

25 Years of ZJapanR

What It Is, What It Was, and What It Will Be

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I. INTRODUCTION

This is the 50th issue of the *Zeitschrift für Japanisches Recht (ZJapanR; Journal of Japanese Law)*. I applaud this achievement and wholeheartedly commend the efforts of the editors, singling out among others the efforts of Harald BAUM, who has devoted his time and energy to the editing of the journal for 25 years since its launch in 1996.

In 2002, I made my first contribution to Issue No. 14 of the *ZJapanR*. It was an article discussing Japan's regulations on the emerging securities trading done over the internet. Based on the experience of benefitting from the journal both as a reader and a contributor, I would like to consider briefly the present (what it is), past (what it has been) and future (what it will be) of the journal.

II. WHAT IT IS

ZJapanR is at present the only globally known journal focusing on Japanese law published in Western languages. Several Japanese universities do publish (or have published in the past) their journals in Western languages and make them accessible on their websites. And there are also instances where a Western-language article is published in a university's journal. Yet it is the *ZJapanR* that remains eminently known for publishing articles of the best quality on Japanese law. It is also convenient that the articles are accessible both on its own website¹ and via a platform (Hein Online). Since the publication of *Law in Japan* was suspended in 2001, it is the only journal of such nature.

The implications of its focus on Japanese law are twofold. On the one hand, the journal publishes articles by non-Japanese researchers on specific aspects of Japanese law. In some cases, it is a summary of the author's PhD thesis, while in other cases the articles emerge from colloquia on Japanese

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¹ <https://www.zjapanr.de>.

(or comparative) law. In this sense, the journal serves as a showcase for research on Japanese law from around the world. The journal, on the other hand, also publishes articles by Japanese researchers comparing Japanese and other (mostly Western) law on a certain issue. These articles are often the product of study conducted by the author as a guest researcher at the Max Planck Institute in Hamburg (MPI Hamburg), which is the host institution of *ZJapanR*. Thus, the journal quite literally stands as a forum for exchange of academic ideas between Japan and the West in the study of law.

Though sometimes limited in my capabilities, I have tried to sustain this role of the journal in collaboration with Harald BAUM over the last decade. Every year, usually at some point between February and April, Harald BAUM and I have organized an event which we call the “Japanese Law Afternoon” (*Japanischer Nachmittag*). It is an informal but nevertheless roundly academic event, one allowing researchers travelling from Japan to discuss the most recent developments in Japanese law while at the same time allowing those staying in Europe to present their studies before the audience gathered at the MPI in Hamburg. Thanks to the highly qualified audience, the event always becomes one of the most stimulating instances of comparative law studies. It is fully appreciated that the event has been generously supported by the German-Japanese Association of Jurists (DJJV) as well as the MPI Hamburg. Many of the presentations are, of course, published in *ZJapanR*.²

III. WHAT IT WAS (OR HAS BEEN)

ZJapanR was launched in 1996. Looking back, it was a few years after the burst of the bubble economy, which frustrated the seemingly possible dream of Japan overtaking the United States as the leading economy in the world. Since then, the Japanese economy has struggled with the enduring downturn and decline of its position in the global economy. A book titled “Made in China”³ was published in 2001 by a bureaucrat of METI (Ministry of Economy, Trade and Industry), a work which described China as a rapidly emerging economy having amazingly large potential. At that time, only a handful of people could foresee that the Japanese economy would be only a third of the Chinese economy in terms of GDP after two decades.

Motivated by the desire to regain its status in the global economy through a restructuring of its business and society, Japan started to reform various laws and regulations. As a result, *ZJapanR* could opportunely present a

2 On the most recent event, see H. BAUM, Japan: Responsibility and Liability of Digital Platforms; Corporate Law Reform and Profitability, *ZJapanR/J.Japan.L.* 48 (2019) 93.

3 A. KURODA [黒田篤郎], *メイド・イン・チャイナ* [Made in China] (2001).

never-ending series of law reform as its content. As the most salient example, corporate law reform, which had taken place every five to ten years until 1980s, was undertaken successively almost every year in the late 1990s. Reform was also made with regards to civil procedure, insolvency procedures, administrative relief systems, consumer law and family law; finally, there was an overhaul of a large part of the Civil Code. Furthermore, a radical reform of legal education and the legal profession was accomplished at the turn of the century.

It was very fortunate that the journal had as its editor Harald BAUM, a legal scholar specializing in corporate, commercial and financial law – fields in the primary focus of law reform in Japan. The journal had the opportunities to publish many articles on these reforms in a timely manner, while its predecessor in the US, *Law in Japan*, struggled with the declining interest in Japanese law resulting from the drop in the economic and political influence of Japan. The tradition of Japanese law studies in Germany (*Japanisches Recht*), more oriented to the examination of the positive law than the analysis of the theoretical and social background of Japanese law,⁴ helped the journal to take advantage of such a changing situation.

IV. WHAT IT WILL BE

History tells us that the transition in economic power will most likely result in a shift in the balance of power in the political sphere. Japan now faces the changing political and military balance in the Far East. It appears that the emerging confrontation of political powers entails clashes in social values, such as human rights, freedom and democracy.

One may recall that the Japanese government has attempted to turn Japanese pop culture – ranging from *anime* and idols to Japanese food and sightseeing destinations – into a new source of income from abroad. Despite the catchphrase of “Cool Japan” created by a journalist,⁵ the attempts have amounted to only a failed case of government subsidization of these industries. It is not surprising that pop culture loses its attractiveness when its anti-authoritarian thorn is dulled as a result of the government’s backing.

Japan’s emphasis on its culture is, notwithstanding, not always to be ridiculed. On the occasion of the Tōkyō Conference of the International Bar Association in 2014, Prime Minister ABE remarked that the tradition of the

4 See L. NOTTAGE, *Japanisches Recht, Japanese Law, and Nihon-hō: Towards New Transnational Collaboration in Research and Teaching*, *ZJapanR/J.Japan.L.* 12 (2011) 17.

5 D. MCGRAY, *Japan’s Gross National Cool*, *Foreign Policy*, May/June 2002, 44.

rule of law in Japan dates back to ancient times.⁶ A diplomat who played a big role in the foreign policy of the Abe cabinet elaborates in his recent book that *Suvarna prabhasa sutra* (Golden Light Sutra), widely disseminated in Japan under the support of the SHŌMU Emperor in the eighth century, provides that a monarch stepping outside of the law should be punished by Buddha.⁷ Here there clearly exists the idea that a person in power shall be subject to the law.

Thus, one is invited to explore the underlying layer of law in Japanese society, in a sense somewhat different from the “legal consciousness” discourse that dominated Japanese law studies several decades ago. Such theoretical exploration of the law in Japan may contribute to a calibration of the shape of Japanese law, depicted through an observation of the laws and regulations in force in Japan. *ZJapanR* is best suited for the exploration of these issues, as it has always accepted contributions regarding both positive law study and theoretical analysis of the law. I am convinced that *ZJapanR* will continue to serve as the same useful platform for Japanese law studies that it has until now.

6 Available on the website at <https://www.ibanet.org/Conferences/109560563.aspx>.

7 N. KANEHARA [兼原信克], 歴史の教訓 [Lessons from History] (2020) 199.