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Book Reviews

Lay Participation in Japan

Masahiro Fujita, *Japanese Society and Lay Participation in Criminal Justice* (Singapore: Springer, 2018) pp 282. Hardcover: $169.
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This book asks several questions: how the ex-jurors view the Japanese mixed-jury (hereafter *saiban-in*) system after participating in trials, how the general Japanese public views the system, whether the *saiban-in* system has increased trust in the Japanese justice system, and how the media have portrayed the *saiban-in* system. A large portion of the material has been previously published in Japanese, and in some cases in English, but much of the material will be new to the English-language audience.

Chapter 1 opens with a discussion of why the new *saiban-in* system was introduced and presents an overview of the contours of the system. Based on records from debates in the Justice System Reform Council, the author rejects the view that is commonly voiced by the press that the purpose of the *saiban-in* system was to reflect the "common sense of citizens." Rather, he argues that the purpose was to "strengthen the popular foundation for the justice system" (p. 21). However, in this chapter, the author seems to be more interested in rebutting claims by the Japanese media and does not refer to the large body of scholarly work on this issue (e.g. Vanoverbeke 2015; Dobrovolskaia 2016; Kage 2017).

The latter half of the chapter consists of comparisons of sentencing patterns between bench trials and *saiban-in* trials. Using both chi-squared and F-tests, the author finds statistically significant differences in the two types of trials for attempted murder, injury resulting in death, and robbery resulting in injury. Overall, the author does not uncover substantial differences in sentencing patterns between bench trials and *saiban-in* trials.

Chapter 2 consists of two parts. The first half of the chapter reports results from the surveys of ex-*saiban-in* that have been conducted by the courts. Prior to the introduction of the new system, observers had voiced concerns as to whether the *saiban-in* would be able to understand the legal-technical details that are needed to make decisions on verdict and sentencing. In addition, because Japan adopted the mixed, rather than the pure, jury system, concerns had also been raised as to whether the *saiban-in* would feel comfortable speaking up in the presence of professional judges. The surveys reveal that, contrary to these concerns, ex-*saiban-in* have found the trials easy to understand and that they had felt comfortable speaking up in the discussions. These findings parallel those by Ibusuki (2010) and Kage (2017), among others. The second half of the chapter draws on an original public-opinion survey conducted by the author and assesses how different personality types affect individuals' willingness to participate in the *saiban-in* trials as well as judgments regarding sentencing severity. The author finds that positive affirmation of freedom and stable tendency were positively related to respondents' willingness to participate in *saiban-in* trials. In addition,

several of the Big Five personality types, such as openness to experience and conscientiousness, have a statistically significant impact over sentencing severity, although the effects were weak.

Chapter 3 reports results of two deliberation experiments. In the first, a mix of law students and non-law students were asked to collectively decide on the verdict for a hypothetical case. As noted earlier, because Japan adopted a mixed-jury system, the concern has often been raised that the *saiban-in* may be reluctant to speak up. The author's experiments sought to replicate the actual mixed-jury setting by having Japanese law students, who, like professional judges, have legal knowledge, deliberate alongside non-law students, who, like most *saiban-in*, lack legal expertise. The author found that the average non-law student spoke less in terms of speech count than the average law student, and also that law students took the lead in the discussions and supplied legal knowledge. The second involved experiments in which participants were randomly given different amounts of information regarding a case. This, according to the author, also approximates a real *saiban-in* setting, since, under the new system, professional judges come into a trial with prior knowledge of the case at hand, having participated in the pre-trial conference procedures (*kohan-mae seiri tetsuzuki*) that are now required of all *saiban-in* trials. The author finds that presiding members of small groups referred to unshared information more frequently than non-presiding members. The author warns that these findings suggest that the unequal distribution of information may allow presiding judges to exercise considerable influence over the course of deliberations in actual trial settings as well.

Chapter 4 assesses the determinants of Japanese citizens' trust in the courts. The first part of the chapter draws on original survey data of 1,535 respondents conducted in the Kanto area of Japan and uses structural equation modelling to find that generalized trust impacts trust in the justice system, but also that trust in the justice system affects generalized trust. The author also draws on multiple regression analysis of Japanese General Social Survey data to find that, in 2010, support for the *saiban-in* system had a positive effect over trust in the courts (the question was not posed in 2008). The author does concede that this finding may have been driven by the introduction of the *saiban-in* system, but also by other changes that occurred between 2008 and 2010 as well.

Chapter 5 conducted text analyses of the *Nikkei* newspaper, Japan's leading business newspaper, to assess how the *saiban-in* system has been portrayed by the Japanese media. In one of the more intriguing findings reported in the book, the author finds, based on content analysis, that the *Nikkei* reporting on the *saiban-in* system since 2001 has been overwhelmingly negative. There were roughly equal numbers of positive and negative articles in 2001 and 2002 but, since 2003, the number of negative articles has vastly outnumbered the number of positive articles and, by 2010, the proportion was about ten to one.

As the author notes, the *Nikkei* is hardly known as an anti-government newspaper. But it would be useful to know how the *Nikkei* compares to other news media in its negative coverage of the new *saiban-in* system. This is an especially important question because, if the negative reporting of the *saiban-in* system has in fact predominated among the Japanese media, this would raise interesting issues for further exploration. For instance, if the media were so negative towards the new system, why did levels of public trust in the courts rise between 2008 and 2010? What does this say about the impact of the media in shaping mass attitudes towards public institutions in Japan? The courts may also need to be placed in

greater perspective. The press may have been negative towards the *saiban-in* system, but was it less negative than it was vis-à-vis other public institutions in Japan? These present intriguing issues for further inquiry.

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Kage, Rieko (2017*) Who Judges? Designing Jury Systems in Japan, East Asia, and Europe*, Cambridge: Cambridge University Press.
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Lay Participation in Japan, Korea, Taiwan, and Spain

Rieko Kage, *Who Judges? Designing Jury Systems in Japan, East Asia and Europe* (Cambridge: University Press, 2017) pp 264. Hardcover: $74.00.
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This is a fascinating, compellingly argued, carefully researched and beautifully written empirical analysis of how the relative strength of "new left" against traditional right and old left political parties impacts differently on the introduction and design of "jury" or "lay-judge" systems since the 1990s in East Asia and beyond. Kage's mixed-method study convincingly shows how such political dynamics result in different degrees to which power is transferred away from professional judges and towards laypeople being involved in adjudicating criminal matters. This transfer of power, which reduces judicial independence vis-à-vis the public (by involving them in adjudication) during an era where independence has often been growing vis-à-vis politicians, is most extensive in Spain (where a jury system was introduced in 1995), quite extensive in Japan (with the *saiban'in* lay-judge system introduced in 2004, although not implemented until 2009), less extensive in South Korea (2007), and least extensive in Taiwan (comparing a "lay-observer" Bill submitted in 2012). Key benchmarks for such a comparative assessment (summarized in Table 1.2, p. 17) are whether professional judges retain powers to determine which cases end up being heard by lay judges and voting rules allow lay judges to dominate binding decisions (p. 15).

The significant differences in outcomes cannot be well explained by path-dependent legal traditions, particularly the (originally continental European) civil-law tradition versus the

(Anglo-American) common-law tradition. Although all four jurisdictions are typically categorized as in the former tradition, Spain and South Korea adopted systems close to the Anglo-American tradition—involving laypeople deliberating separately from professional judges—whereas Japan adopted and Taiwan proposed a more continental-style "mixed-jury" system. (Anyway, Kage remarks that Japan's criminal procedure law is basically more Anglo-American since extensive reforms during the US-led occupation over 1945–52.) The diverse outcomes are also perceived as sitting awkwardly with theories of "legal transplants" that emphasize cross-national policy diffusion (through competition, learning, or emulation), especially perhaps in states that are small and/or closely integrated into "world society" (p. 21).

Kage instead looks to insights mainly from political science (elaborated on further in Chapter 2). She rejects the hypothesis that (stronger) jury systems were introduced due to generalized public distrust in the judiciary, as this is least evident in Japan (Table 1.3, p. 28). Kage also queries the usefulness of principal-agent theories for when and how the legislature tends to delegate powers to other branches of government. For example, a version of "political insurance" theory could predict that "ruling parties that are more secure in power may be more willing to cede power to the juries/lay judges, since they may believe that the public is on their side" (p. 31), yet Japan's Liberal Democratic Party (LDP) tried to limit this power transfer—with only partial success—despite enjoying quite a strong electoral base in 2004. Another version could predict instead more power transfer in countries with higher judicial independence, yet Japan generally is ranked higher compared to Spain, Taiwan, or South Korea (which anyway have similar rankings yet very diverse lay-judge regimes: p. 32).

This leaves Kage's core hypothesis (inspired partly by studies of voter suffrage, military conscription, and taxation) that partisan politics best explains the diverse outcomes. First, she expects lay-judge systems taking away more power from professional judges where there exist more "new left" (or "left-libertarian") parties. Those are concerned about the environment, minorities, or values such as self-determination and participation, aiming not only to achieve policy *outcomes*, but also improvements in the quality of the *process* generating them (p. 35). Chapter 3 presents data estimating such political influences across the four jurisdictions, for example in Japan though expert opinions on the views of main parties on such issues (Figure 3.1, p. 61) or the party manifestos over 2000–05. Second, Kage observes that the strength of the "new left"-oriented parties needs to be assessed against the other parties. This is particularly important in Japan, as the conservative LDP has led the government for much of the postwar period. Yet, in a comparative summary (Table 3.4, p. 73), she notes how the new left parties were quite strong in Japan leading up to 2004, for example, because they gained control of the upper House of Councilors in June 1998 elections. The LDP regained control in October 1999 after forming a coalition with the Komeito (CGP), but the latter anyway had some moderate (new left) leanings.

Chapter 4 then examines the history of the lay-judge system debate in Japan until 1996, when it was put squarely on the policy agenda. Kage briefly outlines the weak and little-used jury system introduced from 1928 until 1943, and the Occupation-era deferral of the decision whether and how to introduce a new system. Her innovative contribution involves a quantitative content analysis of records from parliamentary debates over 1947–96, noting when and how politicians from different parties referred to "*baishin*" (Anglo-American-style

juries) or "*sanshin*" (civil-law-tradition mixed juries, rarely singled out). Figure 4.3 (p. 91) illustrates the uptick in references in the more powerful lower House of Representatives (paralleled in the House of Councilors) particularly from new left parties from the 1980s. Parties like the Japan Socialist Party (JSP) and Japan Communist Party (JCP) had already recorded significant electoral success during the early to mid-1970s on an anti-pollution platform, and had submitted freedom-of-information Bills in the early 1980s. Kage further notes that many of their parliamentarians restarted debates about a jury system given concerns over the Supreme Court ordering retrials in a series of death penalty cases during the 1980s (p. 93).

Parliamentarians from the long-serving LDP also began mentioning juries, but mostly in response to opposition politicians' concerns. This contrasts with the early 1950s, when some LDP parliamentarians did pro-actively raise the question of reintroducing juries to offset proclivities of professional judges. They were seemingly concerned that early-career judges would be tainted by "red thought" or communism (cited at p. 91).[1]

Chapter 5 is a qualitative (historical process-tracking) analysis of "bringing the lay-judge system back in, 1997–2004." One little-appreciated aspect is the genesis of the reform. Kage correctly highlights that already, by the mid-1990s, half way through Japan's first "lost decade" of post-Bubble economic stagnation, some business groups and LDP politicians had started to press for better access to civil justice and legal professionals.[2] The Ministry of Justice (MoJ) also wanted to broaden the pool of legal professionals to generate more candidates as public prosecutors. When the government began preliminary deliberations on possible changes to the justice system, from 1998, the Japan Federation of Bar Associations injected their (long-standing) calls for changes to criminal justice—including lay participation.

A second intriguing aspect is the happenstance of the LDP temporarily losing control of the upper House of Councilors between June 1998 and October 1999.[3] This led it to accede to opposition calls in the lower House for an amendment to the Bill establishing the Judicial System Reform Council (JSRC), so that the JSRC mandate expressly mentioned investigating lay participation in criminal justice.

A third interesting aspect is that serving officials of the courts, prosecution, or bar associations were not members of the JSRC, due to perceived conflicts of interest (p. 107).[4] This may have allowed more scope for impact on the JSRC from individuals called to provide expert opinions. In particular, Kage sees University of Tokyo Professor Koya Matsuo

1. Such concerns seem to have faded perhaps because, by the 1970s, courts no longer were such a battleground for social issues like environmental pollution or product safety. The reason for that transformation in turn could lie in the legislative and executive branches starting to address them better. Alternatively, and more controversially (as outlined by Upham (2005)), judicial independence may have begun to diminish as judgments fell more into line with preferences of the long-reigning LDP.

2. For further details, see also Kitagawa and Nottage (2007).

3. This highlights the strong element of chance in politics and law reform. It was also evident, for example, in the Product Liability Act just getting through Parliament in 1994, in the dying days of an unusual one-year period when the LDP was completely out of power in the lower House: Nottage (2004), Chapter 2.

4. This contrasts, for example, with the deliberative council administered by the MoJ that produced the recent reforms to the contract-law provisions of the Civil Code. Former judges were members, although seconded to the MoJ, creating a powerful coalition with civil-law professor members: Kozuka and Nottage (2013). Another unusual feature of the JSRC is that it was an ad hoc body answerable to the prime minister, not beholden to any line ministry—not even the MoJ.

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(p. 111) as having had a persuasive influence by setting out specific design features for a "mixed-jury" system.[5]

A final interesting aspect revealed by Kage's qualitative analysis of historical records is the debate within the JSRC over the numbers of lay versus professional judges. This question was not resolved by its 2001 Report recommending a mixed-jury system, and spilled over into conflicting proposals over 2003–04 from the LDP (favouring fewer lay judges) and more leftist parties (more critical of the present criminal justice system). A compromise in the 2004 Act required at least one professional judge to agree with decisions on both guilt and sentencing, but possible outvoting by the lay judges. Yet leftist calls for greater numbers of lay judges on each panel deciding cases may have been misguided, according to Kage: social psychology research suggests that "smaller groups are more conducive to active deliberation and reduce the power of factions compared to larger groups" (p. 115).[6]

Chapter 6 builds on this qualitative research through to 2004, and reinforces the broader thesis of the relative interest and influence of new left parties, through further content analysis. Kage examines records of the debates in both Houses when enacting the JSRC Bill in 1999. Curiously, however, no content analysis is provided of parliamentary debates around 2004 Act that actually introduced the *saiban'in* mixed-jury system (albeit with the further compromise of implementation being delayed until 2009).

Instead, Chapter 7 turns to another qualitative analysis, but of Taiwan, illustrating the weakness of the new left and resultant 2012 proposal for a "lay-observer" system. Chapter 8 combines the two other country studies, sketching how the strongest new left politics resulted in the largest shift of power from professional to lay judges (in Spain), whereas Korea ended up a mixed-jury system even weaker than Japan's.[7]

Chapter 8 adds extensive data on Japan's *saiban'in* cases since 2009 (with brief comparisons with the three other jurisdictions), suggesting that the new system has had considerable effects on the criminal justice system, largely in the direction hoped for by new-left-oriented politicians and lawyers. There have been more acquittals for serious crimes like murder (but still very few, as indicated by Figure 9.2, p. 184) and no general rise in stiffer sentences. More dramatically, there has been a drop in the proportion of prosecutions from among cases booked by police, and increases in the proportion of denied requests for detentions and of detainees released before final ruling. (Many of these tendencies started to become evident before the system was implemented, but perhaps were in anticipation of it.) Some data further indicate that Japan's lay judges have had a positive experience in better

5. A recently published Roundtable (2018, p. 187) commemorating the late Professor Matsuo confirms that he was the one who came up with the neologism *saiban'in*, as a compromise mixed-jury system for Japan. He reportedly was inspired by professors being called *kyo'in* in private universities, rather than *kyokan* as in public universities. His neologism therefore symbolized a new system that was no longer monopolized by professional judges (*saibankan*) and prosecutors, within the judicial and executive branches of government. (I am grateful for Professor Souichirou Kozuka for bringing this Roundtable discussion to my attention.)

6. Perhaps this indicates a broader tendency for Japan's deliberative councils to not give sufficient weight to a broad range of interdisciplinary perspectives on law-reform questions, despite impressive dedication and growing transparency in law-reform bodies: Nottage (2019).

7. The comparison between Korea and Japan is especially alluring, as some may think that contemporary Korea achieves quicker or more intense social change through its legal system. Yet other recent research from comparative political science (Arrington (2016)) has uncovered how Japan's "accidental activists" have more effectively sequenced and combined court and legislative processes to achieve wide-ranging impact, across several similar areas of controversy such as redress for sufferers of Hansen's disease (leprosy).

understanding their justice system. That quite positive assessment of what has happened within and around *saiban'in* trials accords with more fulsome empirical evidence published recently elsewhere.[8]

The concluding chapter in Kage's book suggests that the theory of relative power of new left parties could also be extended to identify or predict patterns for countries that either reform existing jury systems or delay introducing them at all.[9] The chapter also sketches three sets of broader implications from this book. Some relate to research into the new left generally, including the possibility of its cleavage *with* the right being more significant in generating law-reform outcomes than differences *among* the new left parties. A second set of implications concerns the roles of experts. Policy-making regarding the judicial system may be more like that perceived for economic policy-making, meaning "deep rifts among experts on the desirable course of action … that typically reflect more fundamental ideological differences" and with their combined impact "highly contingent on political and institutional factors" (p. 218).[10] Third, Kage usefully ties her research to those interested in "developmental states," like Japan and the other three compared in this book, suggesting that partisan dynamics can play a crucial role in shaping whether and how they dismantle features that favour state interests over citizen input and transparency—as they have done in determining "who judges" (p. 220).

Overall, this book presents a compelling account that accords first with recent studies by socio-legal scholars who have concluded that the JSRC reforms across multiple fields have indeed generated or at least reinforced a significant (but far from dramatic) shift away from the postwar focus on *ex ante* state intervention and direct regulation. This shift has generally been towards more participatory and indirect socioeconomic ordering, backed up by *ex post* relief offered through a more accessible judicial system.[11]Japan's introduction of a relatively strong-form mixed-jury system is a particularly remarkable achievement, given the preference for "certainty" and "uniformity" (the rule-of-law value of "treating like cases alike," even at the expense of more individualized justice) held widely among judges, prosecutors, even other legal professionals, and perhaps even the general citizenry in Japan.

Second, Kage's research resonates with some overlapping studies into Japan's "gradual transformation" in areas such as corporate governance, including calls to focus on (potentially changing or contingent) processes rather than just specific outcomes.[12] This book deftly uncovers and elaborates on some novel mechanisms that may help explain or predict new laws or amendments across many fields, and opens pathways to fruitful co-operation between political scientists and legal scholars.

In sum, Kage's book is highly recommended for especially for researchers and policy-makers interested in empirically comparing law reform, politics, justice systems, or criminology, particularly in relation to Japan, but also other parts of East Asia and one part of Europe. (Hopefully, future research will examine also countries like Estonia, which Kage notes in Table 1.1, p. 9, had also introduced a mixed-jury system, but in the early 1990s when

8. Fujita (2018). See the review by Kage, in this issue.

9. Taiwan has still not fully implemented a lay-judge system; see further Lewis (2018).

10. Such fragmentation and "death of expertise" is arguably now even more acute in Western countries like the US: Nichols (2017).

11. One such collection is Wolff, Nottage, & Anderson (2015), which the editors had originally entitled "Who Judges Japan?". See also Vanoverbeke, Maesschalck, Nelken, & Parmentier (2014).

12. Nottage, Wolff, & Anderson (2008), especially Chapter 2.

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not yet an OECD developed country.) The book contains a wealth of careful analysis, beautifully presented (although I missed not having a separate List of Abbreviations), and it deserves a wide audience.

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Social Movements and Civil Governance in Hong Kong

Michael H. K. Ng & John D. Wong, *Civil Unrest and Governance in Hong Kong: Law and Order from Historical and Cultural Perspectives* (New York, NY: Routledge, 2017) pp 230. Hardcover: $119.00.

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This book consists of a wide range of essays that develop a counter-narrative to the prevailing narrative of Hong Kong's political and legal past. Hong Kong is today officially a Special Administrative Region (SAR) of the People's Republic of China (PRC), though the region has a long history of oppressive, colonial rule under the British. It was ceded to the British following the First Opium War in 1842 and officially declared a Crown Colony of the British Empire in 1843. British rule continued an established trend: Macau, today another SAR, effectively became a Portuguese colony in 1557. The UK ruled Hong Kong until the transfer of sovereignty to the PRC in 1997. According to the prevailing historical narrative, Hong Kong has long enjoyed relatively high levels of political stability, especially in contrast to mainland China, because the long era of British colonial rule established a legacy of legal and cultural frameworks rooted in liberalism. Hong Kong's apparent embracing of the English rule of law has come to mean that this "city-state" enjoys widespread support for the principles of individual liberty, the freedom of expression, and judicial independence. Challenging such narratives is crucial, the authors assert, because social movements often make use of stories about the city's past: how history is constructed is itself a terrain of the struggle.

Another prevailing narrative about Hong Kong is that its citizens are politically apathetic. In contrast to the communist revolutions that swept mainland China after World War II and subsequent political unrest, Hong Kong has witnessed little protest activity aimed at structural transformation. Yet, this volume draws attention to a wide range of social movements and periods of civil unrest in Hong Kong's history that call this narrative into question. Chapter 1, for example, analyzes a 1919 court case involving schoolboys who resisted the Japanese occupation of Qingdao—an occupation that was made possible by the support of Western powers, demonstrating how Britain's rule of law was instrumental in upholding the system of colonial domination. The law was used to suppress political dissidents, specifically by expanding legal definitions to neutralize nationalist movements in Hong Kong. In Chapter 2, the author shows that the Hong Kong government has regularly deported political dissidents to quell revolt and revolution, and that deportations were typically carried out without trial. Chapter 4 examines "Leftist Riots" that were carried out in Hong Kong in 1967. The author asserts that these riots developed in response to Mao's Cultural Revolution in mainland China, in contrast to other accounts that locate the trigger of the riots in a labour dispute. As a result of the riots, communist support in Hong Kong waned, while British colonial authorities implemented restrictions on individual freedoms. Not only did the 1967 riots challenge the widespread claim that Hong Kong was and has been politically apathetic, but they also showed how the rule of law was manipulated by colonial authorities to maintain and solidify their social and political control.

Chapter 5 shows that the prevailing historical narrative was born out of the 1967 riots and fears of the spread of the Cultural Revolution in Hong Kong. The British colonial regime remained intact with hardly any structural, constitutional change enacted after the riots, but the colonial regime's response to the riots in part solidified the idea that Hong Kong preferred political stability and the rule of law to social and political change. Indeed, the colonial regime's reforms that were enacted in the 1980s were more a response to concerns and imperialist manoeuvring in London than to the demands of protesters. Chapter 6 draws connections to the 1967 riots and the more recent 2014 Umbrella Movement (or the Occupy Central Movement), in which both movements were prefigured by intensive labour strikes. The 2014 Umbrella movement began in response to a 2014 mandate from Beijing that Hong Kong hold elections in which contenders are pre-selected from Beijing. In Chapter 8, the

author examines the ways that civil disobedience is interpreted and practised, contrasting the 2014 Umbrella Movement with government officials in the legal system. In both 1967 and 2014, protesters raised demands against a ruling authority, calling into the question the city's supposed political apathy.

This volume also emphasizes an interpretive lens centred on historical and cultural processes. Chapter 3 examines how cultural ideas surrounding the practice of medicine were also a terrain of colonial rule and anti-colonial struggle. In Hong Kong, such suppression was inherently linked with the establishment of a Western legal order. The author demonstrates the ways in which British colonial law was developed from the 1840s onward to exclude indigenous medical practices from medical care that was legally sanctioned and protected. Such actions were predicated on Orientalist perspectives of Chinese medicine as backward and tainted with mysticism rather than Western rationality and science. Chapter 10 further develops an interpretive framework focused on historical and cultural practices by examining artwork made during the Umbrella Movement in 2014. The author asserts that the Umbrella Movement can only be understood in relation to the broader social forces that helped produce it. By examining artwork that protesters produced during the movement, we can better grasp how these broader social forces influenced and helped produce the impetus behind the movement. Indeed, the production of art and images was central to the Umbrella Movement, as protesters mobilized a highly diverse and varied array of images, such as coloured ribbons, images of police brutality, yellow umbrellas, and more. One contribution of this volume is thus a focus on how cultural meanings and political imaginaries interact with understandings of how the law is negotiated and understood by social movements.

The volume focuses heavily on legal and cultural processes, but would have benefited from a discussion of how Hong Kong is implicated in the global, capitalist system and how it is shaped by political-economic forces more broadly. While the authors draw attention to political protest aimed at the state, there is little discussion of how economic actors shape the situation. Indeed, it is well known that Hong Kong is mired by extreme wealth inequality and has the highest cost of housing in the entire world. It would be interesting to explore how changing economic and material conditions influence understandings of Hong Kong's political and legal history.

This is a much-needed volume that calls into question the prevailing myths surrounding Hong Kong's political past. It will appeal to scholars from a wide range of backgrounds, including Asian studies, critical legal studies, social movement studies, and more. Although the volume focuses exclusively on Hong Kong's past and its relationship with colonial Britain, it illuminates much beyond Hong Kong by challenging our understanding of how law is practised, for whom it is practised, and why. These interventions are more important than ever, given the contemporary political situation in Hong Kong. Today, social movements in Hong Kong struggle for basic rights and liberties against an oppressive regime. Indeed, in 2015, the Chinese government kidnapped staff members of a Hong Kong-based bookseller that sold materials not available in mainland China. The lesson of this volume is thus clear: Hong Kong has never been free, and looking to the past helps us to chart a course for the future.

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Community Sanctions and Disciplinary Governance in China

Qi Chen, *Governance, Social Control and Legal Reform in China: Community Sanctions and Measures* (Cham: Palgrave Macmillan, 2018) pp 269. Hardcover: $129.
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Before considering writing about China's community sanctions and measures, one perhaps needs to read Qi Chen's (2018) latest book, *Governance, Social Control and Legal Reform in China: Community Sanctions and Measures*. Based on her PhD work, this book provides a rich depiction and critical analysis of forces, structures, and trends in the important field of community corrections in contemporary China. Instead of painting community sanctions and measures as mere legal infrastructure—a viewpoint many Chinese legal scholars adhere to—this work combines legal accounts with in-depth empirical examination. The fact that it draws upon the research of sociologists and penologists, such as Michel Foucault, Max Weber, Stanley Cohen, and David Garland, makes it not only appealing to legal scholars, but also extends its reach to anyone interested in, or concerned about, penological development in contemporary China.

The author, very deftly, grasps the *danwei* system, or *tizhi* in Chinese—an important social-control mechanism used in China since 1949. Generally regarded as a residual entity from the planned economy prior to the reform and opening-up era, it nevertheless remains a paramount institution in today's China to, according to the author, deliver discipline and eliminate rationality and professionalism while commanding absolute hierarchical subordination. Based on this observation, the author proposes a key term in this book, called "disciplinary governance"—"a form of *inadequately* [original in italic and hereafter] modernized patrimonial governance" (p. 60). She contrasts this mode of governance in China with that of Western democracies:

> If liberal governance emphasizes the state's responsibility to provide the "milieu" and *facilitate* individual development, disciplinary governance pursues the opposite. It seeks to *restrict* social mobility for regime stability. Consequently, to achieve self-fulfilment, Chinese citizens have to rely on private channels, that is, interpersonal relationships and *guanxi* networks (p. 66).

Community sanctions and measures in China are not only implemented through disciplinary governance, but are also situated in populist penal culture and "assembly-line" justice. In Chapter 3, the author presents an interesting link between populism, culture, and politics. In her analysis, *guanxi* society has an impact on the public perception of offenders, as the key mechanism of *guanxi* networks is to contextualize judgement based on the concepts of "us" and "others." This cultural idiosyncrasy is exploited by the Party, which deliberately shapes the offender as "the enemy" or "the other." In later chapters, namely Chapter 4 and Chapter 5, the author proceeds with an empirical investigation of the imposition and implementation of community sanctions and measures at two sites in China.

In Chapter 4, the author employs a scenario test to examine Chinese judges. It found that Chinese judges have not internalized nor actively pursued the rehabilitative and inclusionary goals of community sanctions and measures. Rather, they are trapped by both institutional controls and a mindset of heavy "penaltyism." Consequently, the increase in suspended prison sentences in recent years is not caused by any changed judicial mindset, but is simply due to the

growth in criminal cases at large and the recent trend of criminalization in penal law changes. This inactivity in the judiciary's role in imposing community sanctions and measures, or "judicial inertia" to cite the author, has deep roots in disciplinary governance. The troubling issue for the judiciary in China today is that it lacks both public trust and governing authority.

In Chapter 5, the author presents findings from two sites in China. The implementation of community sanctions and measures at site A is, according to the author, led and dominated by the *danwei* system. As shown by diagrams, projects regarding community sanctions and measures are jointly managed by the Bureau of Justice and the Party's Committee of Social Management and Comprehensive Social Order Maintenance. Drawing on extensive interviews with justice officers, police officers, and halfway-house staff at site A, the author analyses what supervision in the community means, and how to understand its penal content as well as its approach to offender rehabilitation. Rich descriptions of the halfway houses in site A are presented to the reader. An empirical study of a second site—site B, featuring non-governmental organizations (NGOs) in supervisory roles—adds another contribution to the existing body of literature. Applauded as a promising model by Chinese scholars, these NGOs are nonetheless assimilated by the *danwei* system. Social workers are ranked and assessed based on a "performance indicator," deprived of self-autonomy, and their supervision becomes administrative and superficial. Both actors in community corrections—NGOs and halfway houses—face excessive control while retaining insufficient governing force. These facts hinder offender rehabilitation and reintegration. The author substantiates her argument by comparatively analyzing China's practices against those of the UK. She calls for greater judicial involvement and monitoring to make supervision effective and accountable.

In the last chapter, the author presses on an intriguing but highly relevant issue facing contemporary China: the mode of governance. Perhaps community sanctions and measures are not just the story of an emerging penal sanction, but also reflect the deeper structure of governance set around the state, the judiciary, the third sector, and the offender in China. Above this landscape hang the competing forces of reintegration, punitiveness, correction, and control. Nevertheless, the unconditional subordination in China's state–agent relationship perhaps needs a fundamental change, and the author places hope on an active and independent judiciary acting as a legitimate governing force, believing that only judicial independence and rule of law can bring a more rational and productive state–agent relationship.

Governance, Social Control and Legal Reform in China is theoretically engaging and empirically interesting. Compared to other areas of criminal justice, community corrections in China remains relatively under-studied. At a national level, it is still subject to intense debate among Chinese scholars, practitioners, and policy-makers. This book undoubtedly contributes greatly to the ongoing discussion regarding China's community corrections. However, for anyone grappling with questions posed by the nature of China's community corrections, there are perhaps no direct answers provided by this book. Community sanctions and measures are not stand-alone; rather, they represent a contemporary practice deeply intertwined with local innovations and central initiatives. Overall, this timely work supplies important insights into the interplay between politics, culture, and the law in China.

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Crime and Criminal Justice in Japan

Jianhong Liu & Setsuo Miyazawa, eds., *Crime and Justice in Contemporary Japan* (Cham: Springer, 2018) pp 352. Hardcover: $169.
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First published online 22 April 2019

Studies of crime and criminal justice in Japan have only begun to receive the global attention that they deserve. The Japanese language has proven to be a formidable barrier for many non-Japanese (including this reviewer). But work in English by Japanese and foreign scholars has begun to proliferate. Writing such as Bayley's *Forces of Order*, Johnson's *The Japanese Way of Justice*, Hill's *The Japanese Mafia*, and Miyazawa's *Policing in Japan* have reached a worldwide readership, as has Yokoyama's work on a variety of topics from sex-offending to juvenile justice to elderly offenders.

A variety of characteristics make Japan an interesting setting for criminological research. These distinctive properties are not unrelated. First, Japan has an exceptionally low crime rate, even by the standards of modern industrial societies. To be sure, crime rates have declined in most industrial democracies during the current century. The Japanese crime drop, however, began nearly seven decades ago and has persisted without significant interruption ever since. Paradoxically, public anxiety about crime remains strong and penal populism endures as a fact of political life. Japan and the US are alone among industrial democracies in their retention of capital punishment. As this review was being written, seven executions were conducted on one day, marking the first time in a century that multiple executions occurred in Japan on this scale. (On 6 July 2018, Shoko Asahara and six of his followers were hanged for the Sarin gas attacks on the Tokyo Subway System in 1995.) More generally, an influential citizens' movement—the National Association of Crime Victims and Surviving Families, *Zenkoku hanzai higai-sha no kai*—opposes leniency in sentencing, and restorative justice more generally.

Japan has also engaged in significant policy change with the advent of lay judges, who sit with traditional judicial officers presiding over the most serious criminal trials. The age at which young people may be dealt with under the adult criminal justice system remains a matter of intense debate.

Japanese demographics are also noteworthy, with a significant proportion of the population over the age of 65. A conspicuous decline in the birth rate, combined with a lack of enthusiasm for immigrants, suggests that Japan will remain "greyer." In recent years, Japan has also experienced more than its share of natural disasters, including the catastrophic 1995 Kobe Earthquake and 2011 Fukushima tsunami. At the time of writing (July 2018), massive floods have claimed well over 100 lives and necessitated mass evacuations—an all too frequent occurrence in densely populated areas.

This welcome collection edited by Liu and Miyazawa addresses these issues and more in five parts, containing a total of 19 chapters. A majority of the contributors are Japanese scholars working at home or abroad. Others are Western scholars based in the US or UK. The book thus benefits from "insiders' perspectives" and from analysis by "outside" experts. Chapters vary in terms of genre, from time-series analysis, to descriptive comparison of

cases, to a dialogue between British and Japanese sentencing experts, to an in-depth study of coerced confessions and the fabrication of evidence.

Part I looks at changing crimes in Japan, with chapters devoted to long-term trends in homicide, the increase in elderly defendants and prisoners, crime in the aftermath of disasters, and homicide by family caregivers. An interesting chapter on the family members of offenders and suspects reminds us that the individual accused will more often than not have dependants who bear no responsibility for the offence, and who may bear heavy burdens through no fault of their own. The issue of collateral damage from the operation of the criminal process deserves more attention in Japan, as elsewhere.

Among the more intriguing issues in contemporary Asian criminology is that of theory. Is Asia a mere testing ground for criminological theory developed in the West or can there be a distinctive Asian criminology? Part II addresses criminological theory and the question of whether theories developed in the West are applicable to Japan. The chapter by Bui, Farrington, and Ueda shows that risk factors for delinquency in Japan (low parental monitoring, high risk-taking, having one or more close friends picked up by police, and low academic ability) indeed mirror those found in the West. Similarly, Roberts's chapter in Part I reports that variations over time in Japanese homicide rates may be explained by changes in poverty, income inequality, and the relative size of the young male population, all familiar to Western homicide scholars. The chapter by Fujino notes the importance of social isolation and lack of self-control as risk factors for offending, and suggests that restorative practices may play an important role in helping an offender re-engage with society. Harada's chapter illustrates how developments in satellite-positioning technology will facilitate the testing of routine activity theory.

Part III comprises essays on criminal justice and its reform. We learn that the criminal process in Japan is not without its shortcomings. Coerced confessions and wrongful convictions are more common than one might think. The Japanese government justifies its continuing retention and use of the death penalty by citing surveys that show majority support for the practice. Sato's chapter suggests that surveys, as they are presently designed, tend to elicit a response bias and that more nuanced analysis of public opinion would support abolition.

Part IV is devoted to the new lay-judges system, introduced in 2009. Two chapters based on simulations involving students relate to decision-making by lay judges. Hirayama's chapter, based on official statistics, looks at whether the sentencing of the most serious sex-offenders has changed following the introduction of the new system. She found that the involvement of lay judges has indeed resulted in longer sentences.

Part V contains the book's final two chapters, which deal with the juvenile justice system. The first provides a brief descriptive overview of the juvenile process, while the second analyses the resident populations of a "self- reliance support facility." These institutions, overseen by the Health Labor and Welfare Ministry, serve as alternatives to the juvenile training schools under the jurisdiction of the Ministry of Justice. In contrast to earlier years, recent admissions to the support facilities appear less attributable to aggression and more likely to result from irrepressible adventure-seeking. Problem parenting was observed as a recurring issue.

The book is unusual in that it contains a number of images in colour. The aesthetics are pleasing, but come at a price. The list price on the publisher's website (€145.59) will

discourage impulse buying. One might also fault the publisher for what appears to be a lack of technical attention to matters such as typesetting, graphics, and tabular presentation.

For those who seek a quick overview of current trends and issues in Japanese criminology and criminal justice, this book is *the* place to look. One hopes that it will stimulate further contributions to Japanese scholarship and to scholarship on Japan.

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Corporate Governance in Asia

Dan W. Puchniak, Harald Baum, & Luke Nottage, eds., *Independent Directors in Asia: A Historical, Contextual and Comparative Approach* (Cambridge: Cambridge University Press, 2017) pp 634. Hardcover: $155.00.
doi:10.1017/als.2019.5

Since the institution of independent directorship was invented in the US several decades ago, it has played an increasingly important role in corporate governance throughout the world. Particularly in Asia, many jurisdictions have adopted the institution to improve corporate governance and investor protection.

Although the economic importance of Asia has been rapidly rising, there has been a dearth of corporate governance research on Asia that is internationally recognized. This book, as an exception to that trend, pioneers the scholarship and already has drawn attention among world-renowned scholars. To the best of my knowledge, this compilation is the first to comprehensively explore, through rigorous analyses, various independent director systems in leading jurisdictions of Asia (China, Japan, India, Korea, Singapore, Hong Kong, and Taiwan). Indeed, this book breaks new ground and makes enormous contributions by dispelling long-standing myths about the institution of independent directors in Asia, as well as providing new perspectives.

First, this book explains that many of the leading jurisdictions in Asia have more independent directors than corporate governance scholars and practitioners have generally perceived. For instance, in most of Singapore's listed companies, independent directors account for a majority of board members, which marks an unusual phenomenon outside the US. In this respect, this book shows that, in terms of the ratio of independent directors on corporate boards, Asia's corporate governance "scores" appear higher than the conventional view has generally assumed.

Second, although the leading jurisdictions in Asia adopted the independent director system from the US (or indirectly imported the general concept of the independent director from the US via the UK), this book demonstrates that directors' "independence" in Asian jurisdictions is not monolithic. In addition, this book expounds that independent director institutions in Asia vary widely in terms of both the "forms" that independent directors take and the "functions" that independent directors perform. When evaluating the quality of a

jurisdiction's corporate governance, market professionals (e.g. institutional investors and shareholder advisory firms) and international organizations tend to assume that independent director systems across jurisdictions resemble the system in the US. The varieties of independent directors in Asia that this book explores, however, disprove this notion of a "standardized" US-style system.

Third, this book explicates that Asian jurisdictions implement either "mandatory," "recommended," or "comply or explain" independent director regimes, and suggests why the choice of the type of regulation can potentially impact the effectiveness of a jurisdiction's independent director system. In addition, this book examines features of independent director institutions in Asia such as the composition of boards of directors. For instance, while Korea requires large listed companies to have a majority of directors from outside, China requires listed companies to reserve a third of their board for independent directors. By contrast, Japan's attitude toward the independent director system has traditionally been lukewarm. Nonetheless, this book elucidates Japan's recent enthusiasm about establishing a more serious institution of independent directors. In addition, regarding certain jurisdictions, this book discusses the role and potentially substitutable functions of (statutory) supervisors for independent directors.

Fourth, in terms of pedagogy, this book's chapters strike a sound balance between theory, practice, and examples. While the jurisdiction-specific chapters provide in-depth examinations of the independent director systems in particular jurisdictions, the theory-oriented chapters put forward holistic, comprehensive, and organized discussions of the various types of independent directors in Asia. The combination of these chapter types enables readers to more systematically comprehend the similarities and differences between independent director systems among major Asian jurisdictions.

Fifth, this book thoroughly examines how unique legal, market-based, and socioeconomic factors of different jurisdictions can affect the features and contours of the independent director systems they adopt. As analytical tools to scrutinize idiosyncratic independent director systems in different jurisdictions, this book suggests several factors: (1) shareholder ownership structure; (2) legal origins; (3) types of shareholders; (4) functional substitutes; (5) political economy; and (6) cultural norms. The book convincingly illuminates how the mixture of these six factors makes each jurisdiction's independent director system unique, deviating from the US-style independent director system.

For instance, if the classification of law and finance theory is used, the legal origins (one of the six factors) of Asia's seven major jurisdictions largely fall into the categories of German civil-law (Japan, Korea, and Taiwan), English common-law (India, Singapore, and Hong Kong), or transition economies (China, though it can also be viewed as being influenced by other legal origins). This book attempts to consider legal origins in a more dynamic sense than much of the extant literature. In other words, this book does not limit the analysis of legal origins to the origin of the entire legal system of a jurisdiction, but also contemplates the origins of particular legal provisions as a means for further understanding and exploring a jurisdiction's corporate governance.

In addition, emphasizing the ownership structures of the US (relatively dispersed shareholder ownership) on the one hand and the leading jurisdictions in Asia (mostly controlling shareholder ownership) on the other, this book elucidates the different roles played by independent directors. In other words, it shows that, in jurisdictions where controlling

shareholders are dominant business players, an independent director system should be established to monitor major shareholders as well as management.

Moreover, this book suggests that, in the context of independent director systems, a large "convergence" of corporate governance works at the level of "labelling" but not very well in terms of "forms and functions." Put differently, the book attempts to clarify that "forms and functions" of the leading Asian jurisdictions differ markedly from those of other Asian jurisdictions and the US. This view provides a new perspective on the "convergence" debate in comparative corporate governance scholarship.

Based on the explanation of sharp distinctions among independent director systems in Asian jurisdictions, as this book implies, if independent director systems in Asia are evaluated by the mere "have or have-not" standard, the quality of specific jurisdictions' corporate governance may be misjudged (usually overstated). Indeed, the quality of a particular jurisdiction's independent director system depends on diverse, complex, and interrelated factors; thus, the simple standard of "have or have-not" tells little about the system's features.

Overall, this book represents a milestone in comparative corporate governance scholarship on Asia. As a seminal work that delineates the various independent director systems in Asia, this book will substantially resolve problems arising from the lack of detailed information and rigorous scrutiny on the region. Market gatekeepers (including shareholder advisory firms) as well as retail and institutional investors will benefit from the greatly improved analytical instruments that this book presents. Also, this book offers foundations for further research on new phenomena in Asian corporate governance. For instance, as seen in the case of Vanke-Baoneng (a fully fledged takeover case in China), hostile takeover attempts have just begun in China. It is too early to speculate whether a massive wave of takeovers will ensue in China. Nonetheless, among many other factors (e.g. regulatory issues on hostile takeovers), independent directors of potential target corporations in China will play a critical role in such takeover wars, even if such wars do not emerge in public. In this respect, the in-depth analysis of independent director institutions that this book presents—not only in the China chapter—will provide useful guidance for further research.

Last but not least, the book's editors and authors are leading corporate law and governance scholars in the region. Individually in their chapters and collectively in the book, they provide thorough jurisdiction-specific examinations of independent director systems as well as holistic approaches and analytical frameworks to help readers understand Asian jurisdictions in detail and as a whole. I hope that, based on this book's tremendous academic contributions, follow-up studies will explore other unknown or ignored aspects of independent director systems in Asia and throughout the world.

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Theory on the Relational Normativity of International Law (TORNIL)

Matthias Vanhullebusch, *Global Governance, Conflict and China* (Boston: Brill Nijhoff, 2018) pp 476. Hardcover: $183.00.
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We live in a world of normativity. Global governance under normativity presupposes peace and prosperity. The exclusive nature of normativity also provokes conflicts and retaliations. Power politics, on the other hand, manipulate normativity with compromises and concessions. Participation of China as a rising hegemony, yet a rule-breaking recidivist, further complicates global governance. How do the authentic rule-based negotiations accommodate China?

Matthias Vanhullebusch, in his book, *Global Governance, Conflict and China* (2018), offers an alternative peacekeeping theory called TORNIL (the Theory on the Relational Normativity of International Law). It

> aims to provide a tool of communication that can enhance a new understanding on the operation of existing norms … and on the creation of new ones by the respective global governance bodies and member states in the prevention, humanization and peaceful resolution of conflicts (p. 4).

In the words of the author,

> TORNIL essentially embraces two epistemological frameworks—western and Asian/Chinese …. It postulates that the normativity of international law depends on its particular sources. Traditionally two sources have been identified. First, are the norms themselves …. Second, are the (moral) values … TORNIL introduces a third and new source, namely the relationships between those actors on the international plane that evolved within different settings where competing interests are at play …. Through the introduction of the third source, relational governance has a new role to play, namely to nurture those relationships in such a way as to create a fertile soil in which existing norms can find an application, and new ones can gain root (p. 6).

This new theory, TORNIL, proposes a relational normativity of international law that "integrates (a) a western and Chinese epistemology" as well as "(b) a western rule-based and Chinese relational governance perspective for the purpose of studying the sources of normativity of international law" (p. 11). TORNIL finds that the normativity of international law based on legality and morality has failed to promote effective communications between the West and China, thus relational governance should be taken as a third interdependent source of normativity. It is only when solid relationships with the "trust" recognized by China can serve as the "fertile soil" of international norms that good communications may be achieved for good global governance.

We may be wondering why the normative world needs to give way to the intruding hegemony that breaks well-established international rules. We may be afraid that concessions to the hegemony could bring the normative world to a slippery slope. TORNIL, on the other hand, urges that "without communication, no knowledge about the other can be gained nor can compromises be reached, decisions be made, joint actions be pursued, and thus responsibilities be assumed towards the realization of such humanitarian goals" (p. 7). So, if

the orthodox world intends to maintain good governance, the Chinese perspectives on legality and morality need to be understood with the claimed relationship-based epistemology.

According to the author, experts of international relations and law find China's behaviour unpredictable and often contradictory (but then who isn't?). It is necessary to develop a framework to understand Chinese behaviour and its challenges to current international law. The author argues that the Western epistemology finds Chinese behaviour incomprehensible and thus troubles global governance. The adoption of TORNIL to understand the Chinese relational normativity will facilitate communications that lead to peace negotiations.

Law is normative and demands respect, legitimacy, and authority to itself. This is what the author calls "normativity" (p. 44). In order to discuss normativity of international law, the West concentrates on the ideology of rule of law that emphasizes legality and moral values. The Western approach finds, however, "indeterminacy" in law, meaning that law cannot escape from ambiguity and cannot control many important fact situations. Legal provisions, including those of international law, look universal and seem to carry normative authority but "indeterminacy" in law allows intentional distortion in application of these provisions. All of these will damage normativity of law. So long as experts use the rule-based approach, they cannot understand the behaviours of China.

Western epistemology focuses on an object in a vacuum such as one individual and tries to analyze it in contradistinction from something else. This leads to an analysis of "a particular problem in conflicting terms" (p. 10). A Chinese epistemology, however, sees things and people in relational and contextual terms. The object is observed not in a vacuum, but in an environment. Since the environment will change over time and space, opposing views will coexist and may complement each other. This relational perception generates a buffer to neutralize contradictions and to achieve the harmony that needs continuing efforts to maintain with trust. Continuing efforts produce a "synthesis based on thorough evaluation of the relationship between parties." This relational epistemology provides a possibility to go beyond the static rule-based understanding of normativity. In this relational normativity, the Chinese epistemology invites us to look for not only rules, but relationship and trust between parties.

For TORNIL, relational governance is a practical concept contrasted with the Western static rule-based governance. Rule-based governance has come to a standstill in power politics. Relational governance seeks better communications among parties and cares about who these parties are, what they are, and why they are. Relational governance approaches normativity of law from rules as well as actual relationships of the parties. Thus, equality and inequality are not judged on a fixed balance, while a solution is not reached once and for all. This relational governance under Chinese epistemology is process-oriented, trust-based, and demands long-term efforts to achieve deeper understanding of others through relation-building.

Matthias Vanhullebusch gives vivid accounts of how China has behaved in the international arena involving collective security, peacekeeping, arms control, war on terrorism, and post-conflict justice. The theory of TORNIL leads insightful observations with the Chinese epistemology to evaluate how the rule-based international governance functions and dysfunctions. While considering the paradoxical justifications for rule-breaking behaviours of China, we may need more clarifications on questionable premises of this book: first, there is real "peaceful and equal negotiation" under the international arena of normative governance;

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second, many conflicts between China and the world (the West) are misunderstandings out of miscommunications; third, in order to communicate with China, major participants of the negotiation are willing to make concessions; and, forth, trust may be built up in the ongoing relationships with a hegemony that often breaks well-established rules of international negotiations.

We may also need the author to clarify some uncertain arguments of the book: Does TORNIL work only to justify the behaviours of China or also to challenge the agreed norms of international negotiations? Is it not true that other Confucius countries except China still build up trust and relationships on rule-based normativity? And is there one "Chinese" epistemology as against "the West"? To participate in the international society, China has made efforts to develop systems of democracy and rule of law, though the pace has not been as punctuated as expected. Is it a possible pitfall of TORNIL to single out China from the world and undermine the Chinese efforts to become a "developed" state?

Karl Marx once predicted that communism would displace capitalism.[1] The analytical dichotomy has elapsed over time. In the 1990s, Francis Fukuyama defined the ending of the Cold War as the endpoint of mankind's ideological evolution to witness the universalization of Western liberal democracy as the final form of human government.[2] But his instructor, Samuel P. Huntington, perceived that

> the fundamental source of conflict in this new (post-Cold War) world will not be primarily ideological …. The great divisions among humankind and the dominating source of conflict will be cultural …. The clash of civilizations will dominate global politics …. The fault lines between civilizations will be the battle lines of the future.[3]

Apart from adding the Chinese epistemology to rule-based normativity, may it be considered to reconceptualize "normativity" to include cultural diversities? The twenty-first-century globalization emphasizes the merits of pluralism and cultural differences. The practice of normativity needs to accommodate embedded cultures and make practical negotiations under rule of law. Global governance that accommodates cultural diversity may confront fewer conflicts.

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