

Mediation Practice in Taiwan Revisited: Modern Translation of Traditions

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ABSTRACT

Under Japanese colonial rule, the courts in Taiwan were vested exclusive power of adjudication, as modern states do. However, in actual practice, mediation of civil disputes at magistrates' courts still adopted the Qing tradition that officials of prefectures and counties could make judgments not necessarily following legal regulations. In colonial Taiwan, civil disputes were resolved through meditation by local administration officials and/or litigation at courts, indicating that while traditional practices were preserved, modern approaches were also accepted and adopted. After World War II, meditation by local administration officials was no longer part of Taiwan's legal system; yet, authoritarian rule continued to provide and strengthen the practice of resolving civil disputes through meditation. The meditation has been justified by the right to select dispute resolution mechanism in democratic Taiwan. Therefore, the government should not emphasize the efficiency of mediation in settling civil disputes only, but devote more judicial resources to provide more effective court litigation for the selection of people.

Keywords: Old Customs, Mediation, Translation, Hearing, Court, Dispute Resolution, Adjudication, Tradition, Modern