

Comparative Law, Asian Law, and Japanese Law

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- I. Introduction
- II. The Resilience of Comparative Law
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I. INTRODUCTION

This paper stems primarily from two thought-provoking suggestions put to me in the mid-1990s. One, appropriately enough given my hosts for this talk, came from *Veronica Taylor*. In her key chapter entitled “Beyond Legal Orientalism”, in *ASIAN LAWS THROUGH AUSTRALIAN EYES*, *Taylor* identified certain deep-rooted problems within the discipline of comparative law as underpinning the rise of “Asian law” scholarship, while recognising that:¹

The burden of proof lies with “Asian law” academics to show that this new professional boundary marker is not simply comparative law in a different guise, nor an attempt to construct an exclusive, mythical body of knowledge which we seek to interpret and control.

This New Zealander – ironically, now, a recent immigrant to Australia – was honoured to join the enterprise, implicitly assuming the mantle of an Asian law scholar to contribute a work on “Japanese Contract Law, Theory and Practice”.²

^{*} This is a somewhat revised and updated version of a presentation at the “Law, Transition and Globalization” lecture series hosted by University of Washington, Seattle, 28 May 2002; abbreviated also for the session on “Japanese Law: In and Out of Asia, or the World”, at the Law & Society Association’s Annual Meeting, Vancouver, 30 May 2002; and for a seminar of the Globalisation Research Cluster at the University of Sydney Law Faculty, 25 May 2002. I thank Professor *Veronica Taylor*, Director of its Asian Law Center, for inviting me to the University of Washington; and participants in the talk there, and the sessions in Vancouver and Sydney. For further help and inspiration, I thank *Kent Anderson*, *Peter Drysdale*, *Tom Ginsburg*, *David Johnson*, and *Leon Wolff*. All of them should take credit for any good parts and rightfully disclaim responsibility for the bad parts.

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1 V. TAYLOR, *Beyond Legal Orientalism*, in: ID. (ed.), *Asian Laws through Australian Eyes* (1997) 47.

2 L. NOTTAGE, *Contract Law, Theory and Practice in Japan: Plus Ça Change, Plus C’est La Même Chose?*, in: Taylor (ed.), *supra* note 1, 316.