

Rechtsgeschichte Legal History

www.rg.mpg.de

<http://www.rg-rechtsgeschichte.de/rg28>

Zitiervorschlag: Rechtsgeschichte – Legal History Rg 28 (2020)

<http://dx.doi.org/10.12946/rg28/336-338>

Rg **28** 2020 336–338

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Multilocality in Global Context: Transforming Modern beyond Borders in East Asia

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Konjunkturen von Interesse, etwa für die Zeit nach 1945 die Rolle des kirchlich oder wertphilosophisch inspirierten Naturrechts und des Neo-Aristotelismus, der Wunsch nach »Integration«, den Smends kryptische Lehre zu erfüllen schien,

weiter die langjährige west- und ostdeutsche Negierung Kelsens oder der offenbar international wachsende Bedarf an »Schmittiana«.



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Terms such as frontier, border and boundary do not merely mean margin, distinction and isolation, but also represent ambiguous areas of conflict, interaction and association, especially in the pre-nation state era. Thus, making borders is a classic subject of global history or global legal history, as it explores an entangled history of local within a connected world.¹ Using demarcation as an analytical lens, Nianshen Song's book, which covers an important transformative period in East Asia from the late 19th to early 20th century, tells a multilateral and multilayered local story (7) based around the Tumen River, which serves as a boundary between China and Korea, also implicating the neighbouring colonial powers of Russia and Japan. Moreover, woven into the discourses of imperialism, nationalism, colonialism and capitalism, this historical border region also became an excellent historical arena for exploring the modern formation of East Asia (8).

An alternation between local and global perspectives not only guides the narrative with six chapters running broadly chronologically, but it also reveals the three usages of the concept 'local': a multilateral local, as an integrated socioecological unit; a regional local jointly shaped by cross-boundary links; and a global local within the circulation of ideas, technology and knowledge, such as cartography and jurisprudence (10–15).

In the face of embedded dimensions and perspectives, Song's grand vision and vivid historical detail blend perfectly into a remarkable style of writing, which almost certainly is tied to the author's previous career in journalism.

The first chapter provides an overview of the pre-history of the Tumen River region and the policy shift of the Qing and Chosŏn towards the Korean squatters in relation to the natural disasters that took place in the early 1880s. In response to the capitalist/imperialist expansion of Japan and Russia, both the Qing and Chosŏn abolished centuries-old border prohibition regulation through employing the traditional *zongfan*/tribute rhetoric. One such example involved reconceiving the Korean refugees into »newborn babies to the Celestial Empire« (33), so that they would be eligible to live in this disputed frontier as subjects of the Qing. However, as the treaty system was gradually woven into the East Asian context since the 1840s, not only did the issue of refugee resettlement become a matter of territorial dispute, but multilateral diplomatic principles also joined the bilateral *zongfan* framework.

In response to the demarcation in the Tumen region, chapter two continues to examine how a traditional »dynastic geography« was employed by both contested parties as a synthesis of technology, rhetoric and power. Song argues that the demarca-

* NIANSHEN SONG, *Making Borders in Modern East Asia. The Tumen River Demarcation, 1881–1919*, Cambridge: Cambridge University Press 2018, 304 p., ISBN 978-1-107-17395-8

1 For a comparison, see TAMAR HERZOG, *Frontiers of Possession*, Cambridge 2015; LAUREN BENTON, *A Search for Sovereignty: Law and Geography in European Empires, 1400–1900*, Cambridge 2009.

tion turned into a ritual competition, with both sides using traditional zongfan rhetoric to assert their geopolitical interests (71). Also, traditional mapping technology of »grid system« similarly reinforced the understanding of boundary as a relational construction in a complex geographic and social context (91), rather than to determine an equal, absolute and definable division on the global (92). As a result, the cartography introduced by the Jesuits during the Kangxi reign was not adopted by either side. Through a comparative analysis of two other demarcations of the Qing-Russian border and the Qing-Vietnamese border around the same time, Song shows that those boundary-making practices in East Asia are very diverse, flexible and pragmatic, alternating between zongfan hierarchy and international treaties as normative sources.

Chapter three moves from a macro-geopolitical game to a micro-deep description of social interactions, addressing the early formation of the »Kando«, literally »an island in between«. Song examines aspects of this borderland through multiple microlenses, such as people and land, villages and settlements, markets and trade, production relations, ethnic relations and social structure. When traditional forms of power could not continue to dominate local social relations, Song vividly demonstrates how Christianity and the Western-style schooling influenced by Christianity connected this new immigrant society against Japanese colonialism.

Chapter four returns to a new round of national competition regarding the demarcation and »sovereignty« over this area. Although China, Korea, Japan and Russia adopted different state-building strategies, it is clear that international law became a dominant normative discourse and form of rhetoric to redefine the geographical and political meaning of this multilateral frontier, which Song describes as a bidirectional process involving »de-territorialization« and »re-territorialization« (128–129). With regard to the global circulation of knowledge, interweaving Western theories of international law (e.g. Johann Kaspar Bluntschli) with maps drawn by the Jesuits (e.g. Jean-Baptiste Régis) in the early 18th century, Song argues that

the epistemological turn, as applied to the Tumen River, illustrates a more comprehensive picture of how spatial and legal knowledge was produced and reproduced along with competition for power between Europe and East Asia (170).

As this borderland is gradually embedded in the system of international law, both this boundary and the people who lived along it were continually redefined. In chapters five and six, Song analyses how the boundary was transformed by both state and non-state factors that encountered each other on three levels – from the capital to the provincial to the local – and how people were caught up in a fluid relationship shaped by different national identity policies. Along with the geographic boundary, Song argues that the ethnic, national and psychological boundaries are also reshaped by various national identities within the fierce competition of ideologies among imperialism, colonialism, nationalism and communism simultaneously (260). In addition, Song's observations and analyses not only penetrate the socio-economic life of the local masses but also take into account the historical geographic narratives of representative intellectuals of China, Japan and Korea.

By making skilful use of multilingual historical sources, this book not only depicts an inspiring story of the gradual formation of modern East Asian, transforming the zongfan structure into a nation-state order, but also provides a paradigm of glocalisation study that should be of interest to anyone with aspirations to the global history, global legal history, imperial history, transnational history and regional history of East Asia. It is this perspective of merging the local with the global that makes this empirical study reveal historical characters of East Asia in its modern transformation, thus distinguishing it from similar thematic studies on South-East Asia.² Furthermore, this study helps – to an extent – compensate for the theoretical blindness that Eurocentrism induces, whether unconsciously or subconsciously.

Song's groundbreaking study strings several issues together, such as border-making, nation-building and identity/memory-moulding in modern East Asia, all of which touch profoundly on the

2 See CLARA KEMME, *Between Tribute and Treaty. Implementing the Law of Nations in South and Southeast Asia, c. 1500–1900*, Hamburg 2017.

East Asian understandings and constructions of the notion of »we« in the »modern« form of nations / states (264). On the one hand, Song emphasises a kind of temporal continuity through which the »modern« has not replaced the tradition but transformed itself through the past. We can still observe traces of the zongfan structure in East Asian international relations today, primarily when focusing on practice rather than theory. However, Song's explanation of the zongfan system remains, to some extent, a description of rhetoric or a strategy, and thus fails to provide an in-depth discussion of the normative facets of the imperial governance. On the other hand, spatial interactivity, whether intellectual or technological, acts as both a chal-

lenge to the traditional order and a catalyst for overcoming it, thus becoming part of the modern image transformed out of the past (268). Of course, no border, either geographical or psychological and epistemological, can ever wholly divide the region, but instead produces more interaction. Therefore, the frontier never refers to the periphery, but rather to the core zone in the sense of multiplicity, which enables us to overcome the established historical narratives centring on nation-states, to reflect on historiographies around any civilizational centrism and to revisit multi-local histories in a global sense. ■

Thomas Duve

Vom Nutzen der Geschichte für das Recht*

Die Frage nach der Bedeutung historischer Erfahrung für das Recht treibt die Rechtsgeschichte seit jeher um. Spätestens seit der Historischen Schule verfügt das Fach über einen variantenreichen, nicht zuletzt von den jeweiligen Vorstellungen von der Welt und von den Möglichkeiten unserer Erkenntnis, also von zeitgebundener Metaphysik und Epistemologie geprägten spezifischen Diskurs zum Verhältnis von Geschichte und Recht. Immer wieder haben Rechtshistoriker auch versucht, die Geltung von Recht aus seiner Geschichtlichkeit abzuleiten. Für die Historische Schule – die geschichtliche Rechtswissenschaft – war diese Vorstellung geradezu grundlegend. Später beriefen Juristen und Rechtshistoriker sich oft auf Hegel, manchmal argumentierten sie phänomenologisch, meistens bekenntnishaft. Systemtheoretisch inspirierte Rechtsgeschichten, die Suche nach Pfadabhängigkeiten oder kulturellen Reproduktionslogiken haben in den letzten Jahrzehnten Fragen der Normenbegründung eher ausge-

klammert. Die meisten Versuche, der metaphysischen Leere durch einen Griff in die Geschichte zu entkommen, werden heute richtigerweise nicht mehr von der Rechtsgeschichte, sondern von der Rechtstheorie oder der politischen Philosophie vorgelegt. Im Mittelpunkt der Diskussion steht dabei die große alte Frage, ob, wie und in welchem Maße die Vergangenheit unser rechtliches Denken und Handeln bindet.

Wie die Beziehung von historischer Erfahrung und Normenbegründung aussehen kann, bedarf tatsächlich auch weniger rechtshistorischer als geschichtsphilosophischer und -theoretischer, (rechts-)philosophischer, sozial-, religions- oder kognitionswissenschaftlicher Expertise. Erst mithilfe dieser können konkrete Beispiele der Funktion historischer Erfahrung für die Normenbegründung normenwissenschaftlich analysiert werden. Genau das wird in diesem Band versucht, der Teil einer Reihe von interdisziplinären Studien zur Normenbegründung ist, die in den letzten Jahren

* THOMAS GUTMANN, SEBASTIAN LAUKÖTTER et al. (Hg.), *Genesis und Geltung. Historische Erfahrung und Normenbegründung in Moral und Recht*, Tübingen: Mohr Siebeck 2018, 314 S., ISBN 978-3-16-153940-4