

## REZENSIONEN / REVIEWS

### **A Foreigner's Observations on Law and Society: Reading Comparison of Legal Cultures in TREVOR RYAN, *Dear Judge Ichiro***

Zeus Publications, 2007; 169 pages; \$23.95 AUD; <http://judgeichiro.spaces.live.com/>

1. Enter Thomas, a young Australian instructor in a Tokyo English conversation school. While discarding the prescribed textbook and teaching lessons in the classroom as he pleases, he is taken by a Japanese friend on a trip to see the first sunrise of the year, *hatsuhi no de*. A university student fluent in English introduces him to the tradition of *zuihitsu*, or 'random writings', dating back to Sei Shonagon's *The Pillow Book*. In this ordinary day-to-day of a foreigner in Tokyo, a change occurs one day: a letter appears in the homework tray from a student of the school who takes the name Judge Ichiro.

Attached to the letter, written in faltering English, is a parable about law and society. Judge Ichiro, aware that Thomas has graduated from law school in his home country Australia, has resolved to "unteach" Thomas regarding law through his letters. The first parable tells of a squirrel who seeks to guard the acorns he has collected during the summer from his neighbors by erecting a sign: "let's treat other squirrels' acorns as if they were your own." Contrary to the squirrel's expectations, the neighboring squirrels eat up his precious acorns "as if they were their own." Thomas believes this parable demonstrates the precept that an ambiguous legal norm is of little use. Meanwhile, Judge Ichiro holds that the story shows that an assertion of rights by the rights-holder does not necessarily protect his or her interests; and then, attached to Judge Ichiro's second letter is a new parable.

Before long, the exchange of letters becomes routine and Judge Ichiro puts forward a viewpoint each time which differs to Thomas's comments. Thomas gradually begins to comprehend that the standard way of thinking about law in the West is built upon a fiction. If one departs from dichotomy such as legal and illegal, right and duty, self and other, and adopts the premise that all things have a mutual interconnectedness and exist only in a relative sense, the legal systems of the West which at first glance appear logically complete could be wholly undermined. Before one knows it, the parables begin to show an odd coincidence with the reality of the English conversation school. For example, after a highly-charged one-on-one lesson with a female student Thomas has taken a liking to, the parable is a story of what is to be done by a customer who wishes to see the face of a salesgirl who covers her face with a fan. On a day Thomas discusses

Japan's ageing problem with his students, the parable is a story of a strong man who makes no attempt to help an old and young man who are walking beneath heavy bags. And directly after a parable arrives which discusses criminal responsibility and causal connection, a British man well known to Thomas loses his life...

2. Trevor Ryan, the author of this novel, is a graduate student researching Japanese law at the Australian National University. The question of what influence the tradition and culture of Japanese society has had on the Japanese legal system, having received Western law at the end of the 19th century, is a central theme of the research of Japanese law overseas. The author is surely familiar with this debate through his research in graduate school. This question has been framed overseas by attributing a theory of dualism to the culture of the West and contrasting this with theories of relativism as a characteristic of the Japanese view of the world, or rather popular theories of Japanese culture highlighting the emphasis on connectedness. Such theories have led to the widely disseminated "myth" that in Japanese society confrontation is abhorred and the straight assertion of rights is not preferred. At first, the arguments of Judge Ichiro when he seeks to reeducate Thomas seem to rely on such Japanese uniqueness to relativize the modern legal thinking which has originated in the West.

Unmistakably, the author, who has spent many years in Japan, also knows well that a diagrammatic perspective setting Japan's traditional society in contrast to the legal system received from the West would be grossly simplistic. On the one hand, Judge Ichiro, through his parable of squirrel's acorns, states that it is precisely because Japanese people do not assert their legal rights directly that life in Japanese society proceeds smoothly. In contrast, when Thomas goes to Okinawa on vacation, the owner of a guesthouse who has prepared a magnificent meal of fish does not fail to add: "you have to pay for all this, you know." Meanwhile, at the English conversation school, where foreigners are employed up to a middle management level, the instructors ignore the rule that states that teachers may not fraternise with students and devote their time to dating the students. The gap between legal norms and social reality exists for those from the West too.

3. Judge Ichiro states that he began taking lessons at the English conversation school to "have contact with everyday man and women." Certainly, the classroom in which the students—each with a different background—come and go, seems to be a microcosm of contemporary Japan. However, the Japanese society depicted here, far from being a traditional society placed in opposition to the West, is neither the economic giant described with the epithet 'post-war high growth' Japan: the young man in a shimmering grey suit with spiky hair; the man who has lost his business through the bursting of the economic bubble and has been abandoned by his wife and son; the girl who is a member of a teen pop group with a secret fan base of middle-aged businessmen, and her mother, the manager of a bar in Shinjuku; the high school counselor who studied Portuguese

because the number of his South American students has increased. The Japan Thomas comes into contact with through his conversations with the students at the English conversation school and his limited personal experiences is the cool, kitsch Tokyo of 2007, and the Japan of our time with its range of difficult social problems.

Through the exchange of letters with Judge Ichiro, Thomas is gradually convinced by the notion that legal norms must be something inherent in society. However, contemporary Japan, after having experienced the bubble economy and the 'lost decade' and then passed through the era of the Koizumi reforms, never ceases to see intense change. Given this, one wonders whether there is scope for norms to exist which are 'inherent' in the true sense, with entirely no estrangement from society. When instead of the prescribed text Thomas introduces proverbs and sayings in English to the classroom in the conversation school, the students often state interpretations which differ from one another. Reflecting their diverse upbringings, circumstances and experiences, the students have a diversity of values and ways of thinking. One wonders what kind of inherent norms would be discovered if such students were to begin discussing law.

4. If one parts with the preconception that Japan is a traditional society which differs from the West, at first glance the megalopolis of Tokyo, standing at the leading-edge of the age, may appear as a contemporary city no different from New York or Sydney. However, just as it would be a mistake simply to label contemporary Japan as 'East', one suspects that it would be equally inappropriate to deny outright any difference between Japan and the West. A white Brazilian woman who one day turns up in Thomas's English conversation classroom appeals to him: "no matter how long you are here you will never be Japanese." The fact that the average Japanese person can accept the notion of polytheism ('eighty thousand gods') rather than believing in a single god is a phenomenon difficult to understand from the common sense of the West; yet, the students state in unison that this is the way Japanese people think with regard to gods.

Interestingly, whenever Thomas receives a letter from Judge Ichiro, he makes a summary of the parables "just as he had done during the exam period in a university." This is suggestive of the fact that Thomas remains after all merely a foreigner observing Japan. In fact, Thomas often misses the point regarding subtleties that sometimes appear in Judge Ichiro's arguments. For example, Judge Ichiro interprets the parable in which a man is made to buy an apple which is purported to start off rotten and gradually become fresh as a problem regarding the allocation of risk with regard to a defective product. Having explained developments in law in which the principle of 'buyer beware' has changed to one of 'seller beware', he links this to the present order in private law which is being revised through public law-like regulations on consumer protection. This is a wholly commonplace way of thinking and Judge Ichiro is speaking generally, not specifically with regard to Japanese law. Nevertheless, Thomas responds only to the element in the conclusion critical of the classical premises of Western law: "distinctions between private and public are arbitrary," he writes in his memo.

Through the three-layered structure – the exchanges in the English conversation classroom, Thomas’s personal experiences inserted as flashbacks, and the exchange of letters with Judge Ichiro – the reader is enticed into a ‘labyrinth of paradoxes’. One may wonder what Japanese law and Japanese society really is. And one may wonder what Western modernity is after all. Yet, from behind the story, which searches for these answers, the author’s torment over what extent a ‘researcher of Japanese law’ from a foreign country can pursue the truth of Japanese law and Japanese society comes through. As well as introducing the reader to the pleasure of following the story to its conclusion while pondering the meaning of the shocking lines at the novel’s opening, I would send a heartfelt wish to the author in his success as a researcher of Japanese law.

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