

## The Proclamation of “Bandit Punishment Ordinance” and its Subsidiary Legislations in Japanese Colonial Taiwan

Takashi Koganemaru

### ABSTRACT

In November 1898, three years after Japan took over Taiwan, the Governor-General Office under Kodama Gentarō and Gotō Shinpei suddenly enacted a criminal ordinance (*ritsurei*), as allowed by Title 63 of 1896, creating a new type of *actus reus* that did not exist in Japan proper. “Any collective act of violence or coercion done purposely regardless of its objective” would now constitute a crime of banditry. Under this new ordinance called “Bandit Punishment Ordinance”, what was previously deemed a robbery would now be considered an act of banditry. Thousands of the accused were executed, sometimes even for crimes committed before the ordinance was enacted, thus making it the harshest legislation under the constitution of imperial Japan. Enactment of this ordinance symbolized the power of the state and the Governor-General to punish and embodied violence through delegated legislation.

Previous research attributes the main purpose of promulgating the ordinance to suppression of anti-government activities. While holding the same perspective, this study further examines the influence of other possible factors through scrutinizing the ordinance’s political background, its process of legislation, and the configuration of its provisions. Sources of materials reviewed included Sotokufu Archives, Compilation of Documents of the Office of the Governor-General, and Taiwan Colonial Court Records Archives. It was found that before the ordinance was proclaimed, the colonial government in fact had difficulty punishing crimes of banditry through the ordinary legal process. The practice at that time required prosecutors to produce criminal evidence before the court according to the Penal Code and the Code of Criminal Procedure. Moreover, under the intervention of British diplomacy and the constitutional right of Emperor Meiji to bestow official pardon, an amnesty was granted in Taiwan in January 1897 abolishing the pun-

ishment of those previously convicted of treason and banditry. It was against such background that the “Bandit Punishment Ordinance” was promulgated and only a limited number of officials in the Governor-General Office participated in drafting the ordinance. Subsidiary legislations such as “Regulations of Deposit for Criminal Appeal of Heavy and Light Crimes” were also enacted to prevent the accused from making appeals. Hence, the Ordinance itself and the subsidiary legislations all served a single purpose; that is, to sentence to death as many bandits as possible.

**Keywords:** Bandit Punishment Ordinance, Regulations of Deposit for Criminal Appeal of Heavy and Light Crimes, Amnesty, Takano Takenori, Insurgency, Delegated Legislation