

(and its relationship to the state of international research on this topic) one may ask: What about the buying of votes in Taiwan, the apparent lack of corruption in Singapore or the various attempts to control corruption in Hong Kong? It might have been a fruitful supplement if the author had not only dealt with the situation in the PRC, but had included a comparison of the corruption phenomenon in different Chinese societies.

The two most widely used terms in the Chinese language for corruption are *tanwu* and *fubai*. *Tanwu* mainly refers to those aspects of corruption which are relevant to criminal law, and *fubai* mainly denotes a deterioration of morals. It seems fitting that Heberer, who sees the main task of research on corruption as a "gauge of the decay of dominating norms" (p. 13), takes the term *fubai* with its more political-ideological and moralistic connotations as his main term. Corruption as a potentially politically explosive force - this is the most thought-provoking question raised in the book. It seems to be just this point which sometimes overshadows the more economic and social aspects of the problem. This impression is strengthened by the extremely short discussion, yet vigorous criticism of functionalistic interpretation patterns of corruption (pp. 43ff, 188ff).

All in all, the book is an important contribution to the discussion on corruption in China. Works in the German language on this topic are still sadly lacking, and Heberer's book not only gives insight into the international discussion on corruption as well as into manifold aspects of the problem in the PRC, but also presents the problem in a clearly arranged manner. It concludes with an appendix on "laws, commentaries, and case descriptions of the struggle against corruption in the PRC", translated by Prof. Konrad Wegmann.

Bettina Gransow

CARL STEENSTRUP, *A History of Law in Japan Until 1868*. (Handbuch der Orientalistik, V. Abt.: Japan, 6. Bd., 2. Abschn., 1. T.). Leiden, New York, København, Köln: E. J. Brill, 1991. 202p., Gld. 120.- (ISBN 9-004-09405-9)

Since the *spiritus rector* and editor of the Japanese section of the *Handbuch der Orientalistik*, Horst Hammitzsch, passed away in late 1991, the publication of its single parts has become even more uncertain. At least

one of the authors concerned has actually decided to withdraw his contribution and published it elsewhere. In order to prevent the praiseworthy undertaking of a valid and up-to-date overview of German studies on Japan from going completely to pieces, Brill should hasten to publish the remaining parts. Though it goes without saying that what has already been published stands in its own right. This also holds true for Steensstrup's *History of Law* which meets a long-felt need. As Steensstrup rightly puts it, a sound knowledge of Japan's legal traditions is a key to our "understanding of the social structures of present-day Japan". One basic problem lies in the degree of adaptation of Chinese law to Japanese customs during the 6th to 8th centuries, a close parallel to the adaptation of Roman law to Germanic tribes. What we know about those times stems almost entirely from sources written by Chinese or under Chinese influence, and is thus contaminated with Chinese concepts and commonplaces about "barbarian" civilizations. As regards the early history of the Japanese state, a comparison with simultaneous developments in South and South East Asia would without doubt have been very useful. Perhaps Chinese and Korean traditions on the one hand and Japanese "deviations" on the other can be explained much more effectively by taking into account similar "deviations" in other parts of Asia. This would also ease the task of explaining why Japan became "feudal" in the Middle Ages.

Steenstrup makes a very important point in saying that the Japanese term *hōken* which today means "feudal" was once coined to contrast with *gunken*, which means centralized government over strictly controlled "districts (*gun*) and wards (*ken*)". Thus, *hōken* meant decentralized hereditary rule in virtually independent provinces, and those two expressions of Chinese origin were used to characterize times when imperial rule over Japan was uncontested = *gunken* (as in the ancient state of the Ritsuryō period and, once again, since 1868) or not = *hōken* (as during the Middle Ages and Early Modern period, when the samurai rulers, in varying degrees, assumed the reins of power and divided Japan among themselves). Steensstrup therefore rejects the modern equation of *hōken* and *feudal* as unhistoric and unnecessary and explicitly denies that medieval Japan may be called "feudal".

In general, this rigorist point of view which restricts itself to what can be seen in the sources has its advantages. It is undoubtedly helpful in defining Japan "in its own terms", in its "emics", avoiding the risk of drawing hasty and arbitrary parallels between Japan and feudal Europe. But has not Steensstrup been trapped with his own arguments? Neither *hōken* nor *gunken* are of Japanese origin. They have been derived from Chinese



history and were used in the legal controversies among Early Modern state philosophers, who maintained that their own time saw an unsound mixture of *hōken* and *gunken*, calling therefore for the restoration of a truly *hōken* system, or demanding a *gunken*-style government. The latter won when the Meiji restoration of 1868 came; but ironically enough, the new government in fact built a *kengun* system, reverting the traditional sequence of *gun* (district) and *ken* (ward) into *ken* (prefecture) and *gun* (district). At no time in Japanese history has there been a real *gunken* system close to the Chinese original; *gunken* and *hōken* have always been highly theoretical constructs of political discourse. They are not an inch nearer to Japanese historical facts as is the term "feudal"; they are not "emic" concepts which can be taken from the sources at face value. Therefore, it does not make any real difference whether you call medieval Japan *hōken* or "feudal". If you want to compare Japan with China, you should use *hōken*, if you want to compare her with Europe, "feudal" is better. Especially if you wish to make Japanese history understandable for a public not versed in Chinese history, "feudal" seems the better choice. As long as one is aware that neither term means more than a handy "etic" simplification there can be little harm done.

Notwithstanding such verbalism, Steenstrup presents a well arranged and highly readable, even witty account of legal evolution in Japan. His concise explanation of principles, administration and problems of Kamakura law is admirable. Ashikaga and Sengoku law are summarized very briefly, without further discussion of the monarchic tendencies in the legislation and self-conception of the Ashikaga *shōguns*, and the strong influence of Chinese legalist thought on Sengoku law. At least the problem of *kōgi* ("public/royal rule") would have deserved mention.

The final chapter of Steenstrup's book is a thorough and convincing analysis of Tokugawa (Early Modern) law, always referring to its social, economic, and political background. Some more attention could have been paid to important details of legal practice, e.g. retaliation, judging by lot, petitioning and absconding, asylum, or transfer and dismissal of incompetent subordinates, as they reveal authentic Japanese patterns of legal behaviour which to some degree still influence Japan's modern society. An exhaustive bibliography of reference materials in Western and Japanese languages and a useful periodization of Japanese history conclude this work which will doubtless become a standard tool in the hands of specialists and amateurs in legal and Japanese affairs.

Reinhard Zöllner