

daß zwar Verfassungen in ihrem Wortlaut unverändert bleiben können, daß die Verfassungswirklichkeit aber mit der Änderung politischer und wirtschaftlicher Fakten eine andere wird und dies zu einer »Wandlung« der Verfassung führen kann.<sup>1</sup> Für Japan gilt dies insbesondere für Art. 9 JV, wonach zwar auf Krieg verzichtet und die Unterhaltung von Streitkräften verboten ist, wo jedoch eine ca. 270 000 Mann starke Armee existiert, die über den achtgrößten Verteidigungshaushalt der Welt verfügt.

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- <sup>1</sup> Vgl. hierzu Neumann, Verfassungswandel in Japan, in: VRÜ 15 (1982), S. 5–24; derselbe, Änderung und Wandlung der Japanischen Verfassung, Köln, 1982.

*Elisabeth Croll*

**The Politics of Marriage in Contemporary China**

Cambridge University Press, Cambridge, 1981, XIV, 210 S., £ 16.00

The institutions of marriage and the family have been important objects of reforming efforts in China since the end of the imperial era, in 1911. The Chinese Communist revolutionaries, and later rulers of the People's Republic, have also devoted considerable attention to this area, as one key element in their drive to break traditional moulds, in the socio-economic makeup of rural China in particular. The legislative measures and supporting policy activities have been comprehensively described elsewhere<sup>1</sup> and Dr. Croll's monograph, a revised version of her earlier doctoral thesis, is the first larger presentation in a Western language which surveys the subject from an anthropologist's point of view. Charting ground hitherto largeley unmapped in her discipline, the author had to face the further difficulty of anthropological analysis founded on very slender amounts of data gathered in the field. Anthropological research had stagnated in the People's Republic after 1949 and one of its foremost practitioners, Professor Fei Hsiao-t'ung, was kept in limbo for a long time during the obscurantist delirium of Mao's later reign. Thus, no »Corner(s) of Cathay« were made the object of anthropological investigation, and Croll was consequently constrained to rely on correspondence columns of Chinese periodicals as her main source of materials about the course of PRC marriage reform. In spite of limited opportunity to do some interviewing in rural areas around Canton in 1977, this dependence on letters to editors and fragmentary reports of occasional foreign visitors, or pre-1949 studies, has proved an impediment to the author's purpose. She frequently offers discussion of wider import based on observations documented only by a single source and introduces conceptual reflections by Western anthropologists (particularly the admirable contributions of the late Maurice Freedman) who themselves did not derive

- <sup>1</sup> M. J. Meijer, Marriage Law and Policy in the People's Republic of China, Hong Kong: H. K. U. Pr., 1971.

their own source material from PRC society. The mix of analytical tools and the facts to be treated with their help is thus an uneasy one although it is hard to see how, with access to the field remaining practically nil, the author could have remedied this deficiency. In addition to this fundamental disadvantage the book appears to have gone to the press before promulgation of the new Marriage Law 1980, and the widely publicised media discussion in the PRC has not been taken into account. The entry in the index on the »Marriage Law (1980)« (sic) is obviously an error: none of the references mention the 1980 enactment.

Under the modernised marriage law of the Republican period<sup>2</sup> a marriage could be validly solemnised by an informal, private ceremony. The law merely required the presence of a certain number of witnesses. Corresponding practice – mostly adopted in the cities and among educated, Western-influenced people – thus bore a clear relation to the law then, however nominally, in force. It did by no means simply »emerge«, without any legal background, as Dr. Croll would seem to suggest.<sup>3</sup> Still, the central theme of the book is social anthropology, and there the presentation is rich and instructive in spite of the difficulty of closely relating the argument to well-established and well-circumscribed sets of facts. The anthropological construct of the »conscious model« and detailed correlation of traditional rules of marital ritual to persisting economic requirements in rural China permit an illuminating description of how traditional parental authority was often able to assert itself even under the new law and even after land reform had newly brought to women the benefit of property in land.

In the early anti-traditionalist reforms, marriage by the free choice of the prospective spouses alone was advocated as a means of freeing individuals from decisions of their elders who often negotiated marital unions regardless of the parties's wishes. Having also made this liberating goal the basis of their own new law, the Chinese Communists nevertheless soon found themselves debating at great length whether »love« or »politics« should take pride of place in choosing marriage partners. There would seem to be a curious antinomy between such »liberated« marriage by choice and the prominent position matrimony and the family occupy in the revolutionary politics of the PRC, whereby this sphere of essentially private decision-making was again reclaimed for the public, official, domain in the name of these selfsame revolutionary aims of emancipation. Denying a *limine* immunity from public invasion of such private spheres, PRC family policies have never been able to resolve this inconsistency in their attitude towards »pre-marital ritual forms«.

It is hoped that a resumption of research in China will allow better data bases for future scholarly work. For the time being Dr. Croll and her readers must content themselves with the less-than-perfect situation where the theoretical potential of the academic student remains employed below capacity, on a sadly scant supply of facts.

Wolfgang Kessler

2 On which see S. M. Van der Valk, *An Outline of Modern Chinese Family Law*, Peiping, 1939.

3 P. 19.