

A Turning Point in Legal Development of Taiwan (2007-2009)

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Abstract

The significance of the legal events in Taiwan during the 2007-2009 period depends on the whole structure and development of legal history of Taiwan. Accordingly, there are three important events deserving our special attention. Since the legal fiction that the territory of the ROC included Mainland China did not exist as a matter of fact, the Lee-Chen regimes (1988-2008) advocated Taiwan was a state, which territory factually did not include Mainland China. It is doubtful whether the Ma Administration winning the presidential election in 2008 returns to the assertion that Mainland China is a part of the territory of the ROC, but regards itself as a regional government only within the territory. Just because the former President Chen became a “supra defendant,” the legal issues relating to the human rights of the detained in the criminal procedure and so on have been seriously discussed by the Grand Justices, the legal community, and even the general public. Judging from the popular reaction toward the decision made by the court of first instance in the Chen’s case, the Taiwan’s court is still not trusted by the public. The Taiwan’s Civil Code derived from the Western Europe and Republic China has adopted more customs in the field of property law, but rejected the Chinese legal traditions in the field of family law and inheritance law. Meanwhile, the possibility to incorporate the customs of indigenous peoples into the state’s law has increased recently.

Keywords: Taiwanization, sovereign, Cross-Strait Relationship, the detained, localization, customs, property law, family law, indigenous peoples

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