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Translating Weimar. Introductory Remarks

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The 100th anniversary of the Weimar Constitution's promulgation has brought a number of new stimuli to a historiography that has for a long time focused largely on the Weimar Republic's failure. Two prominent recent publications – Udo Di Fabio's study and a collective volume edited by Horst Dreier und Christian Waldhoff – are reviewed in this issue by the Brazilian constitutional historian Marcelo Neves. His review and the last months' public debate on the merits and flaws of the Weimar Constitution in Germany, which was framed by current concerns about the state of Western democracies, show to what extent constitutional history is always also a conversation about the present.

This is also true of the contributions to this *Focus* section, which examine the assessment and interpretation of the Weimar Constitution from the 1920s to the 1940s, mostly outside Europe. The document that sealed Germany's transition as well as its continuity from Reich to republic was of interest to observers not so much because of the fate of Weimar democracy but rather in the context of their own constitutional politics. The authoritarian regimes that emerged in America and Asia between 1920 and 1950 legitimated their rule not least with reference to the urgency of the social question and sought to institutionalise their control over the state on the basis of new constitutions. Which aspects of the Weimar Constitution were of most interest to them? What made reference to Weimar so attractive and what did it signify? How did one translate the text into one's own language and one's own political and legal system?

The five contributions to this *Focus* pursue these questions; two focus on South America, two on China, and one traces the reception of the Weimar Constitution in the common law world. The articles highlight how the processes of reception were selective, sometimes even distorted, but above all shaped by specific local political interests. We thus prefer to speak of »translation« in order to emphasise the creativity of these processes of appropriation and the circumstances of both cultural and linguistic translation. The term forces the researcher to engage with the question of how far the products of such translations actually resembled the normative information that was being

referenced. Such critical reflection enables us to more fully understand the forms of communicating about law and perhaps also the development of a certain shared political language that still – also in its polysemy – frames the international conversation and how we speak and think about constitutions. This language can also liberate constitutional history from its sometimes near-solipsistic national traditions.

Leticia Vita impressively demonstrates how this can be done in her contribution »Weimar in Argentina«. She explores the different »uses of Weimar« in the debates of the constituent assembly in 1949. For some, the Weimar Constitution was part of a debate associated with Schmitt and Kelsen, for others, a step towards the abyss. Many saw in the Weimar Constitution's social provisions a promise that could now finally be fulfilled in the Argentina of Juan Domingo Perón. Reference to Weimar was thus diverse and multivocal, and above all part of a discussion that followed local and national logics and formed part of established jurisprudential and political positions.

Carlos Herrera also explores very varying assessments of the Weimar Constitution in South America, this time in 1930s Brazil. His contribution focuses on the debates surrounding the 1934 constitution under Getulio Vargas, an important document in Brazilian constitutional history despite its short period of validity. Read next to Leticia Vita's study, it becomes evident that in Brazil, too, one was looking for answers to the social question in the Weimar Constitution. However, the 1934 discussions, taking place only months after Hitler's appointment as Reich Chancellor, reflect a very different experience of Weimar than the 1949 Argentine debates.

During the same period, the Weimar Constitution's provisions were read in yet another very different context: the Republic of China before the foundation of the People's Republic in 1949. Xin Nie shows how Chinese constitutional lawyers interpret this history today. In his contribution, the social and economic articles of the Weimar Constitution take centre stage, and Nie points out the tensions between the first and the second generation of fundamental rights. Above all, he describes how the Constitution's social programme was

interpreted in China in the light of the contemporary debates on the ideal of »Great Harmony« and the »Principle of People's Livelihood«.

Fupeng Li reconstructs what knowledge of the Weimar Constitution was actually available in China between 1919 and 1949, particularly in terms of the textual basis of the discussions. In his exploration of the circumstances in which various translations of the Constitution were produced, his contribution demonstrates more clearly than the other chapters that the processes of (both linguistic and cultural) translation are not bilateral. Instead, they can be reconstructed only by tracing a series of mediators and media. Analysing concrete examples from the Chinese discussion of the Weimar Constitution, Li is able to demonstrate the extent to which foreign stimuli were translated into national traditions. One might say that transnational communication in this case actually resulted in a strengthening of national identity.

By contrast, Donal Coffey's contribution shows very clearly that there was little direct influence of the Weimar text on the constitutions of the common law world. Ireland was a significant exception to this rule. The discussions during the drafting of

the 1922 constitution of the Irish Free State were also accompanied by hopes of social peace, but the Weimar Constitution was received only indirectly in this case. At the time that the 1937 constitution was being drafted, however, significantly more information about the Weimar Constitution and its actual implementation was available, but the discussions were also influenced by the political developments in 1930s Germany. The Irish Republic's constitution of 1937 in turn was an important factor in the drafting of the constitutions of newly independent former colonies in South Asia in the 1940s and 1950s; its traces could thus be pursued further. However, as Coffey concludes, the comparative perspective reveals above all that the Weimar Constitution had already formulated certain central themes of the constitutional debates of the last two thirds of the 20th century. These debates were conducted nationally, but they reflect transnational developments and can only be reconstructed from such a transnational perspective.

