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THE PROTECTION OF CLIENT'S INTERESTS, AS ARISING FROM THE RIGHT (REQUIREMENT) TO RELY ON LEGAL PROFESSIONAL PRIVILEGE IN CHINA, COMPARED TO POLISH SOLUTIONS – THE DEVELOPMENT OF THE SYSTEM.

PART III. THE CHINESE MODEL OF MUTUAL RELATIONS BETWEEN THE ATTORNEY AND THE CLIENT UNTIL 1949

INTRODUCTION

China used to have a completely different attitude to law and the role of lawyers in comparison to the Polish legal culture. This resulted from their different approach to the political system and the foundations of the government. In our culture, the basis for the existence of specific rights of those in power was to be

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found in the legal system. If these could not have been found there, they were derived from the established order, or the law was amended to sanction any solutions that the government found useful. Any unexpected amendments to the existing order (such as the rules concerning succession to the throne) were to be immediately supported with a relevant legal assessment, which would clearly show that the innovation had been legitimate, or even imperative for the good of the State, the authorities and the people.

Well until early 20th century, the Chinese never questioned emperorship as the natural form of political system, hence the justification of something that did not require any explanation was considered pointless. They thought that if the monarch was the unavoidable and necessary part of authority, and no one challenged this, there was no point in locking horns. Similar was true for any changes to the throne, where not so much the law as the will of the predecessor decided about succession. In our system, the succession order was clearly specified in the applicable law, and any changes thereto required extraordinary measures and considerable resources. In China, where moral principles were much more important than rigid laws, rulers had virtually complete freedom in judging the virtues of their sons, or more distant relatives, and choosing the one they believed to guarantee a wise and just rule [FITZGERALD 1974, 91 et seq.].

Similar was the case during changes in dynasties, which took place as a result of uprisings, wars or coups. Advice on such matters was sought among sages, not lawyers. If the philosopher community, or at least its significant part, decided that the previous ruler disgraced himself with an unbecoming rule, and the new one gave hope for a better rule, the former was considered to have lost the moral right to be on the throne[1].

THE SUCCESS OF THE LEGALIST SCHOOL IN ANCIENT TIMES

With their love of philosophy and continuous search for the truth and sources of good, they were more similar to Greek, than Roman models of politics, which does not mean that in individual periods they would not be inclined towards certain other solutions that could ultimately push their political culture towards jurists. Future currents of thought were greatly influenced by the so-called Warring

[1] At the end of the Ming dynasty's rule, China was plagued by numerous uprisings against the tyranny of its rulers, which were additionally fuelled by disastrous crop failures and the resulting famine. In the opinion of sages, such circumstances fully justified the overthrowing of the previous dynasty [SZANG 1960, 505 et seq.].

States period (481-221 B.C.), which was the time of political confusion and divide between rival countries, but also a great ferment of thought. It was at that time that major schools (hence it was also known as the "Hundred Schools of Thought" period), doctrines and cultural currents developed to provide the basis for future ethical and philosophical systems. This was also the time Confucius lived his last years (551-479 B.C.), and his teachings enjoyed immense popularity, and also one when Taoism and the Legalist School were born[2].

The Legalist School developed a bit later than major philosophical schools. It was an answer to public debates on the human condition, sources of good and evil, and search for perfect harmony. The statement about the futility, or even harmfulness, of philosophical disputes, became its primary doctrine. Legalists categorically rejected all systems of values developed as a result of the philosophical dispute, while looking for the idea of power not in morality, but in the greatest authority of their completely reorganised State. Building their philosophy on a thesis proposed by Sun-Zi, a philosopher, who claimed that humans are evil, and not good by nature, as advocated by Confucius, Mencius and many of their contemporaries, Legalists acknowledged the senselessness of any attempts to reform society by inculcating idealist doctrines in it. The only things that matter are law and the authority that is based on it – they would advocate. To expect that all rulers would be paragons was considered naive, so it was better to build their authority on strict laws, applied equally towards all their subjects. Consequently, whenever there was a weak monarch, which up to that time often encouraged conspiracy and rebellions, law would operate independently of the ruler, protecting the ruler himself and the country as a whole against any turbulences [FITZGERALD 1974, 95 and 117][3].

The theory of an ideal State, based not on human goodness, which is fallible, but on strict laws, a foundation much more lasting than the strength of the character of a single person, was attractive to many, especially during the times of confusion. To the extent that during the Qin empire (221-206 B.C.), the way of thinking it gave rise to became the prevailing doctrine across the whole China united under the rule of the Qin dynasty. The process that lead to this, began in mid-4th century B.C., and ended over a hundred years later. In 362 B.C., when the throne of the kingdom of Qin, one of seven kingdoms that made up China at the time, was taken by prince Xiao, his State lagged behind other parts of China not only in terms of economical growth, but also cultural development. The ruler instructed

[2] For more information, see: FITZGERALD 1974, 91 et seq.

[3] The replacement of moral virtues with the fear of stringent regulations was to bring better results than idle moralisation, which only undermined the authority of the ruler.

Shang Yang, his trusted statesman, to carry out extensive reforms that would allow the country to catch up. Shang Yang, in turn, decided to follow the principle of "Introducing laws that corresponded to those times" [SZANG 1960, 47 et seq.].

The reforms made a reasonable territorial division of the country, reorganised its army, introduced a new system of levies and taxes, standardised measurements, bridged the social gap and improved the situation of peasants by having aristocracy relinquish some of its power, and, last but not last, made penal law stricter. Moreover, the reforms introduced a new system of mutual surveillance of subjects by joining five or ten families living next to each other and making them jointly responsible for security, and if a crime was committed in their area, they were all held accountable. Reports of any disturbing situations were rewarded, while concealment was severely punished. This new system worked perfectly. The reformed State, which benefited from increased income, virtually ideal internal order and a powerful army gained advantage over other kingdoms, which continued to be convinced of the superiority of moral norms over heartless law [SZANG 1960, 48][4].

Shi Huang Di, who took over the Qin kingdom in 247 B.C., was set for great accomplishments. His predecessors had gradually subdued one territory after another, so that when he came to power, he reigned over an area that was comparable to that of the other six kingdoms combined. At the same time, efforts were made to keep competing rulers in continued conflict, which made it much easier to successfully unite China at that time. During his reign, Shi Huang Di conquered six kingdoms, thus putting an end to the "Seven Warring States" period in 221 B.C. and gave rise to the emperor dynasty of Qin, and even though the dynasty itself did not last long, its unification accomplishments proved much more long-lasting. Having united the conquered lands, the dynasty enforced its laws, which had been made stricter in the meantime, on the territory of China as a whole. Convinced of the harmfulness of schools of thought, whose explosive growth in the previous years did not contribute to the strengthening of the States in which such schools developed, the dynasty put an end to them. Li Si, the main advisor of the monarch, advocate of Legalism, pushed through a ban on private tutoring. Only education in law, medicine, fortune-telling, and practical skills was considered useful, while the rest was denounced. Books of philosophers were gathered in one place and burned, which in many cases was tantamount to an irreversible destruction of the scientific heritage of previous generations [Szang 1960, 55].

[4] See also: FITZGERALD 1974, 91 and 118, which discuss the popular belief at the time that it was the authority of the law that made it possible to build such a strong State.

"If you want to study law, learn from judges", a popular Legalist slogan of the time, propagating a practical approach to learning under the supervision of experienced practitioners, was at variance with everything that had been promulgated before. That is why, when this short rule of the Qin dynasty ended, the revolutionary solutions were discontinued under the reign of the new rules from the Han dynasty. Philosophers made a comeback, while the activities and views of Legalists were strongly denounced. The extremism of lawyers unified all groups against them, as the latter had ensured for centuries with equal passion that the times of burning books belonged to a bygone era, and the throne again came to rely on sages and public officers educated on the basis of their works, rather than on legal experts and reformers[5]. This way, the unprecedented success of Legalists, who contributed to the unification and strengthening of the State, marked the beginning of their defeat, depriving them for over two thousand years of any influence over the course of public affairs.

THE VICTORY OF THE CONFUCIAN PHILOSOPHY

The system, developed in the subsequent years to train the staff for the continuously growing public structures, was based on a complex procedure for recruiting the brightest individuals, regardless of their background. Anyone who wanted to serve their ruler otherwise than through manual labour, had to scrape through a series of difficult State exams to be able to bear the prestigious title of a public officer of His Majesty the Emperor. The recruitment method, which emerged at the time, evolved over the subsequent centuries, but its underlying principles remained virtually the same well until early 20th century. The knowledge required to pass the exams included a collection of books by Confucius and his disciples. From the fall of the Legalist School, these were considered virtually sacred, and the knowledge of their contents was a gateway to career as a public officer. Over time, a three-level model of State exams was adopted, with the first level being completed after the successful passing of a district exam, the second level – after a province exam, and the third, after an exam in the capital [SIDICHMIENOW 1990, 150 et seq.].

This new promotion system produced a distinctly new social ladder, which, instead of the previous feudal structure, in which those of noble birth were not subject

[5] This does not mean, however, that all of the solutions adopted by Legalists were discontinued. For instance, the system of collective responsibility, which had proven so successful in keeping a tight rein on society, was improved during the reign of the Song dynasty (960-1279), and further brought to perfection during the Manchurian Qing dynasty (1644-1911) [SIDICHMIENOW 1990, 34 et seq.].

to the law that applied to the rest of the population, introduced a distinction between the enlightened, or educated, and the rest, or the unenlightened. The former could not behave badly, since, as a caste of sages, they were in constant search for virtue, and if they did go astray, they could avoid punishment if they turned themselves in and regretted the wrongdoing. The latter were ruled with an iron hand by the former, who, in addition to other rights and responsibilities, had the power to mete out justice, acting as judges, prosecutors and attorneys all by themselves[6].

The prevailing disciples of Confucius officially re-introduced the dogma about the goodness of man, who, by nature, seeks virtue, and only commits bad deeds if they lack education. This was only a step away from arriving at the conclusion that the primary objective of sages, and parents who cooperated with them, was to teach young people how to behave. Nevertheless, if you thought that the severe punishments and strict laws introduced by Legalists were repealed, you were wrong. Well, they were not. In fact, they were kept and applied, but only towards the citizens without education, since those could not understand the teachings of philosophers and, consequently, had to be kept in line by fear instilled by harsh punishments [FITZGERALD 1974, 119 et seq.].

For the next two millennia, the system of moral values based on Confucianism produced a set of norms treated as the legal foundation of the Chinese civilisation. This peculiar natural law was supplemented by codified law, which, however, always had the character of a subsidiary regulation [BLAZEY and KAPTERIAN 2008, 20]. Therefore, penal regulations were the first to be introduced to define forbidden acts, while scant attention was paid to prescribing any behaviour, leaving it to ethical norms. First such codes had been formulated before, but the fully preserved one that survived into our times dates back to the Tang dynasty, which ruled from the 7th century[7]. During the reign of the Ming dynasty, two new codes were laid down (in 1374 and in 1397)[8], although they essentially reiterated the Tang code[9] (356 out of 460 Articles were taken over from the regulation established six centuries before). Similar was the case with the code from the times of the Qing dynasty, finally drawn up in 1740[10], at the core of which were norms taken over from the Ming

[6] Add in the common practice of using tortures as the most popular measure for making the accused plead guilty in the proceedings, or even extorting confessions from witnesses or plaintiffs, and you have the picture of relations within the Chinese judiciary [SIDICHMIENOW 1990, 34].

[7] It was simpler and less strict than previous ones. It became the legal basis for the next six centuries, comprised 500 Articles, divided into 12 chapters, dealt mainly with penal matters, but also included administrative, marital and inheritance law [RODZIŃSKI 1974, 183; FAIRBANK 2004, 165 et seq.].

[8] The Great Ming Code (大明律), Act of 1397.

[9] The Tang Code (唐代法曲), Act of 624.

[10] Great Qing Legal Code (大清律例), Act of 1740, in: https://kuscholarworks.ku.edu/bitstream/handle/1808/3635/qingcode00.pdf?sequence=1&isAllowed=y [access: 24.07.2018].

code (321 out of 494 Articles). A significant change that took place at that time in the penal system involved a considerable tightening of new regulations[11].

The application of this relatively well-developed (for the time) legal system was entrusted to public officers, who, being part of the extensive administrative structure, also handled judiciary affairs, making use of secretaries for legal affairs whenever necessary. As legal experts, they provided advice to the presiding officer of the court, based not only on codified regulations, but also on thousands of published judicial precedents with comments. The latter, similarly to analogy, were used only on an auxiliary basis, since China had not developed a system of case law [KANIA 2012, 193].

THE RELUCTANCE OF THE CHINESE PEOPLE TOWARDS LAWYERS

The belief that all problems between people could be solved by reference to moral norms, on an equitable basis, and that codified law was to be consulted only when ethic was violated or the fair nature of the claim was questionable, which prevailed in this society for thousands of years, effectively discouraged the Chinese from using judiciary services. It is also important to note the amount of court charges, the perception of courts as tools, oppressive tools, to be precise, in the hands of the imperial authority, and the associated fear of the omnipotence of public officers [KANIA 2012, 193]. The aforementioned factors made the Chinese avoid courts. Civil disputes were usually settled through mediation, using the principles of equity and justice [Zimmerman 2005, 72 et seq.] while also consulting older, wiser and respected members of the local community. More importance was attached to the opinions of philosophers, than to those of lawyers, so there was no demand for private attorneys who would represent the parties before the court, and no such institution was developed there. This approach allowed the Chinese to avoid barratry, characteristic of Europe during some of its judiciary development stages[12]. In this system of relationships between lawsuit participants, where no lawyers that would be independent of the imperial authority existed, clients' rights could hardly be respected considering that clients were perceived at the time as supplicants devoid of any rights and having no subjectivity in their relations with the authority[13].

[11] 14th-century regulations in thirteen cases introduced death penalty by quartering. 18th-century code imposed death penalty in 3900 cases [KOŚĆ 1998, 142 et seq.].

[12] For a more in-depth analysis of this subject, see: BEDNARUK 2012, 205 et seq.

[13] This does not mean that there were no informal groups giving legal advice. These so-called masters of trials (*songshi*) did not enjoy good reputation or society's respect. In additional to giving

Therefore, despite the Chinese law having a much longer history, compared to the Polish legal system, no framework of mutual relations between lawsuit participants, typical of our cultural circle, was established there. On top of it, consider that, due to the differences in approach to the individual and its position within society between the Judeo-Christian civilisation, on the one hand, and the Confucian civilisation, on the other, the perception of human beings was diametrically opposed. Indeed, China had not developed the extreme individualism that can be found in our culture. Collectivism and subordination of individual interests to the rights of the community, rooted in Confucianism, had made the Chinese avert the Enlightenment debate, the consequences of which the European civilisation has suffered up to this day. There, each public officer, including legal experts, had felt more obliged to represent the interests of the authorities vis-a-vis its subjects, than the other way round, and this attitude had survived until the fall of the empire[14].

Interestingly enough, regular interactions with the Western world, that had started during the reign of the Manchurian dynasty, had not affected the Chinese political system for a long time. In fact, until mid-19th century, the Chinese believed that they were so superior in terms of scientific development and civilisation, that to follow the Westerners would not only be pointless, but also demeaning[15].

THE ATTEMPTS TO REFORM THE OLD SYSTEM

This conviction of superiority did not make all of them oblivious to the fact that the existing model became corrupted, and the last decades before the fall of the empire saw efforts to reform it. One of the demands involved the training of public officers, which at the time had been far from meeting the challenges they faced. For a long time, the requirement of writing an eight-part philosophical dissertation based on the interpretation of Confucius' works as part of the exam, which was compulsory for generations of Chinese public officers, had hardly anything in common with actual knowledge testing. The form became more im-

advice in specific cases, they also drafted pleadings; however, with no right to appear and represent their clients before court, they operated on the fringe of the Chinese legal system [WANG and MADSON 2013, 118].

[14] Even more so, despite, or perhaps due to, the growing influence from western States in the last century of the Chinese monarchy, since the widespread aversion to foreigners caused any external models to be rejected, for more information, see: RODZIŃSKI 1974, 587 et seq.

[15] Zhang Zhidong, a late 19th-century writer, in his "Exhortation to Learning" concluded that "Chinese science is perfect. It encompasses everything, mutual relations between people, culture, education, and principles of governing a State. European customs, theories, forms of government – all these are, without question, unwise inventions of barbarians" – as cited by: SIDICHMIENOW 1990, 174.

portant than the content, and the trick to pass the exam was to appeal to the taste of examiners [DILLON 2012, 129 et seq.].

Part of the doctrine suggests the cleansing effect of the First Opium War on changing the approach to teaching law, as the defeat of China had shaken the ruling elite so much, that some of them acknowledged the value of Western political and legal systems. The year 1840 marks the awakening of interest in the law of other countries, manifested in regular translations of key publications on the subject [ZHANG 2014, 5]. And although attempts to introduce revolutionary changes during emperor Guangxu's "Hundred Days' Reform" in 1898 ended in a fiasco[16], the old system of education still collapsed. In 1904, a special institute was created to amend the law. It was chaired by Wu Tingfang, the first Chinese with legal education received abroad, and an unquestionable authority and the most renowned Chinese jurist of the time. In addition to translating the canons of Western law and classical European legal thought, and in-depth analyses of foreign systems, the institute worked on the modern codification of major areas of Chinese law[17].

Simultaneously, a process of reforms in higher education commenced. A milestone event for the teaching of law was the establishment of the Chinese Western School in Tianjin, which educated professional staff for the judiciary on the basis of western lawyer training systems[18]. Eight years later, the school became the Beiyang University, and its programme came under American influence, with particular focus on renowned breeding grounds for lawyers, such as Yale and Harvard. In 1906, an initiative undertaken by the staff of the law modernisation institute established a new department with a clearly lawyer-oriented curriculum, which soon became the School of Law, where Chinese and international law was taught proportionately, with the latter to be taught by foreign academics, in practice usually Japanese. Following the example of the School of Law, as many as 47 law schools were established during the following three years [ZHANG 2014, 7].

At the same time, Chinese authorities implemented an extensive scholarship programme for students who studied abroad, mainly in Japan, United States, and Europe, where they were to learn at source about foreign political and government systems. Of course, due to the distance, costs and similar culture and customs, the

[16] For more information about the fiasco of reformers, which was brought about by Cixi, the infamous empress, who actually exercised power in the country, see: DILLON 2012, 144 et seq.; SIDICHMIENOW 1990, 158 et seq.

[17] In 1902-1911, the institute developed such codes as Civil and Penal Procedure, Substantive Penal Law, and draft Civil Law, later passed by the Qing government, all of which were clearly influenced by Western legal thought [ZHANG 2014, 6].

[18] Such schools provided lectures e.g., on the introduction to law, Roman law, British contract law, British penal law, international public law and commercial law [ZHANG 2014, 7].

majority of students chose Japan[19], which at the time was perceived as one that recently used to be at a similar development stage as China but had undergone a successful modernisation. A side effect of such students' stay in countries with considerably greater civil liberties was in many cases their political involvement. Fascinated with new prospects, Chinese students set up a number of clubs and associations with anti-Manchurian agendas, whose main purpose was to develop new ways in which their motherland could grow[20]. Of course, these more and more revolutionary groups included lawyers, who flaunted their knowledge to run for high offices in the proposed structures of power that were to govern China after the emperor was overthrown.

Therefore, it seemed that China would copy, a hundred years later, but relatively faithfully, the model of legal and political/government reforms that had taken place in the Western hemisphere, where lawyers, under the banner of human and citizen rights, had been in the vanguard of imminent changes, only to decide about central aspects of social and political life of the Chinese in the new reality. However, this was not the case for several reasons. Firstly, the leader of the anti-systemic movement was Sun Yat-sen, a doctor from a peasant family, who, when building its Revive China Society, put in office people with similar backgrounds, not lawyers. Secondly, a great majority of lawyers came from well off families, so their views, while advocating reforms in the contested political/government system, usually did not have revolutionary undertones, which ultimately won over society. Thirdly, the army, which gradually came to support the revolutionists, started to play a more and more important role in these transformations, thus materially affecting the adopted solutions. Last but not least, the Chinese had a deeply ingrained prejudice against lawyers, who were far from being associated with the fight for human rights. If anything, they were linked with the oppressive government, where, together with public officers, they constituted its mainstay [WANG and MADSON 2013, 118; RODZIŃSKI 1974, 594 and 604 et seq.].

AFTER THE FALL OF THE EMPIRE

Events that proved critical for the empowerment of Chinese lawyer professions took place back during the period of the Republic, when, following the over-

[19] The number of Chinese students in Japan grew exponentially during this period, from about 100 in 1898, to between 13 000 and 15 000 in 1905-1907 (plus another 400 in Europe and approx. 800 in the USA) [RODZIŃSKI 1974, 588].

[20] For more information, see: RODZIŃSKI 1974, 588 et seq.

throwing of the emperor, the foundations of the new system were being built. In 1912, which is considered as the date the profession of a lawyer was born in China, a number of regulations were passed to define their code of practice, requirements for candidates for this profession, and their role in the newly established political system [WANG and MADSON 2013, 118 et seq.]. Reformers based their solutions on the Japanese model, which was considered at the time as the model for the State that intended to follow in the footsteps of its neighbour to achieve success. And, since that model drew heavily on German influences, China indirectly adopted Western-European legal thought, which gradually permeated one branch of the legal system after another, as it was being created from scratch [DARGAS 2012, 60]. The solutions implemented at the time had for the first time authorised lawyers to appear in courts. Initially (up to 1927) only men with legal education, affiliated with lawyers' chambers, could appear before courts. In 1917, the range of their powers was extended considerably, allowing them to draw up draft agreements and last wills, and also expanding the range of the potential powers of attorney that could be granted to them by their clients [WANG and MADSON 2013, 120 et seq.].

Despite ambitious plans to create a system modelled on western solutions, the period following the revolution of 1911 was not a perfect time for the evolution of lawyer professions from the European point of view, although undoubtedly the best in the previous history of China. After the emperor was overthrown, attempts to build a democratic State of law were not successful, and in the conditions of constant fight for power, from time to time escalating into civil war, the governing political circles, supported by the military, were not interested in fostering an exemplary system for the protection of human rights. On the contrary, a violent crackdown on political opponents did not leave much space for safeguards for the defendants, especially in political trials[21].

As a result, this was a difficult period for lawyers, as they had to build the foundations of the new profession under very unfavourable conditions, where the distrust of society on the one hand, and pressure from the authoritative government on the other, hampered the establishment of appropriate relations with clients. Nevertheless, the history of the Chinese judiciary during this period is full of uplifting examples that offered hope for the gradual assimilation of European models. Even more so, considering that the powers of lawyers' chambers were regularly expanded, including them to a greater and greater extent in the legislation process, which gained momentum over time, in effect leading to the codification of the major areas of law[22].

[21] For more information about the fight for power during this period, see: DILLON 2012, 178 et seq.

[22] This is when the so-called "Six Codes" were passed, including constitutional, commercial,

These changes would not be possible without the extensive lawyer education system, which, building on the solid foundation from the fall of the empire, was developing brilliantly. The first years of the republic were a time of experimentation and diversity in the education system. Regulations of 1912[23] introduced the requirements of having university education in politics/law, being at least 20 years old, and passing an exam in law. This, in turn, pushed legions of wannabe lawyers to study at universities, which were emerging rapidly, providing various levels of education. It was only in 1928 that the government decided it was necessary to exercise control over the education system, which marked the beginning of an era of standardisation and centralisation in terms of training future apprentice lawyers [CONNER 2009, 3; WANG and MADSON 2013, 118 et seq.].

Studying law had become so popular at the time, that in 1930 as many as 37% of all students chose political science or law as their major. This encouraged the government to adopt regulations that limited the number of admissions to studies considered "insignificant" (including law), in order to persuade young people to choose technical studies, as socially more useful, and politically less dangerous. However, this did not permanently change the existing trends, and law was still taught on as many as 53 universities, and the number of students enrolled each year reached a record level of 155 000 people during the last years of the republic [CONNER 2009, 5].

CONCLUSION

The process of developing legal profession in China was more complicated than it was in the Western civilization. The spectacular success of the Legalist School in the ancient times led to persecution of representatives of philosophical schools, whom as a result of unification removed lawyers from the power and it was maintained this way for two millennia. During this period, China was ruled by the educated officials, whom have held various roles in the state system, including but not limited to administration of justice. Consequently, it created a considerable negative impact on the perception of the role of a lawyer by society. The distrust against the legal experts and legal practitioners negatively influenced the mutual trust and the relationship shared with the attorneys and their cli-

civil and penal laws, and civil procedure and penal procedure, which were modelled to a great extent on German law [KOŚĆ 2000, 131; DARGAS 2012, 61].

[23] The Interim Regulations on Lawyers (律师暂行章程), Act of September 16, 1912, in: http://china-lawyer.com.cn/wenxxx_3.htm [access: 24.07.2018].

ents. In other words, the clients perceived their legal representatives in different way than in the Western legal culture. The process of building legal ethic from scratch started in the first half of the twentieth century, which was hampered by turbulent history of the Chinese state during this period.

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OCHRONA INTERESÓW KLIENTA WYNIKAJĄCA Z PRAWA (OBOWIĄZKU) ZACHOWANIA TAJEMNICY ADWOKACKIEJ W CHINACH NA TLE ROZWIĄZAŃ POLSKICH – NARODZINY SYSTEMU. CZĘŚĆ III. KSZTAŁTOWANIE SIĘ CHIŃSKIEGO MODELU WZAJEMNYCH RELACJI ADWOKAT-KLIENT DO 1949 ROKU

S t r e s z c z e n i e

Proces kształtowania się zarówno samego zawodu adwokata w Chinach, jak i idących dopiero za tym pierwszym relacji z jego klientami, był znacznie opóźniony w stosunku do Europy. O istnieniu tej profesji możemy mówić dopiero na początku XX w. Tak późne narodziny instytucji odgrywającej w świecie zachodnim ogromną rolę tysiące lat wcześniej wynikało z kilku czynników. Najważniejszym z nich był niewątpliwie konflikt szkół filozoficznych z legistami, który doprowadził do klęski prawników rzutującej na marginalizację ich roli w państwie przez kolejne dwa tysiąclecia. Z tego podłoża wyrosła nieufność społeczeństwa do jurystów, której nie można było przełamać niemal do czasów współczesnych.

Słowa kluczowe: okres Królestw Walczących; okres Stu Szkół; cesarstwo w Chinach; Kuomintang

THE PROTECTION OF CLIENT'S INTERESTS, AS ARISING FROM THE RIGHT (REQUIREMENT) TO RELY ON LEGAL PROFESSIONAL PRIVILEGE IN CHINA, COMPARED TO POLISH SOLUTIONS – THE DEVELOPMENT OF THE SYSTEM. PART III. THE CHINESE MODEL OF MUTUAL RELATIONS BETWEEN THE ATTORNEY AND THE CLIENT UNTIL 1949

S u m m a r y

The process of developing legal profession, as well as relations between the attorney and the client in China was significantly delayed and only began to exist in the beginning of the 20th century, in comparison to Europe. This legal institution has a crucial importance for the Western legal culture and it appeared in China thousands of years later for various reasons. The most important of them was undoubtedly the conflict between the philosophical schools and the legists, which led to the lawyers' defeat. Consequently, it created a marginalization of their role in China for the next two millennia. Hence, the main reason for the public distrust against the jurists, which have had not been overcome until the modern times.

Key words: Warring States Period; Hundred Schools of Thought; Empire in China; Kuomintang