M Barry Hooker (ed.)
Law and the Chinese in Southeast Asia
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Gerhard Köbler unter Mitarbeit von Xinjun Duan und Xun Li
Rechtschinesisch
Deutsch-chinesisches und chinesisch-deutsches Rechtswörterbuch für jedermann
Verlag Franz Vahlen, München, 2002, xxiv, 412 pp, € 18.50

On flights to Jakarta in 2001, cabin attendants would still issue Indonesian customs forms which listed Chinese-language printed matter alongside pornography, firearms and drugs as articles not to be imported into Indonesia. Fortunately, after arrival the sight of newly opened Chinese bookshops, local Chinese-language newspapers and nightly TV news in Mandarin allayed concerns the customs forms may have inspired. Southeast Asia in turn looms large in modern China's citizenship law: in the otherwise terse entry on China's law of nationality in the volume on jurisprudence of the Great Chinese Encyclopaedia, a solitary photograph shows the People's Republic's then Prime Minister Zhou Enlai at Bandung on 22 April 1955, signing a bilateral agreement with Indonesia on dual nationality. Chinese emigration to the lands of the "Southern Seas" (*Nanyang*) had early on brought Chinese traders to almost all countries of Southeast Asia. The might and prestige of China's Tang dynasty (618-907) helped to spread China's imperial ideology and codifications to Japan and what is now Vietnam. During the Ming Dynasty, Zheng He (1371-1435) on his seven voyages reached modern Indonesia, and the Indian Ocean through the Malacca Straits.
Immigration of Chinese labour was tolerated by the British in their possessions in Malaya. In those parts of the region that came to fall under the dominion of Western colonialism, many of the Chinese population took advantage of their intermediate position, between the colonial power and the indigenous peoples, to engage in commerce and often attained economic eminence far beyond what their numbers may suggest.
When these countries gained independence, the legal status of their ethnic Chinese inhabitants continued to exercise the politics and jurisprudence of the new sovereign governments. After establishment of the People's Republic on the Chinese mainland in 1949, and in particular during the stridently radical "Cultural Revolution" (1966-1976), links alleged or real of Southeast Asia's Chinese with Maoist communism further exposed local Chinese minorities to suspicion and discrimination. Modern Malaysia's constitutional dispensation rests on an understanding aimed at reconciling the interests of the autochthonous Malays and the large Chinese minority; Singapore, although consciously predicated on an racially inclusive concept of nationhood, is in fact predominantly Chinese. Thailand, Indonesia, Brunei, and the Philippines boast influential Chinese minorities. Networks of ethnic Chinese businessmen have in our days been driving regional investment and trade across mainland China, Taiwan and Hong Kong as well as Southeast Asia. The Chinese in that region have remained a distinct element of the *Nanyang* ethno-cultural tapestry.

The collection of papers from a 1998 conference at the Australian National University on ”Law and the Chinese Outside China” discusses the laws regarding ethnic Chinese in colonial Indochina, Malaysia and Singapore, as well as Dutch-ruled and later independent Indonesia. One essay describes Chinese influence on official legal ideology in traditional Vietnam, and another analyses implications for Southeast Asia’s Chinese of China’s successive citizenship laws of 1908, 1929 and 1980. Colonial régimes, as in Indochina and the Netherlands Indies, wanted to benefit from the commercial talent of local and immigrant Chinese and were thus ready to make concessions that granted to these Chinese certain privileges and autonomy denied to the ‘native’ colonial subjects. Nationalist sentiment in China, especially after the fall of the imperial dynasty in 1911, added to pressure on France and the Netherlands to accommodate aspirations of the Chinese resident in their possessions. On the other hand, applying special rules to the Chinese placing them in the interstices of the colonial edifice only further highlighted the fundamental overall inequality on which the colonisers’ rule was founded.

Benign aspects of readiness to acknowledge ethnic specificities appear in the British practice of allowing the application of laws, including laws derived from China proper, to matrimonial and other family matters which did not impinge upon the exercise of British rule. The article by Professor Hooker on ”English Law and the Invention of Chinese Personal Law in Singapore and Malaysia” traces the painstaking efforts of colonial judges in ascertaining the relevant Chinese law and establishing its compatibility with the precepts of British law under which such Chinese law would be capable of jurisprudential recognition. In independent Indonesia, frequent discrimination of residents of Chinese extraction, whether citizens or not, reflected the difficulties of distilling a comprehensive and convincing idea of nationhood out of the diverse possessions that had constituted the Netherlands Indies. In a sadly ironic twist, communist comradeship between North Vietnam and the People’s Republic of China failed to avoid serious friction between the two after Hanoi, in the wake of Vietnam’s reunification, forced all Chinese residents there to become Vietnamese nationals.

China’s 1980 citizenship law which, in an important departure from the earlier Republican and Qing enactments, introduced acceptance of *ius soli* for those born of (at least one) Chinese parent if the parent(s) had permanently settled abroad, paved the way towards progressive integration of overseas Chinese in their countries of domicile. But the degree of receptiveness of host societies remains varied. Hostility towards Chinese residents could still erupt virulently as in the 1998 anti-Chinese pogroms in Indonesia. In the Philippines, wealthy Chinese have figured prominently among the victims of kidnapping and are said to have lobbied for an end to the government’s moratorium on executing death sentences. Thailand, always politically independent and thus untroubled by post-colonial soulsearching on national identity, seems to have allowed its Chinese minority to blend comparatively easily with mainstream Thai society.

Colonial laws concerning the status of Chinese inhabitants were a conceptual subset of a political dispensation founded on the distinction between the privileged rulers and their variously disenfranchised subjects. Even benevolent judicial cognisance of ethnic particularisms was thus merely a reflection of the fundamental negation of a *demos* within the colony: the defining bond of the inhabitants of the colonial territory was not the law that governed them all, but the colonial power's overlordship in whose gift it remained to grant or withhold recognition of group-related laws. Southeast Asia's Chinese, as a foreign additive to the relationship of colonisers and colonised, experienced both privileges and discrimination. The disappearance from the region of Western colonialism and the waning of subversive menace from China-based communism should lastingly contribute to lessening tensions affecting Chinese minorities in their respective home countries although China's rise as a global power – albeit now shorn of former revolutionary pretensions – may yet rekindle local distrust towards the sons and daughters of the Yellow Emperor. The saga of the *Nanyang* Chinese is by no means over, and the volume edited by Professor Hooker provides a convenient introduction to its background.

Chinese is a language whose underlying civilisation is itself farther apart from Europe than, say, France's from Germany's. It thus presents added difficulties to the foreign student as anyone who has struggled with the subtly differentiated terminology of family relationships or finely nuanced social usage in terms of address or epistolary style can readily confirm. Legal parlance, everywhere, is often similarly beyond non-experts' ken. A legal dictionary "for everyone" therefore seems especially ambitious. The dictionary produced by Professor Köbler and his Chinese collaborators offers Chinese entries arranged according to the official Peking *pinyin* transliteration; *pinyin* pronunciation is given throughout for the Chinese equivalents to German-language headwords. In both the German-Chinese and Chinese-German parts of the dictionary, Chinese characters are provided in simplified as well as in traditional full form. A brief introduction furnishes thumbsketch lead-ins on Chinese legal history as well as the main branches of modern PRC law, each preceded by references to relevant scholarly literature. Legal terminology being intimately bound up with the technical context of the relevant law, one-to-one lexicographical correspondence between a term in the original language and another one in the target language is often hard to achieve, and only accompanying explanations will clarify meaning with sufficient precision. The slim volume reviewed here fails to provide such detailed exposition, staying instead within the bounds of an extended wordlist unlikely to help those not already familiar with the subject matter. Some entries are imprecise (the *Europäischer Rat* [European Council] comprising both the heads of state and of government of EU Member States, is insufficiently rendered as Ouzhou gongtongti zongli huiyi, p 59); there is no *Versammlung der Europäischen Union*, p 187. Words like *Schornstein* [chimney], p 377, or indeed *Esel* [donkey] should not clutter the pages of a specialised reference book. More importantly, different usage in mainland China and Taiwan is not identified (as in *zhuxi* and *zongtong* for the head of state in the People's Republic of China and the Republic of China

respectively). The vastly intricate Chinese and German legal languages cannot be adequately captured in such a small format.

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Alain de Schlichting / Karin Oellers-Frahm
Einführung in die französische Rechtssprache
Verlag C.H.Beck, München, 2002, 332 S., € 29,00

Diese zweite Auflage der "Einführung in die französische Rechtssprache" (Mestre / Oellers-Frahm, 1. Aufl. 1998) von Karin Oellers-Frahm und Alain de Schlichting ist ein klassisches, sorgfältig bearbeitetes Werk. Sie ist etwas umfangreicher als die erste Auflage (332 S. statt 318 S.). Da Herr Schlichting, der jetzt an der Stelle von Frau Mestre das Privatrecht betreut, das Handelsrecht in seinem Werk "Terminologie des französischen Wirtschaftsrechts" behandelt, wird es aus dem vorliegenden Buch ausgeklammert. Dafür widmet er dem Zivilrecht mehr Raum, als dies in der ersten Auflage der Fall war.
Die Konzeption ist gleich geblieben. "Anhand von Texten aus Lehrbüchern, Gesetzen oder Gerichtsentscheidungen und Kommentaren" (Seite V) wird ein erster Einblick in das französische Recht vermittelt. Die Grundinstitutionen des Privatrechts (Schuldverhältnisse jedoch kein Familienrecht und Erbrecht, kaum Sachenrecht) inklusiv des Verfahrensrechts und die Grundzüge des öffentliches Rechtes (Staatsrecht, Verwaltungsrechts, europäisches und internationales Recht) werden dargelegt. Dabei wird das Staatsrecht bevorzugt (ca. 65 S.) behandelt. Diese Konzeption setzt aber schon einige Kenntnisse des französischen Rechts voraus. Trotz des hilfreichen Glossars und der *Indications de* (?) *vocabulaire* erfordert die Lektüre einer Entscheidung der *Cour de cassation* (gleich S. 5) ohne weitere Vorbereitung einen gewissen Mut. Als Unterstützung dienen verschiedene Arten von Fragen, die gleichzeitig erlauben den Wortschatz zu wiederholen.
Die Übersetzung der im Text fettgedruckten Wörter im Glossar führt in einigen wenigen Fällen zu leichten Verzerrungen. Die Kürze der Texte erlaubt nicht immer, die Kernpunkte der Materie hervorzuheben (z.B. im Verwaltungsrecht die gestalterische Rolle der Rechtsprechung oder die Wichtigkeit des Begriffs *service public*) und bringt Vereinfachungen mit sich.
Die Entscheidungen sind gut ausgesucht und aktuell (insb. Haftungsrecht). Zwar sind die Antworten der Fragen aus den vorliegenden Texten tatsächlich meist zu entnehmen, aber es

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