Introduction

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The idiom "East Meets West" has been widely used in cultural and commercial realms at both ends of the Eurasian Continent. Early examples of its usage include a 1978 book published by the Japanese fashion designer Issey Miyake and a 1995 Japanese Western film directed by Kihachi Okamoto. The idiom in these realms has appealed to Westerners' orientalistic curiosity about Asian traditions and heritages or reflected Easterners' admiration of Western contemporary cultures. Meanwhile, the 1990s witnessed a growing tension in a discourse on political values in the international community. Some political leaders in East and Southeast Asia, notably Lee Kuan Yu in Singapore and Mahathir Mohamad in Malaysia, condemned liberal democracy, individual freedom, and human rights as Western-centric ideas, invoking the notion of Asian values. Against this backdrop, in his book *East Meets West*, Daniel A. Bell offered a thought-provoking defense of Asian challenges to Western-style liberal democracy and human rights.[1]

A quarter century later, East and Southeast Asian societies are in remarkably different situations from those in the past. For instance, in the Democracy Index 2023 published by the Economist Group, Japan, South Korea, and Taiwan are all ranked as full democracies, while Italy and the United States are included among flawed democracies. In the Human Rights Index by the V-Dem Institute, Japan and Taiwan indicate very high scores. As for the economic growth of Asian countries and regions, a noticeable fact is that China's gross domestic product (GDP), adjusted for purchasing power parity (PPP), accounts for one-fifth of the world's GDP. Also, Singapore and Macao have much larger per capita GDP (PPP) than most Western nations.

Of course, the political and economic development of East and Southeast Asian societies does not mean that they are thoroughly westernized. Non-negligible differences exist between Asian countries and their Western counterparts in terms of law, politics, and culture. Thus "East Meets West" does make sense still today. In the present situation, however, this old cliché needs to be reinterpreted in a new perspective, which supposedly differs from traditional orientalism, admiration of the West, and alleged Asian values. The question is: how can we conceptualize, describe, and evaluate the contemporary and historical issues surrounding law and politics in Asian and

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1 Daniel A. Bell, *East Meets West: Human Rights and Democracy in East Asia*, Princeton, NJ: Princeton University Press, 2000.

Western countries? This broad question is what contributors to the current special issue endeavor to answer or keep in mind.

This issue consists of seven parts, displaying a great variety of theoretical and empirical topics surrounding the law and politics of Eastern and Western societies. Two papers in the first part "Monarchy and Democracy" discuss political regimes from different angles. Bell presents a powerful but provocative defense of what he calls symbolic monarchy, in which a monarch is limited by the constitution to ceremonial powers without actual power. He begins with the fact that monarchies are among the most successful democracies, also achieving social peace and respect for diversity. Next, he stresses the significance of rituals, citing his personal experiences and events in Chinese history. After mentioning the dangerousness of absolute monarchy, Bell argues that symbolic monarchy can promote social reform, environmental sustainability, concern for foreigners, and political stability. Most importantly, "the monarch can be the symbol of a non-partisan, intergenerational national community that makes the people feel as one." He proceeds to note that contemporary populist leaders have appeared in societies with no monarchs. Finally, he argues that the institution of symbolic monarchy may be appropriate for China's political future, with references to contemporary Chinese scholars.[2]

Hirohide Takikawa scrutinizes two arguments for the legitimate authority of democracy, while examining whether each argument can apply to authoritarianism. The instrumentalist argument says that democracy, as well as some types of authoritarian regimes, can have legitimate authority because of their epistemic function. The proceduralist argument claims that only democracy has legitimate authority; however, democracy implies the outsider problem. To address this problem, he argues that democracy has the legitimate authority to establish a global rightful state. The paper concludes by noting that some forms of authoritarianism can have legitimate authority if they protect every citizen's equal right to freedom.

The second part "Historical Thoughts and Contemporary Realities" sheds a new light on three great figures in the history of legal thought, Francisco de Vitoria, Immanuel Kant, and Hans Kelsen, by linking them with contemporary views and realities. Carlos Isler Soto focuses on principles of the rule of law or legality, propounded by Lon L. Fuller. He argues that Vitoria pioneeringly defended at least four of Fuller's eight principles: generality, public promulgation, constancy, and no contradiction. When defending these principles, Vitoria posits that the legislator is primarily the political community as a whole and can be only secondarily a king, the parliament, or a king in the parliament. On the other hand, the thinker gave no suggestion as to institutional issues such as the separation of powers.

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2 For his recent works on related topics, see Daniel A. Bell and Wang Pei, *Just Hierarchy: Why Social Hierarchies Matter in China and the Rest of the World*, Princeton, NJ: Princeton University Press, 2020.

Henry Vumjou critically examines Western Enlightenment hospitality, Kant's universal hospitality in particular, by closely looking at the plight of refugees crossing the Myanmar borders to India. India is not legally obliged to assist refugees from other countries because it has not been a signatory of the 1951 Refugee Convention or a party to international refugee protocols. Nonetheless, the Zo people inhabiting Mizoram in the country have continually offered humanitarian aid to the refugees from Myanmar. Vumjou describes aid activities of what he calls Zo hospitality and its underlying philanthropic principle *tlawmngaihna*. In conclusion, he finds Kant's hospitality inadequate and suggests that it should meet Zo hospitality.

Monika Zalewska explains why Kelsen's pure theory of law can apply to East Asian legal systems, with special attention to Japan. She notes that some elements of the pure theory, including the positivistic aim of legal science, can explain its universality, but only to some extent. Next, it is argued that other elements, such as coercion associated with empowerment, make the pure theory of law more successful than its positivistic rivals. Then, she maintains that the hierarchical structure of law *Stufenbau* makes this theory objective and universal, enabling it to apply to both East Asian legal cultures and Western continental legal traditions. Finally, she identifies two types of relationships in *Stufenbau*: vertical and horizontal.

The third part "Legal Theory" begins with a novel proposal of the aesthetics of law. Inspired by Gustav Radbruch's ideas, Kamil Zeidler, Paula Chmielowska, and Dawid Kostecki advance the aesthetics of law as the fifth branch of legal philosophy, distinct from the ontology, epistemology, logic, and ethics of law. In their account, this subarea challenges us to reconcile the need for order and justice with various interpretations of beauty in different societies. They identify five phenomena in which aesthetics matters: creating, binding, observing, applying, and interpreting. They also distinguish between an external approach, in which the researcher is outside of the object studied, and an internal approach, in which she belongs to it. Then, they aesthetically examine some allegorical drawings and signs from Western and Eastern cultures.

The subject of Motoki Miura's paper is the shift of emphasis in a debate over coercion in law: contrary to the long-standing treatment of coercion as a putative constituent of the concept of law, an increasing number of theorists have recently considered the nature of coerciveness of law as a matter of degree. He begins by explaining the secondary, auxiliary role assigned to coercion in law, which is assumed by H. L. A. Hart and Joseph Raz but challenged by Frederick Schauer and Kenneth Einar Himma. Next, Miura sketches the degree of coerciveness function, recently proposed by Lucas Miotto. Then, he discusses what a conception of law's coerciveness as a matter of degree would imply for jurisprudence.

Nobuaki Yamamoto explicates legal causation, more specifically factual causation in non-deterministic cases, like pollution and medical malpractice litigations. After briefly examining the necessary element of a sufficient set (NESS) test and the probability-rising theory, he describes the interventionist account of causation and its im-

plications. The interventionist account states that a causation exists between X and Y if and only if it is possible to indirectly manipulate Y by directly manipulating X. Among interventionist models, Yamamoto focuses on the extended causal model (ECM) proposed by Joseph Halpern. He points out some limitations of the ECM, proposes the modified ECM (MECM), and concludes that the MECM applies to both deterministic and non-deterministic cases.

The fourth part "The Role and Reality of Judges" consists of two papers. Tomasz Widłak elaborates on the meaning of judicial virtue by proposing a theoretical model of virtue that accommodates the judicial role in a democratic jurisdiction. First, he examines why virtues can be regarded as helpful in considering the judicial role. Second, his discussion turns to the issue of relationships between judicial and overall virtues. Christine Swanton advances the target-centered virtue ethics, according to which the features that make traits of character virtues are determined by their targets or aims. Drawing on Swanton's works, Widłak proposes the target model of virtue, which accommodates the role-oriented view of judicial virtues.

Teresa Chirkowska-Smolak and Marek Smolak empirically study the psychological wellbeing of judges in the midst of Poland's constitutional crisis, revealing their work-related stress and burnout in the challenging political environment. They analyze responses from 475 judges with the Perceived Stress at Work Scale and the Oldenburg Burnout Inventory. The findings indicate that Polish judges experience moderate to high levels of perceived stress and burnout, which are significantly higher than those of other social professionals in the country and legal professionals in other European countries. This result underscores the need for systemic interventions in the judiciary, such as mental health support and workload management.

In the fifth part "Law and Science," Amelia Shooter focuses on Blackstone's ratio, which reads "it is better that ten guilty persons escape, than that one innocent party suffer." This principle can be eroded by the legal professionals who prioritize rational legal decisions over the evaluation of substantive scientific concerns, as observed in a body of U. S. case law. Shooter posits that such a situation is due to legal professionals' greater familiarity with legal reasoning rather than scientific knowledge. To address the situation, she proposes that law schools harness their position to provide contextual scientific education for their students. This proposal will, so argues she, support science-led decisions and reduce the risk of miscarriages of justice, striving to uphold Blackstone's ratio.

Tomasz Pietrzykowski investigates traditional and alternative medicine, which raises a challenge for the public and legal policy-making. A plethora of healing practices rooted in pre-scientific traditions remain prevalent worldwide, although they are not supported by credible empirical evidence or consistent with basic scientific knowledge. Pietrzykowski shows that two extreme regulatory models – laissez-faire and prohibitionist – are indefensible on account of their practical deficiencies and flawed philosophical underpinnings. As an alternative, he offers a middle-way model of respect for the patient's genuine autonomy, based on informed consent. Last, he notes

the need for the development of legal measures to make patients' decisions accurately and sufficiently informed.

Three papers in the sixth part "Cosmopolitanism vs. Culture?" deal with cultural diversity and human mobility in the contemporary world. Kosuke Kiyama begins with what he calls the cultural diversity respect requirement, which advocates some kind of respect for different cultural systems when human rights are envisaged. Next, he turns to the argument that the international human rights regime benefits all cultural proponents and thus can be supported despite cultural diversity. He objects to this argument by complaining that benefit does not entail support and that the argument provides no room for new international mechanisms protecting the rights of members of a cultural group. He advocates an alternative approach that bases international human rights norms on universally shared interests, offering a more nuanced framework of respect for cultural differences.

To address the question of how cosmopolitanism can be universally accepted in the culturally diverse world, Kento Miyata strives to provide an intercultural ground for the permissibility and rationality of cosmopolitan hope. He examines the overlapping consensus approach proposed by Charles Taylor and the constructivist approach by Rainer Forst, reaching the evaluation that the latter is more suitable than the former. However, Miyata notes that the constructivist argument must be supplemented by the unity requirement, which demands theoretical reason and practical reason functioning with no contradiction. Finally, he explains how the unity requirement can foster cosmopolitan order and contribute to the constitution of practical identity, rendering cosmopolitan hope permissible and rational.

Yuichiro Mori overhauls Daniel Sharp's relational egalitarian argument against immigration restrictions. While affluent states' immigration restrictions on disadvantaged immigrants are morally objectionable because they are an exercise of unequal power, so the argument goes, similar restrictions on those coming from affluent states are not. Mori challenges Sharp's restrictive view on who can make a complaint about immigration restrictions by invoking relational equality. After describing the view, he objects that it should lead to the condemnation of restrictions to immigrants from affluent states. Then, he replies to three possible criticisms of his objection: criticisms based on democracy, structural injustice, and the danger of territorial domination.

The final part "Law and Sexuality" focuses on a group of LGBTQ-related legal issues across cultures: the decriminalization of homosexual conduct and the legalization of same-sex marriage. Ming Yuan Chin addresses a conflict between personal autonomy – a fundamental human right that underpins freedom – and the good defined by the state in the context of legalizing same-sex marriage in Taiwan. Drawing on John Stuart Mill's harm principle and Raz's autonomy-based principle, he explores the evolution of personal autonomy, advocates value pluralism, and examines a tension between the harm principle and Razian perfectionism. Also, he criticizes Raz's dismissal of the right to autonomy and discusses an interplay between autonomy and constitutional theories.

Kuan-Ting Chen objects to John Rawls's concept of public reason by arguing that it might not inherently guarantee stability, which is highly valued by Rawls himself. Putting the idea of public reason into the context of the same-sex marriage debate in Taiwan, he argues that this idea excludes religious and comprehensive doctrines, pushing citizens to offer external or weaker internal reasons. In the early 2010s, the public reason idea was expected to have positive impacts on the legalization of same-sex marriage. However, the conservative backlash in the 2018 public vote called its effectiveness into doubt. Chen investigates the relationship between this idea and different conservative actors' motivations in order to uncover the causes of the idea's failure to ensure stability.

Seow Hon Tan closely looks at the history of criminalization and decriminalization of consensual male homosexual conduct in Singapore. Such conduct, whether private or public, had been kept punishable by a Penal Code provision, which was inherited from colonial times and retained even in the 2007 review. In 2023, the provision was eventually repealed alongside the introduction of a constitutional provision to safeguard the laws and policies related to heterosexual marriage. Tan explicates this shift in the government's stance as to the regulation of homosexual conduct, identifying the social forces and legal thoughts that underlie the shift.

Many papers included in the current issue analyze various cutting-edge jurisprudential or politico-philosophical topics, while some unpack realities in the contemporary law and politics of East and Southeast Asia, Europe, or the United States. By doing so, they all cast a new light on the cliché "East Meets West." Hopefully, this issue opens a new chapter of international academic dialogue and collaboration between Asian and Western researchers in the fields of philosophy of law and political philosophy.

References

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