

SK along with the other members of the "Gang of Four" continues to be a theoretical challenge.

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ERNST v. CAEMMERER, WOLFRAM MÜLLER-FREIENFELS, HANS STOLL (eds.): *Recht in Japan. Berichte über Entwicklungen und Tendenzen im japanischen Recht.* Frankfurt am Main: Alfred Metzner Verlag. Heft 1, 1975, 36 pages, DM 12.-; Heft 2, 1977, 57 pages, DM 18.-; Heft 3, 1980, 82 pages, DM 25.-; Heft 4, 1981, 101 pages.

This series is published and edited by members of the Freiburg University's Institute of Foreign and International Private Law. The publication followed the founding of the Japanese-German Lawyers' Association in May 1976 in Tokyo (cf. Vol. 2, p.55-57). This Association consists of about 350-400 Japanese and German University professors and other lawyers with knowledge of Japanese and German law. The aim of this association is to foster the relationship between Japanese and German lawyers and to give information especially to Germans about Japanese law. As is indicated in the preface of vol. 1, a lack of information concerning Japanese law still exists among lawyers dealing with comparative law although the influence of German law on Japanese law has been remarkable ever since the last decades of the 19th century. However, as there are not many German lawyers who are able to speak Japanese and understand the complexity of Japanese law, the publication of a series such as "Recht in Japan" is very welcome.

The first volume of this series was published in 1975 and consisted mainly of articles concerning civil and commercial law. Junichi Murakami, for example, wrote on the compensation for damages suffered through emissions and pollution. The article by Professor Goro Tamura (p.14) deals with the latest development in Japanese family and succession law, and refers to a very special and detailed problem concerning the refusal of a divorce motion. This problem is interesting because in Japan it is rather easy to get a divorce. Usually it is sufficient to send a declaration to the marriage office stating that both parties agree to the divorce. Even in cases where wives/husbands do not wish to get divorced, it is sufficient for the husband/wife to send this declaration to each other.

Ichiro Kawamoto's article (p.22) discusses the possibility of controlling large-scale enterprises after the revision of the Japanese Commercial Code in April/October 1974. However, it has to be noted that this law was amended

again in October 1982. As in 1974, the latest revision is mainly concerned with changes in the law for stock corporations (Aktiengesellschaft), especially with regard to the authority of the board of directors which has been greatly enlarged. Also provisions relating to the supervision of stock corporations have been revised in order to secure the stability and efficiency of the company. The last article in this first volume of "Recht in Japan" is Morio Takeshita's on the reform of the law of execution (Zwangsvollstreckungsrecht) (p. 31).

The second volume of this series begins with a joint article by Thomas Enderle and Susumu Ito on priority notice of property as a means of credit security (p. 9). It is a rather general description of the historic development and the present situation of the legal institute of priority notice. The article, however, also deals extensively with decisions of Japanese courts. This is important, because the legal nature of priority notices was not clear until the decision of the Supreme Court in October 1974. Following this is the article by Yasutaka Abe (p. 19) which gives a good account of the problem of pollution in Japan and the countermeasures the government has taken to prevent further damage of the densely inhabited islands. This problem became acute after more and more Japanese had their health ruined by smog or by the pollution of the surrounding sea with chemical wastes, dumped by large companies into what were previously beautiful bays near towns. Before pollution scandals like "Minamata disease" or "Itai-Itai illness", Japanese towns, villages and prefectures had hoped that industrial development would bring prosperity. However, they had forgotten that it also brings damage to nature. The legal situation today is much stricter than it was twenty years ago and is helping to renew and "rebeautify" the Japanese archipelago. Abe's article deals extensively with this problem and legal developments with regard to the economic and human situation of Japan and its inhabitants.

Kiyoshi Igarashi's article on the importance of comparative law in legal education in Japan (p. 36) is of great interest, as Japanese legal education was greatly influenced by Western legal thought and education. After the Meiji-Restoration (1868) the Japanese government set about educating as many lawyers as possible. This was part of the plan to renew the organisation of the state, a task that needed the help of qualified lawyers who had knowledge of foreign law. In the beginning many French, English and American teachers undertook the ardent task of spreading the knowledge of Western law in Japan. Then, after the first chair for German law was established at the Imperial Tokyo University in 1887, German legal thought became predominant in Japan. But after World War II Anglo-American legal thought prevailed once more. Today the importance of comparative legal studies is, unfortunately, on the wane again, a development that can also be seen in Europe and America. The next article is by Tadashi Murai (p. 43) and gives a detailed account of the Japanese tax system, especially income and corporate tax. This article is rather useful as not much has been written yet on this subject and the information given can be used even by foreign businessmen who want to set up

a business in Japan. The last contribution in this volume is the already above mentioned short summary of the founding of the Japanese-German Lawyer's Association (p. 55).

The third volume of the series deals with civil and international private law. Masamichi Okuda (p.7) writes on the bona-fide protection in the law of real property and gives a detailed account on the latest trends in court decisions from 1954 to 1973. Zentaro Kitagawa's article on product liability in Japan (p.23) deals with an aspect of Japanese legal development that has become highly important in the last twenty years. Kitagawa especially gives a detailed account on quantitative aspects of product liability in a Japanese society of mass production, mass consumption and mass market; this aspect has hitherto been neglected. However, even as the number of cases have increased lately, Japanese consumers seem to hesitate to go to court with their complaints and seem to prefer to try and solve the problem cordially with the producer of the faulty or damaged product. This is a result of the still not fully developed legal consciousness of the Japanese, a sharp contrast to the attitude of consumers in the West. In his article Kahei Rokumoto (p.47) examines the problem of traffic accidents, especially the compensation which is payable according to the Automobile Damages Compensation Security Law. Very often such compensation problems are solved by out-of-court settlements. However, there are often times when compensation has to be dealt with by the court. This occurs in 20 % of cases involving death and in 5 % of cases involving serious injuries. This again shows that Japanese usually prefer to negotiate out-of-court in an effort to prevent any loss of face on the part of the participants. For this reason, "non-specialists" are frequently asked to act as intermediators, for example, a "respectable person" who has had some legal education, or has had some experience in acting as a mediator in cases involving traffic accidents. This shows that an abstract legal system has done little to change traditional ways of settling damages in cases where "amateurs" with little or no legal knowledge solve compensation demands either free of charge or for only a small fee. Yoshiaki Sakurada (p.67) at last writes on the question of nationality in Japanese international civil law; this is a problem that arises when Japanese marry foreigners and have children by them, and is especially true when - as a result of the colonial past of Imperial Japan - Japanese marry Chinese or Koreans, many of whom now live in Japan.

In the fourth (but hopefully not last) volume of the series Reinhard Einsel (Sonderhoff + Einsel Law Office, Tokyo) gives a very detailed account on problems of Japanese patent law (p.7). Art. 70 of the Japanese patent law defines the scope of protection a patented invention can receive; this is dependent on the description given when registering the patent. The author cites many court decisions but, unfortunately, his citations are not always clear and sometimes rather misleading, e.g. p.14, 15, 20, 22 and 26. However, Einsel correctly states that it can be of great advantage for foreign companies to have their inventions registered in Japan. This is because the Japanese do not hesitate

to register foreign patents in Japan in order to vie with their competitors. Here foreigners have to be quick if they want to avoid trouble. The same is true for trade marks, with which Einsel also deals briefly.

Norijuki Nishida (p. 29) writes on a very different topic, namely on certain characteristics of Japanese penal law, especially criminology and criminal policy. One of the characteristics of the Japanese society is the low crime rate. Nishida first gives a general survey of modern Japanese penal law since 1880 and the influence of French and German penal codes. The author then gives a detailed account on the differences between Japanese and German law today.

The next article is by Zenji Ishimura (p. 51) who writes on the function and responsibility of the mass media in Japan. It is especially noteworthy as five of the biggest newspaper companies account for 52 % of all the newspapers published in Japan. Ishimura also deals with new media like cable television, satellites etc. and the influence of the media on the citizen and the state. He also gives a rather detailed account of the legal position of the media, e.g. the "right to know", freedom of opinion as expressed in the constitution etc.

Takao Ota (p. 79) then writes on the reform of the right of succession after World War II. The reform of 1947 abolished the "house" (ie)-system which had been the base of society before the war and needed to be democratized, especially with regard to the equality of the sexes and the equal right of succession for all offspring. The reform of 1962 was not so aggravating, but the reform of 1980 again brought substantial changes, e.g. concerning the equity to a settlement. Tomohei Taniguchi (p. 93) also writes on this last question and his short article is a valuable complement to the above mentioned one by Ota.

All in all, the articles in the reviewed four volumes of "Recht in Japan" are an important contribution to the introduction of Japanese Law in Germany and Europe and give some very valuable insights to modern Japanese Law. It has to be noted, however, that some of the articles seem somehow very specialised and no system of choice has been worked out as yet by the editors. Japanese law is a vast field that became of interest lately not only to the scholar, but also to foreign businessmen who have business dealings with Japan and want to know more about the legal and sociological situation in Japan. The reviewer hopes strongly that this series will continue to be published frequently and that all aspects of Japanese law will be introduced in the near future.

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