resistant realities over several decades and extending into the present. And it is especially moving as a personal journey: to learn, to understand, to shape ideas, and improve society. There can be no doubt that Ji Weidong has accomplished whatever any reasonable young scholar could have dreamed of accomplishing when he started out. It has been a long and arduous journey in extraordinary times. But perhaps the most moving sentence in this volume is the very last one. After expressing "hope [that this] new edition will help people further explore the major issues concerning China's future and its transformation," the author concludes this book with the following sentence: "On a personal note, I hope it will also become a new starting point in my research."

Like Ulysses in Alfred Lord Tennyson's great poem of that name, Ji Weidong has accomplished a great deal but looks forward to new journeys, remaining (in Tennyson's words) "strong in will/To strive, to seek, to find, and not to yield."

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Legal Development in China

Jedidiah J. Kroncke, *The Futility of Law and Development: China and the Dangers of Exporting American Law* (Oxford: Oxford University Press, 2016) pp 358. Hardcover: $78.00.
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Why do American lawyers export American legal norms, particularly to places with their own rich legal traditions? Jedidiah J. Kroncke's book answers this question in two ways: first, by investigating the export of American law to China and, second, by turning inward to chronicle more than 200 years of the American relationship with China. More broadly, Kroncke asks, what are the roots of the American desire to export American legal philosophy to East Asia?

Kroncke's book laments that the US's relationship to comparative – particularly East Asian – law is today "a sickly shadow" of what it was at the nation's founding (p. 2). At that time, Thomas Jefferson and Benjamin Franklin – architects of American independence during the eighteenth century – turned to Asian law and philosophy "for [their] inspiration" (p. 1). Their hope in Chinese law would be replaced, centuries later, by the opposite goal to Americanize Chinese law. Why? The answer is as unexpected as it is revelatory: American Christian missionaries during the nineteenth century took their faith with them across the Pacific to Asia, along with their love of American law and "the presumed mutuality of American law and … Christianity" (p. 3). Their work educated Chinese citizens about American law and Christianity, and it taught American citizens about China. Later, despite the increasingly secular development goals of the twentieth century, the American "faith" in exporting American law never died. However, American lawyers' faith in comparative law did dissipate (pp. 5–7). Chinese citizens and officials received American law in different ways, depending on the historical period under scrutiny. Legal reformers in China at various times "welcomed, stigmatized, and manipulated" American law for their own political purposes (p. 10).

The book begins with a pithy introduction. Eight substantive chapters follow, along with two chapter-length case-studies, on Frank Goodnow's and Roscoe Pound's work with

3. This review has been published earlier as the preface in Ji Weidong's two volumes. The original Copyright Line was incorrect and has been updated accordingly.