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Book Review of John O. Haley, Law's Political Foundations: Rivers, Rifles, Rice, and Religion (2016)

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John O. Haley, *Law's Political Foundations: Rivers, Rifles, Rice, and Religion*, Cheltenham, UK/Northampton, MA, USA: Edward Elgar Publishing, 2016. Pp. viii, 256. \$108.00 cloth (ISBN 9781785368493).

Comparative law and legal history are both fields with their own difficulties and challenges. When they are combined, their challenges can compound. The wider the chronological, geographical and linguistic scope, the more arduous it becomes. When the account covers systems ranging from Ancient China and Japan to Western Europe and Hispanic America, the challenge appears gargantuan. Haley's book meets this challenge and is sure to impress. It tells grand historical stories of the development of political systems and their concurrent legal institutions.

In this extra-ordinarily sweeping volume, Haley analyses and discusses how certain legal and political systems historically evolved in varying ways. Importantly, these systems share common threads when it comes to the political foundations of their law and the modes of their law's enforcement. Haley explains and compares three, which he calls dominant, legal orders so that past and present are bridged. The underlying idea is to bind the storytelling around narratives of rivers, rifles, rice, and religion.

The book is composed of six chapters and a short epilogue. Chapter 1 admits early on that there is no generally accepted or agreed definition of law. Notwithstanding, Haley assumes that legal systems around the globe share a common legal heritage, at least in part. In contemporary comparative law circles, this assumption might be questioned but Haley builds his book consistently on this legal theoretical premise. He admits that the lack of a universal definition poses a problem especially for comparative law in historical contexts. At the same time, Haley notes that "Eurocentric conceptions and assumptions generally work reasonably

well” (4). Accordingly, the book relies on a rather narrowly defined notion of law in which the political authority holds a central role. The second crucial aspect of Chapter 1 concerns what Haley calls law regimes, which he separates into two categories: public law regimes backed by central political authority, and private law regimes controlled by private parties.

Chapter 2 is based on the idea that “legal institutions develop in conjunction with the capacity or rulers to appropriate wealth and acquire revenue and the demands of needs they confront for the allocation of the material resources they control” (37). This chapter also explains the story-telling narratives of the book. First, basic geographical conditions, such as climate, terrain, and first and foremost rivers, are preeminently determinative: “Law and ‘civilization’ emerged first along rivers” (40). The Tigris, the Indus and the Ganges, the Nile, the Yellow and Yangzi rivers are mentioned.

Control of rivers and their wealth producing basins has been, argues Haley, tremendously important for the development of legal and political systems. A second key factor is warfare (i.e. rifles) because warfare and the accompanying need for better weaponry and human resources had continuing political and legal consequences. Third, rice production also had major consequences for the foundations of law as it requires interdependency and cooperative behavior. Fourth, religion is key for its story-telling narrative as enduring political and legal orders reflect the commonly shared beliefs and values of those who are governed.

Chapter 3 then deals with the specific foundation of public law and private ordering in China by discussing rivers, rifles, and rice. The patterns of agricultural production caused shared habits of interdependence and cooperation influencing the modes of social organization in the whole region connected by rivers. Haley explains the tension between so-called Confucians and Legalists, showing that Legalist thinking had an important role in China to the effect that

morality and law were seen as completely different domains. Here law remained a secondary instrument of social control enhancing the birth of centralized form of governance without a religious base. On the whole, for Haley China exemplifies public law ordering.

Chapter 4 then explains in a detailed manner the foundations and history of private law and private ordering in Japan by emphasizing the role of rice and warfare. In Japan's case, the lack of rivers was a key factor that prevented the birth of centralized rule that had taken place in China. Rice production was the major source of sustenance and wealth but producers were denied access to governmental power. This led eventually to warrior rule and development of adjudication. In the absence of imperial power, adjudication of private claims developed into a routine function of governance. Even during the shogunate the regulatory reach of central government remained modest. In short, Japan exemplifies private law ordering.

Chapter 5 concerns the birth of Western legal tradition in Europe. This chapter's story relies on the combination of rivers, rifles, and religion. Haley discusses the development of civil law and common law legal traditions, although his stress is on the civil law and the significance of Roman law. The most relevant themes in this chapter are geography, war, and the Roman Catholic Church. Analysis starts from the Early Middle Ages and ends to the Late Middle Ages, paying particular attention to Castilia. Throughout the chapter, there are insightful comparisons to China and Japan concerning the role of warriors and religion, law-making, and the formation of governing elites.

Chapter 6 is dedicated to the transformation and transplantation of Western law in Hispanic America and relies on the story-telling plot of rifles and religion. Essentially, this chapter tells of the Castilian conquest of Americas and the following domination of Western law. Haley discusses the Aztecs and the Inca, which held centralized administrative empires before

the arrival of Pizarro in the 1530s. Importantly, Haley notes that “The imposition of alien rule, however benign or well intentioned, inexorably produces cultural upheaval and change” (185). The account of Hispanic colonialism is of mixed nature: there were legal developments leading to some forms of legal protection for locals, but it is also pointed out that many groups subject to colonial rule were excluded from the protections of law. In any case, the legalistic character of Hispanic rule becomes clear.

Overall, the book is well written, rich with detail, and provides a surprisingly concise story of political foundations of law based on developments connected to rivers, rifles, rice, and religion. However, there are certain points that make the reader question Haley’s choices. For example, even though the book is comparative and historical in orientation it does not discuss any of the recent developments comparative law theory or comparative legal methodology. Moreover, taking into account how strong a role geography has in this book, it is a surprise that Haley does not discuss or refer to Montesquieu’s classic *Spirit of the Laws* or other classic works of geographical determinism. Finally, Haley’s positivistic definition of law does not always seem to fit seamlessly to his own rich narrative that takes into account the cultural and symbolic aspects of law.

Nonetheless, *Law’s Political Foundations* provides learned and insightful view of the legal and historical transformation in China, Japan, Western Europe, and the Americas. Haley certainly encourages scholars to think not only historically but also comparatively. Readers most certainly will benefit from engaging the influence on legal-political trajectories by rivers, rifles, rice, and religion.

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