

A Taste of Being Annexed: The Conditions and Predicaments of the Native Taiwanese Legal Talents during the Early Years of the Post-war Era

Wen-liang Tseng and Tai-sheng Wang

ABSTRACT

During the colonial period, the Japanese government introduced a western-style legal system to Taiwan and the Taiwanese were henceforth exposed to modern legal knowledge and practice. In 1945, when World War II ended Japan's colonial rule in Taiwan, there was a group of Taiwanese literati with substantial legal training, called as the "native legal elite" herein. From the aspects of political circumstances, legal profession and legal education, this article examines the conditions and the predicaments of the native legal elite during the early years when Taiwan was under the rule of the Chinese Nationalist Party (KMT) regime.

Generally speaking, under the policy of "de-Japanization" and "Becoming Chinese", the native legal elite faced a "talent-denied" dilemma in many areas. In political arena, it was nearly impossible for them to move up to higher positions in the administrative branch. Indeed, only those who followed the dictums of Chinese "patron-client relationship" could they achieve a modest success. The situation became slightly better in local assemblies, where the assemblymen were elected by native Taiwanese. Thus, the historical experience of the native islanders differed from that of the new rulers fleeing from mainland China. Many Taiwanese maintain that such a differential treatment ultimately caused the 228 Incident in 1947. After the bloody massacre, the KMT regime reinforced its control over Taiwan. By the time another local assembly election was held during 1949-1950, most of the native legal elite had either become members of the KMT, or had cultivated good relationship with the ruling party.

In Taiwan's post-war legal profession, the native legal elite had auspicious beginning. Those who stayed in the judicial branch were appointed to take over the management of district courts, and the lawyers who were admitted during the colonial period were allowed to practice law with new registration. However, in the following years, many native legal elite, who were not accustomed to Republican China's judi-

cial culture, resigned by drove. Meanwhile, the lawyers who were admitted during the colonial period had to take new bar examinations so that they could practice law under the new legal system. Though they finally succeeded after years of struggle and perseverance, they had to compete with numerous mainlander Chinese lawyers in the market of legal service. Regarding to legal education, certain members of the native legal elite had tried to establish a college of law, but failed because of the occurrence of the 2.28 Incident.

In summary, the native Taiwanese legal elite who were educated during the colonial period had been marginalized by KMT's "Chineseness Policy". They were in fact the forgotten and victimized legal generation.

Keywords: legal elite, lawyer, bengoshi, legal education