REVIEWS AND ANNOTATIONS

Tomášek, Michal. Právní systémy Dálného východu II. [*Legal Systems of the Far East II*] Praha: Karolinum 2019. s. 365.

Approximately three years after the publication of *Legal Systems of the Far East I*, the anticipated second volume of the monograph was published by the prestigious Karolinum Publishing House; let it be stated at the outset that the high expectations for the work have been met. Prof. Michal Tomášek, the author of the monograph, had already set a high standard with the first volume, which was not only appreciated in numerous reviews,[1] but was also awarded prizes, including in particular the Miroslav Ivanov Prize for a significant non-fiction work, and the Prize awarded by the Rector of Charles University for a distinct creative achievement of 2016.

The conception and approach of the second volume of Prof. Tomášek's work dedicated to legal systems of the Far East corresponds to that of the first volume – logical since both volumes constitute one indivisible work. In both volumes, the author combines historical, political-science, constitutional, and state-science elements in a comparative perspective.

In the preface, Prof. Tomášek emphasises that the second volume of his monograph is based on "a turning point between the ending of old law and the beginning of new law". However, for each Far East country this turning point occurred at a different time, which is very difficult to capture in one's explanations. The author, who is, thanks to his prior studies and published works, well prepared to make the subtle distinction between the old and the new, has fully succeeded therein.

In Japan, the old law ended upon the termination of the shogunate in 1867; in China it was upon the end of the empire in 1911, in Korea upon the annexation by Japan in 1910, and in Vietnam, the turning point between the old and the new was the French colonisation, completed in 1884. Already during the transition period old legal elements mixed with new ones.

In his work, Prof. Tomášek examines domestic sources on state-constitutional development, particularly the process of the reception of law, which is quite difficult. This is particularly true in the case of China, because it was important that new elements did not jeopardise the old values that were highly respected by the Chinese and heavily interconnected with religious and philosophical elements of Confucianism.

Like in the first volume, Prof. Tomášek divided the examined topic into concise units which bear apposite names. While the names of the main parts we encounter in the first volume are Foundations, Crossroads, and Decline, the names used in his latest work dedicated to the development of Far East law in the 19th and 20th centuries are Reception, Application, and Interpretation.

The text thus suitably starts with and evolves from the analysis of the reception of law from various legal systems, particularly Anglo-American and French, which is manifested in particular in the constitutional documents of individual countries of the Far East. However, the reception concerns not only constitutional law but also other branches of law in which numerous European legal systems were transplanted into the legal institutions of Far East systems. It is probably the first time that the development of law in the puppet state of Manchukuo, established by the Japanese in 1931, is dealt with in the legal-historical literature. The fate of the Emperor Pu Yi is well known, particularly thanks to Bertolucci's Oscar-winning film called *The Last Emperor*. Prof. Tomášek's description of the constitutional dimension of this peculiar empire is provided with astonishing erudition and knowledge of Japanese and Chinese cultures, which mixed in that state.

[1] LOJEK, A. Právní systémy Dálného východu I. *The Lawyer Quarterly*. 2016, Vol. 6, No. 4, pp. 268–272; BEZOUŠKOVÁ, L. Právní systémy Dálného východu I. *Právník*. 2017, Vol. 156, No. 7, pp. 636–637.

The reception influences also affect the following part of the book, namely the one called Application, which follows the part called Reception. In this part, Prof. Tomášek focused on the application activity of courts, and on the use of traditional and borrowed law in individual cases. He also mentioned the Soviet constitutional model, which however was not as influential in the Far East as it was in Europe. This model was mechanically taken over for example in Mongolia. Interesting passages are the ones in which the author compares Chinese development with Czechoslovak development, for example, the Chinese legal concept of economic contracts and the Czechoslovak conception of the Economic Code. We also have to mention the chapter concerning Chinese economic reform after 1978. Drawing on his own experience, the author says that the reform could have been an inspiration for the then Czechoslovakia. However, at the end of 1980s, the reform strongly reminded the official authorities of the reform processes of 1968, so they abandoned the idea of copying the Chinese example.

The author again emphasised the importance of interconnecting the normative point of view with the point of view of judicial application activities when learning about legal systems of the Far East. In the analysed countries, judges were traditionally perceived as officials, i.e., part of the executive power. Even in Japan, which was the first to start reforming the system, the independence of courts was achieved no sooner than after World War II. In South Korea or Taiwan, judges were freed from political influences as late as at the end of the last century owing to democratisation changes. As for China, the author analyses the situation objectively and professionally. He writes that: "the People's Republic of China has not yet broken free from the Confucian conception of the judiciary as a part of the executive power, which is used by the Communist Party as grounds to interconnect judicial and political power." According to the author, Chinese courts cannot themselves further enhance their authority without having the support of the Communist Party of China. The constant attempts of the Chinese courts to become professional and assume the appropriate position within the Chinese system of powers may only be successful to the detriment of the political power. The political power can lessen its hold for the benefit of the judiciary only if it is advantageous for its pragmatic interests in the national context, or, as the case may be, in the international context.

The conception of the last part of the book, called Interpretation, which concerns the interpretation of law by both constitutional and judicial bodies, is somewhat different from the previous parts, because, according to the author, it is necessary to reasonably expect further changes in the legal systems of the Far East, including the enrichment of the interpretation processes. It is not possible to see the development as complete; it is the Interpretation part that provides certain insight into the future. It is also a sort of a stepping stone for other researchers in the field who can pick up the threads of Prof. Tomášek's unique monograph. It is unique that the work finishes with an outlook for the future, and indicates what ways the development of law in the Far East may take.

Unlike in the first volume of the monograph, dominated by Chinese law, in the second volume Prof. Tomášek focuses on Japanese law. After all, it was Japanese law which has, since Meiji Dynasty's reforms, influenced legal institutions in the Far East much more than Chinese law. In the context of both volumes, it is apparent that the first volume was a prologue to the second one, and that it is suitable to go back to the first volume whenever the author makes any reference to history. It is so, for example, in the case of Japanese law, which, despite a strong influence from German law, retained numerous remembrances of law of the Tokugawa Shogunate. This concerns the entire concept of business corporations or employment relationships, with Japan being famous for strict hierarchy and employees' devotion to the employer.

Like the first volume, the second volume of the reviewed, representative publication is also enriched with numerous photographs, bibliography, and indices. The overall visual concept of both volumes, and dissimilarity between the two, is also interesting. The first volume makes an antique impression because of Chinese and Japanese engravings. On the other hand, the second volume is colourful and gives a modern impression, although it also sometimes depicts things that are not really attractive – portraits of Communist dictators or their symbolism. The absence of references is not a problem because the author did not seek to write 'merely' a strictly scholarly work, but he strove

to produce a popularising, factual work that will, through its vivid language, appeal to both professionals and the general public. The references are more than sufficiently substituted with a detailed bibliography, as well as the index of documents, which were probably the best source for the author; there are therefore many references to individual legal regulations from all compared legal cultures and accurate references to the individual pages of those texts. What is unique is a comparative table at the end of the book. Making use of flags, the table shows from which legal sources the individual states borrowed their 'transplants' and at what time.

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