

The Emergence of Modern Constitutional Culture in Taiwan

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Abstract

Since the advent of the Japanese rule in the late 19th century, the Taiwanese society began to contact Western constitutionalism. Base on the Meiji Constitution, the Japanese government brought the system of separation of powers to Taiwan, the degree of which was limited because the Taiwanese were not familiar with this system at the beginning. However, during the latter period of Japanese rule, some Taiwanese elite applied the Meiji Constitution to struggle for their civil rights and to a certain degree succeeded. Since 1945, the Chinese Nationalist government who lack of the experiences in constitutionalism governed Taiwan for a long time. The Nationalist government concentrated the powers to the administrative branch and then to the party or the dictator himself. Nevertheless, for the sake of political needs, the Nationalist government abided by the constitution in form. Following the democratization and liberalization of Taiwan in the late 1980s as well as the change of the governing party in 2000, the separation of powers and the protection for human rights was carried out in Taiwan. That is to a large degree resulted from the political consideration of politicians; therefore, the general public does not necessarily understand and accept the constitutionalism. The author argues, however, only the constitutionalism can resolve the problem of a divided society in Taiwan now.

Keywords: modernity, constitutional culture, colonial rule, rule by law, rule of law, separation of powers, human rights, democracy, liberalism, national identity

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