

**The Sorcerers' Apprentices:  
A Comparative Study on Law Clerks at the U.S. Supreme  
Court and Taiwan Constitutional Court**

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**Abstract**

Scholars on comparative constitutionalism in Taiwan put much more emphasis on fundamental theories and scrutiny standards than personnel issues in judicial review and constitutional adjudications. This article offers an institutionalist and socio-legal perspective on how the U.S. Supreme Court ("USSC") and Taiwan Constitutional Court ("TCC") perform their work by Justices and their law clerks. The author finds an interesting similarity between the two Courts on historical development of the clerkship and roles and functions of law clerks to Justices. The USSC increased the number of law clerks and improved decision making processes years ago to resolve Justices' overloading problem; however in the last two decades the TCC's 15 Justices shared only one law clerk for twice as many cases. The newly revised Organic Act of Judicial Yuan enables Justices to hire judges on loan to TCC as law clerks,

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replacing existing dedicated law clerks, and making all 15 Justices share a group of Assistants who handles procedural reviews and administrative matters. The author criticizes such arrangement to be impractical, and suggests that the USSC solutions, such as increased number of dedicated law clerks, writ of certiorari and cert pool system, be adopted to effectively improve the performance of constitutional adjudications.

**Keywords:** Justice, law clerk, Organic Act of Judicial Yuan, Taiwan Constitutional Court, Constitutional Interpretation Procedure Act, U.S. Supreme Court