

Seeking an Academic Paradigm under Colonial Policy: The Birth and Development of Civil Law Studies in Taiwan under Japanese Colonial Rule

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Abstract

This article explores the development of civil law studies in Taiwan during the Japanese colonial period. The definition of civil law studies in this context encompasses both scholarly research outcomes and discussions and research conducted by legal practitioners on civil law issues. Using the "role or mission that legal theories play in different historical contexts" as a framework, this article divides the development of civil law studies during the Japanese colonial period into three waves. The first wave began with the investigation of old laws and customs in 1901 and subsided around 1910 with the publication of the final investigation results. During this period, scholars utilized the concepts and framework of rights and obligations from modern Western law to position Taiwan's civil customs within the context of modern civil law theory, laying a solid foundation for the establishment of a new private law order in the future.

The second wave commenced with the establishment of the Legislative Review Committee and its research on codifying customary laws. Building upon the previous wave's investigations of old laws and customs, scholars aimed to establish a modern real estate law order through legal norms while also realizing their own theoretical perspectives. Concurrently, legal practitioners published numerous studies on legal hermeneutics in journals to address disputes concerning land and property legal relationships, thus contributing to the construction of a

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modern legal order. The establishment of Taihoku Imperial University in 1928 marked the beginning of the third wave of civil law studies within academia. The civil law research community at Taihoku Imperial University consisted mainly of graduates from the imperial university system. They continued the case law research methods of Tokyo Imperial University while also developing unique characteristics at Taihoku Imperial University. These included introducing French civil law theory, conducting comparative law research, and studying Taiwanese and Chinese family customs, demonstrating the local concerns and contributions of civil law scholars. These scholarly legacies, in terms of both research subjects and methodologies, continue to hold significant inspiration and relevance today and should not be forgotten in history.

Keywords: Civil Law, Civil Law Studies, the History of Civil Law Studies, Japanese Colonial Period, Investigation of Old Laws and Customs, Okamatsu Santaro, Aneha Shohei, Taihoku Imperial University College of Literature and Politics, Miyazaki Kouziro, Comparative Law Research