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The Multilayered World of Medieval Japanese Legal History

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historical legal codifications, statutes or provisions. Of course, this is not something that Fredrik Ljungqvist would deny. He, too, sees the two methodological paradigms as complementary (36). However, my impression is that quantitative methods could be most useful in the historical linguistical / philological research of medieval law codifications, in which case one could utilize the smallest scale of analysis, i. e. having single words as coded units.

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The Multilayered World of Medieval Japanese Legal History*

Between the Ōnin War (1476–1477) and the late 16th century, the central Japanese military government lost much of its administrative power. During this transitional period, in which the central government was in the hands of the ever-adaptive Ashikaga shogunate, ephemeral alliances (known in Japanese as *ikki*) were often formed among country warriors, village leaders, farmers, Buddhist monks, Shinto priests, or city folk in order to resist attacks perpetrated by outsiders, neighboring powers, and bandits, as well as other military threats. The result was an intricate system of surviving medieval institutions, emerging local autonomous leadership, and new warlords competing for political power, the ability to resolve conflicts, and the rights to collect taxes throughout the archipelago. Law followed suit, becoming plural and multilayered, with multiple legislative agents operating in a sea of different customary norms and legal texts inherited from previous centuries.

The volume *Muromachi, sengoku jidai no hō no sekai*, edited by Matsuzono Jun'ichirō and published in 2021 by the Japanese publishing house Yoshikawa Kōbunkan, focuses on the legal complexities of the roughly one and a half centuries that encompass the late medieval and early modern period known in Japanese history as the »Warring States Period« *(Sengoku jidai)*. Even though there is no shortage of Japanese textbooks on legal history, this is a rare piece considering its chronological focus and the way it introduces students to current debates in each area. In the introduction, the editor delineates the general aspects and guidelines of the book as well as his views on the role of law, ethics, and custom as normative principles. As in his previous works, Matsuzono searches for ways to understand and conceptualize the various terms and forms of Japanese normativities – particularly the central ideas of *hō* and *ri*, which can be loosely translated as »law« and »principle« – from local sources rather than by comparing and forcefully adopting European legal concepts. Matsuzono's thought process is guided by questions such as: what legislative powers are behind each norm? What norms supersede others? Should written norms be understood as commands or were they the codification of practical or customary rules? Given the lack of simple answers and the absence of clear-cut limits between the various normative orders in force at the time, the book is aimed at presenting state-of-the-art research while pointing students to new research paths in Japanese legal history.

The main topics of the volume are the numerous legislative authorities of the period, the extent of their administrative and enforcing powers, the role of law in various spheres of life, and the general intricacies of the legal systems put in place in the period, with short considerations regarding

* Matsuzono Jun'ichirō, Muromachi, Sengoku Jidai no Hō no Sekai [The World of Muromachi and Sengoku Law], Tokyo: Yoshikawa Kōbunkan 2021, 292 p., ISBN 978-4-642-08397-3

previous centuries – including the *Kamakura*, and the *Nanboku-chō* or Northern and Southern Courts periods. With the exception of Matsuzono's four texts (introduction, the first chapter of the first part, the eighth chapter of the second part, and the epilogue), all contributions are by scholars originally specialized in Japanese political, social, economic, and religious history rather than legal history.

The first nine chapters, gathered under the title *Shokenryoku no hō* (»The Laws of Various Authorities«), explore the numerous autonomous administrative levels and normative orders of Japan. These include the laws of the shogunate, norms enacted by shogunate-appointed local governors *(shugo)*, laws by local military leaders *(ryōshu)*, powerful regional warlords and their domanial codes *(bunkokuhō)*, laws governing temples and sanctuaries *(jishahō)*, and village and city ordinances. Chapters such as the ones by Hirai Kazusa, Fujii Takashi, and Goza Yūichi show a keen awareness of the difficulties in defining some key concepts such as *shugo*, local laws and the *bunkokuhō*, with numerous references to significant past contributions to each area. Especially interesting is Kubo Ken'ichirō's contextualization of different orders and norms enacted by local warlords that are not normally classified as codified domanial norms. Moreover, as in all chapters of the book, every author indicates source collections and other materials that might guide students interested in following the proposed research topics. For instance, Koike Katsuya's analysis of temple laws begins with a standard definition taken from the *Kokushi daijiten* (»Great Dictionary of National History«) – which the author uses to structure his chapter – and suggestions of edited compilations of primary sources.

The eight chapters of the second part, *Hō no shoryōiki* (»The Various Areas of Law«), cover classical Japanese legal commentaries, the relationship between law and families, the role of law in medieval economics, war codes, the complex interplay between Buddhism and secular laws, the influence of natural disasters on normative creation, and the transformation of customary norms into written law. Interesting insights and future research topics are put forward by authors such as Mieda Akiko, whose panorama of systems of social division *(mibunsei)* ends by proposing further analysis of the two criteria used in medieval Japanese social taxonomy: whether the individual had an official post *(kan'i)* or not, and if they were a person *(hito)*, a child *(warawa)*, a monk *(sōryo)* or an outcast or non-person *(hinin)*. Other contributions, such as Ikoma Tetsurō's chapter on religion and law, focus on the transformations these topics underwent during the period covered by the book. Although most chapters present general panoramas of their topics, some choose specific examples to enrich their narratives by showing concrete analyses of primary sources, such as in the case of Kawauchi Masayoshi's take on city ordinances, Nishikawa Kōhei's study on law and natural disasters, and Noritake Yūichi's discussion of military norms. The book ends with a chronological table for the main events of Japanese legal history between 1392 and 1590 and an epilogue in which Matsuzono reminds the reader of the many challenges put forward by the chapters, such as the difficulty in analyzing regional differences, and his hopes for future research.

In general, the volume introduces the many ways in which legal texts, especially those from the six-volume compilation of primary sources *Chūsei hōsei shiryōshū*, can be used to further research in each area. All historical terms are accompanied by pronunciation guides *(furigana* or *rubi)*, helping readers unfamiliar with specific terminology. By showcasing the many possibilities of engagement in the intersection of Japanese history and Japanese legal history, this volume evidences a certain degree of openness to the debate that may point to new exchanges between Japanese legal historians and international scholarly debates. Furthermore, the general guidelines of the book in its quest for strengthening Japanese definitions of legal concepts fall in line with calls made by European scholars to emancipate Global Legal History from its Eurocentric notions and explore the creation of new conceptual tools for non-Western legal histories.[1] Certainly, taking the sugges-

1 Thomas Duve, Global Legal History: Setting Europe in Perspective, in: Heikki Pihlajamäki et al. (eds.), Oxford Handbook of European Legal History, Oxford 2018, 115–140, 135.

tions presented in Matsuzono Jun'ichirō's volume beyond the traditional national borders of Japanese legal history to new areas, such as the study of the contacts between Japanese and non-Japanese normative orders, will require deep reflection on different worldviews, forcing scholars to further develop new conceptual frameworks capable of dealing with the incommensurable distinctions rising from these settings.

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Caspar Ehlers

Zettels Raum*

Bei dem anzuzeigenden Werk aus der Feder des emeritierten, einst an der Vanderbilt University in Nashville, Tennessee, lehrenden Rechtstheoretikers und Politikphilosophen Larry May handelt es sich eigentlich um das, was im anglophonen Sprachgebrauch als *Reader* bezeichnet wird: eine breit angelegte Übersicht über die Rechtsfelder der Periode der doch nicht so finsteren Dark Ages (1) mit einer entsprechenden Auswahl an Quellen. Es schließt in Aufbau und Format an Mays *Ancient Legal Thought* (Cambridge 2019) an und soll dort bereits angerissene Fragen über die Fortentwicklung des Rechts und des politischen Denkens in der Epoche zwischen dem Ende der Antike und dem Beginn der Renaissance weiterführen (1). Die gewählte Methode »is largely comparative in two senses«: Der Autor vergleicht Ideen von einer Gesellschaft mit Ideen derselben Gesellschaft in einer späteren Zeit sowie Ideen einer Gesellschaft zu einer bestimmten Zeit mit Ideen zum gleichen Gegenstand in einer anderen Gesellschaft derselben Zeit (1 f.) und erfüllt damit die Anregungen Marc Blochs aus dem Jahr 1928.[1] Zugleich will er sich nicht auf ›den Westen‹ beschränken, sondern west-östliche Ebenen des Vergleiches eröffnen (2).

> »In this sense this work is meant to be multicultural and hence we find significant treatment of Islamic legal and political thought as well as that of Indigenous legal and political thought in the Americas and Africa at the end of the Medieval period« (2).

Zu diesem Behufe hat May das Werk in vier Teile und einen Anhang gesondert, die jeweils in Sektionen gegliedert sind: Part A: Germanic Law and Byzantium: Section I. Justice and Jurisdiction, Section II. Legal Personhood and Status, Section III. Criminality: Individual and Collective, Section IV. War and Peace; Part B: Islamic and Canon Law: Section V. Divine and Natural Law, Section VI. Legal Status, Section VII. Crime and Punishment, Section VIII. Justifying War; Part C: English Common Law and Early Icelandic Law, Section IX. Substantive and Procedural Law, Section X. Status, Section XI. Criminal Law, Section XII. International Law; Part D: Neo-Aristotelian Jurisprudence: Section XIII. Natural Law, Equity, and Procedural Law, Section XIV. Status and Criminality, Section XV. International Law; Appendix: Indigenous Law in the Americas and Africa.

Jede dieser Sektionen ist in mehrere Kapitel gegliedert (insgesamt sind es 35), die ihrerseits in einzelne schlagwortartige Unterkapitel eingeteilt sind. So ist das Inhaltsverzeichnis (v–xiii) zugleich auch eine gute Hilfe zur Orientierung innerhalb des Buches, zumal die meist vier Kapitel einen komparatistischen Zugang im Sinne der Einleitung ermöglichen.[2]

* Larry May, Medieval Legal and Political Thought. From Isidore and the Quran to Maimonides and the Incas, New Castle upon Thyne: Cambridge Scholars Publishing 2022, 545 S., ISBN 978-1-5275-7582-0

1 Marc Bloch, Pour une histoire comparée des sociétés européennes, in: Revue de synthèse historique 46 (1928) 15–50. Auch in deutscher Übersetzung in: ders., Aus der Werkstatt des Historikers. Zur Theorie und Praxis der Geschichtswissenschaft, hg. von Peter Schöttler, Frankfurt am Main 2000, 122–159.

2 Das Inhaltsverzeichnis, das hier nicht in Gänze ausgebreitet werden kann, findet sich im Internet: https://www.cambridgescholars.com/resources/pdfs/978-1-5275-7582-0-sample.pdf (abgerufen am 17. April 2023).