



Daniel H. Foote, ed. *Law in Japan: A Turning Point*. Seattle: University of Washington Press, 2007. xxxix + 668 pp. \$65.00 (cloth), ISBN 978-0-295-98731-6.

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Bowing to Modernity: Japanese Law from Tradition to a Globalization

In September 1961, Harvard Law School hosted an historic conference of leading Japanese legal authorities who presented papers on the development of Japanese law. Presenting papers in their respective fields of expertise, they engaged with over thirty U.S. scholars and graduate students about the comparative dimensions of Japanese and American legal theory, institutions, and practice. That pioneering effort in comparative legal study resulted in the publication of the classic work, *Law in Japan: The Legal Order in a Changing Society*.^[1] Four decades later, in 2002, a new generation of scholars of Japanese law conferenced in Seattle, Washington to revisit the subject, but more importantly, to take account of the changing dimensions of Japanese law that had occurred since the original conference. *Law in Japan: A Turning Point*, a collection of essays on that dramatic evolution, is the product of that 2002 conference.

This book represents the most complete examination of modern Japanese law currently in print. Its wide-ranging subject matter makes it an essential book for scholars of Japanese or comparative law. Organized thematically, editor Daniel H. Foote includes short, footnoted essays on subjects ranging from changes in the Meiji period legal system to the present, to an enlightening essay on how the Japanese legal system evolved from communal values to a modern system of individual rights, to an examination of how the post-war economic changes clashed with the modernizing forces in the Japanese economy in the 1970s-1980s which radically reformed Japanese legal culture. The essays include imaginative discussions of tort law, the ways that

Japanese courts dismiss cases, how the concept of legal transplanted shaped the way Japanese courts used the law to modernize concepts of corporate fiduciary duty, and the development of global principles in Japanese criminal law.

Foote defines a legal system as one that “meets public expectations” and requires professional support and a popular base for its authority (p. xvii). He argues that Japanese law evolved from a system that in 1961 was barely emerging from American postwar occupation and thus relied on the support of a narrow group of legal professionals and governmental coercion for its support, to a modern system that now relies on popular sovereignty for its authority. Where the experts at the 1961 conference documented a gradualist approach to legal change, the essays in this book show a remarkable change to rapid reform. Among the reasons for that change examined in the essays are the development of internationalism, economic deregulation, and political liberalization and the support of the Japanese people. Japanese law in the law forty years has shown a remarkably rapid evolution from a system reliant on traditional Japanese values of deference, harmony, and group orientation to a system that aggressively creates and protects individual and corporate civil and economic rights.

For American legal scholars who may assume that a book on Japanese legal development holds no interest, the examination of the concept of legal transference is particularly fascinating. American scholars of early colonial legal change no doubt are aware of the concept

of legal reception, wherein the English colonies adopted some features of English common law where it worked for their purposes and rejected others that New World conditions made less relevant and practical. For example, Hideki Kanda and Curis J. Milhaupt's fine essay, "Re-examining Legal Transplants: The Director's Fiduciary Duty in Japanese Corporate Law," provides an alternative to the concept of reception that holds great promise for understanding how different legal cultures pass legal values and institutions between each other. Similar to the concept of legal reception, as the Japanese economy modernized between 1950 and 1980, Kanda and Milhaupt show how fiduciary law shifted the most important value for corporate directors from loyalty to the organization to the concept of fiduciary responsibility commonly recognized in the United States. Japan's legal development, from its importation of the German commercial code in 1898 to its postwar importation of American concepts of corporate fiduciary responsibility, allowed it to cre-

ate both a modern, vibrant economy and a legal system capable of managing emerging economic complexities.

This exceptional book has few weaknesses. The essays are well written and edited. The topical coverage is interesting and broadly conceived. Short enough to assign to students, the essays provide enlightening insight not merely into the development of Japanese law, but also into the internationalization of law—that is, how nations borrow legal concepts from one another to fit their particular circumstances. The study of comparative law and legal institutions is a growing field among legal scholars and this book deserves a place on the bookshelves of those interested in broadening their understanding of the role of the law in the process of globalization.

Note

[1]. Arthur Taylor von Mehren, ed., *Law in Japan: The Legal Order in a Changing Society* (Cambridge, MA: Harvard University Press, 1963).

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