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### **Abstract**

Law is – and has long been – a crucial element of (post-) colonial orders. It is commonplace wisdom that the Western centre dominates the eastern periphery, not only through outright force but also via institutions and ideas. Europeans and Americans have a long history of bringing 'civilisation,' be it Christianity, 'modernity' or law, to peoples they perceive as less civilised. Despite the common practice of applying different rules to different peoples, colonisers often see the lack of uniformity of law in the colonies as a failure, if not a necessary evil, for the 'uncivilised' colonised native. For countries that narrowly escaped subjugation to Euro-American colonialism, such as China and Japan, the sentiment of the humiliation endured when being forced to 'open up' and adopt Western legal systems is still very much alive.

# **‘Rule of Law’ as Anti-Colonial Discourse: Taiwanese Liberal Nationalists’ Imagination of Nation and World under Japanese Colonialism**

**Yun-Ru Chen**

Taiwan is part of the world. The Taiwanese are members of the human race. The people on this island cannot remain isolated from the spirit of the modern world. Instead, we shall make amends while there is time and catch up with the modern age. We shall not only enlighten ourselves on the new spiritual and material culture but also contribute to the grander project of reforming the world (Lin 1922b: 36-37).

## **Introduction**

Law is – and has long been – a crucial element of (post-) colonial orders. It is commonplace wisdom that the Western centre dominates the eastern periphery, not only through outright force but also via institutions and ideas. Europeans and Americans have a long history of bringing ‘civilisation,’ be it Christianity, ‘modernity’ or law, to peoples they perceive as less civilised. Despite the common practice of applying different rules to different peoples, colonisers often see the lack of uniformity of law in the colonies as a failure, if not a necessary evil, for the ‘uncivilised’ colonised native. For countries that narrowly escaped subjugation to Euro-American colonialism, such as China and Japan, the sentiment of the humiliation endured when being forced to ‘open-up’ and adopt Western legal systems is still very much alive.

Many postcolonial nationalists include 'rule of law' and liberal political traditions as parts of the 'white mythology' that perpetuates Western supremacy and therefore sustains colonial domination (Baxi 2011). In the 'Asian values' debate, ex-prime minister Lee Kuan Yew of Singapore asserts that constitutional democracy and human rights are nurtured in the West and are thus incompatible with Asian societies (Engle 2002; Goodroad 1998: 261). This concept of pan-Asia commonalities contrasted with perceived Euro-American ideas of universalism withered away after the 1997 Asia Financial Crisis. Yet, recently, in a similar vein, China and Russia support the idea of a unique legal and political culture and understand themselves as defending their identity from the encroachment of Western imperialism and its liberal tendencies.

By associating the unique characteristics of their people, be they 'Asian-ness', 'Chinese-ness', or 'Russian-ness' with conservative values, authoritarian leaders present themselves as defending against the encroachment of Western imperialism and its individualistic tendencies. Authoritarian governments often understand 'rule of law' as mainly, if not purely, formal and do not shy away from deploying law as a tool with which to suppress dissidents (Tamanaha 2004: 3). Nationalists who advocate for liberal democracy therefore often find themselves trapped in the identity debate.

This article presents a departure from the pattern described above by analysing nationalist discourse a cluster of ideas—nation, culture, and law—within the anticolonial nationalist discourse in Japan-colonized Taiwan (1895-1945). The majority of the texts that I will discuss were written by Lin Cheng-Lu (1886-1968), a Taiwanese lawyer and activist/journalist, in his capacity as editor-in-chief of a polemical magazine, *The Taiwan Youth* (*Tài Oân Chheng Liân* 台灣青年, which was changed into *Taiwan Tai Oân* 台灣 in 1922), a polemical magazine in colonial Taiwan. This article shows that the 1920s-era Taiwanese nationalists' concept of 'rule of law' was characterized by its liberal tendency. It revolved around not only formal values, such as government legality, but also democracy and the protection of individual rights, arguably

‘the defining characteristic of Western political tradition’ (Tamanaha 2004: 2).

Taiwanese nationalists presented ‘rule of law’, along with other liberal ideas circulated among post-WWI cosmopolitan elites around the world, as a necessary part of both Taiwan’s emergence into the international ‘world’, and of Taiwan’s struggle against Japanese subjugation. From the perspective of nation-building, ‘rule of law’ was presented as a requisite for the Taiwanese becoming a ‘people (*volk*)’ and becoming part of the international world. In Lin’s nationalist construction of the history of Taiwan and its people, the Taiwanese were a people isolated in a corner of the world and falling behind. ‘Rule of law’ and other core ideas Lin proposed for the ‘new culture’ were presented as essential values that the Taiwanese needed to adopt in order to qualify themselves to join the world. Furthermore, Taiwanese nationalists deployed the rhetoric of ‘rule of law’ to criticize the Japanese, who were still struggling to prove themselves a ‘civilized’ country to the Western world. Lin condemned the denial of political rights for the Taiwanese, which, according to him, was a sign of antiquated colonial rule. Lin’s belief in ‘rule of law’ for his own people and his critique of Japanese rule were in fact two sides of the same coin.

In the following sections are as follows. I will first provide background information about Lin Cheng-Lu and the context into which he was writing. I will highlight the opportunities and limitations Lin faced under colonial rule, which were exemplified by his education and his career in various institutions of colonial Taiwan. The main goal of this discussion is to show the common feeling of segregation and restriction shared by the Taiwanese colonial elite, which not only created a sense of a community but also mirrored their desire to ‘join the world’ and embrace liberal democracy.

Next, I will investigate Lin’s writings, which constructed and characterised the Taiwanese nation under colonial rule. I will use primary source materials, such as Lin’s writings as the editor of *The Taiwan Youth*, to do so. Compared to other articles Lin wrote as a theorist – most of which were to demand the creation of a colonial

parliament in Taiwan under the Japanese Constitution – the articles discussed here reveal a sometimes sentimental view of Taiwanese nationalism. Addressed mainly to Lin's fellow Taiwanese intellectuals, Lin's writings vividly reveal a mentality of feeling excluded from the oriental and regional colonial empire, and an anxiousness to exist, to be recognised, and to participate in the international society.

Ultimately, this article proposes that nationalism does not necessarily play a reactionary role in law and politics. It suggests that we understand Taiwanese's pursuit of autonomy then and now as a civic and internationalist nationalism that went hand in hand with a liberal understanding of 'rule of law'.

## **1 The Stage: The Taiwanese Nationalist Movement, Lin Cheng-Lu and *The Taiwan Youth***

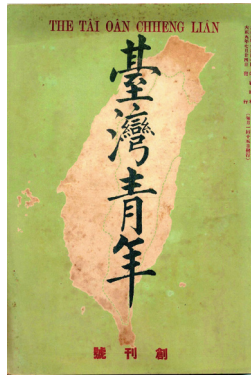


Figure 1: The first issue of *The Taiwan Youth*

*The Taiwan Youth* was first published in 1920 in the aftermath of the First World War. Echoing Woodrow Wilson's wartime rhetoric, colonised and stateless peoples in the Middle East and Asia demanded self-determination. Although China had never formally been under any colonial rule, it had been forced to sign a series of 'unequal treaties' with foreign powers since the mid-nineteenth century. Many Chinese

intellectuals saw an unprecedented opportunity in the Allied victory and in the subsequent peace conference in Paris for China to pursue the goal of attaining an equal status among the nations. In March 1919, just a few months before *The Taiwan Youth* was founded, Korean nationalists also seized the moment and launched a popular movement against Japan's colonial rule in Seoul (Manela 2007).

The first publication of *The Taiwan Youth* coincided with the beginnings of nationalism in Taiwan. While China had been the great power in East Asia for centuries, Japan's unexpected victory over China in the first Sino-Japanese war (1894) transformed power politics in the region and beyond. Emerging as a world power, Japan acquired Taiwan as a trophy and its first colony. In the 1910s and 1920s, modern Taiwanese intellectuals emerged. Two decades of colonial rule had produced a generation of bilingual elites who were fluent in their mother tongues, be it Taiwanese or Hakka, as well as in Japanese. Like young Chinese, Korean, Arabs and many others, many Taiwanese youth became nationalists through their own lived colonial experience.

Lin Cheng-Lu's personal journey provides helpful background information for this analysis. Lin founded *The Taiwan Youth*, the first Taiwanese polemical press, during the colonial era and served as its chief editor for the next two decades. Though he held a law degree from Tokyo's Meiji Law School, Lin considered himself primarily an activist journalist. As a theorist of the nationalists' movement, Lin produced numerous works advocating political and legal reforms in colonial Taiwan, including the ones discussed in this article.

### **A Becoming a Cosmopolitan Nationalist: The Journey of Lin Cheng-Lu**

Lin was born to a Han-Chinese family in late nineteenth-century Taiwan, an island frontier of the Qing Empire. Lin's family had immigrated from Fujian, a southeastern coastal province of China and settled in Taiwan, farming for living for several generations. According to Lin, his father also managed farmland for the absentee landlord and served as a leader in the local area.

Lin studied in traditional Chinese-style private schools with schoolmasters for several years; through his studies Lin mastered Chinese archaic literary styles and classical works. In 1895, the first Sino-Japanese war made Lin a colonial subject of the emerging Japanese Empire. In 1896, when Japanese troops approached Lin's hometown to suppress an armed resistance, Lin's father represented the villagers to negotiate with the Japanese military in hopes of a peaceful political transition. However, Lin's father and one older brother were killed as the Japanese army slaughtered civilians, and the family home was burned to the ground. Fleeing from their hometown to the other side of the Taiwan Strait, Lin Cheng-Lu and his mother stayed in Fujian for a few months before returning to Taiwan (Wang, 1991: 24-25).

The expansion of the Japanese Empire to include Taiwan was not only a catastrophe for Lin's family but also imposed a subordinate status of 'the colonised' on Lin and all residents of this island. However, it was in this colonial context that Lin Cheng-Lu became a nationalist and a cosmopolitan intellectual. Lin's two portraits below reveal his transformation.



Figure 2A: 1910



Figure 2B: 1920

Examining the microfilm a century later, the black-and-white picture (Figure 2A) of a young Lin, although blurred by time, vividly captures his colonial background. The half-length portrait was taken before 1910, when Lin was a normal school graduate and a clerk in the



colonial court. His attire is the best illustration of his cultural hybridity. Here, Lin wears student uniform derived from Prussian army uniforms and adopted nationwide in Meiji Japan for male students. Meanwhile, he wore a queue, a hairstyle common to Chinese men from the Qing dynasty. The second photo, taken in the 1920s (Figure 2B) shows Lin's further transformation; it is once again an example of multilevel cultural transplants. Here, Lin adopts the hairstyle and outfit that Japanese modern intellectuals imitated from their Euro-American counterparts. As will be discussed later, Lin acquired his knowledge of modern law and politics in a similar way.

Colonial rule gave young Taiwanese an opportunity to rise up; however, it also imposed limitations upon them. By the age of 14, Lin entered the double-track colonial education system as a student at a 'common school,' the elementary school for Taiwanese pupils. The other track was the 'primary school,' which was mainly reserved for Japanese children. When Lin graduated in 1905, there were not many opportunities for either advanced education or suitable jobs for common school graduates. Luckily, through a highly competitive entrance exam, he matriculated at the Japanese Language School in Taipei, the capital of colonial Taiwan, from which he graduated *summa cum laude* (Wang, 1991: 25).

Between Lin's graduation and his departure for Tokyo in 1914, he appears to have been somewhat disoriented. He worked as a clerk at the Bank of Taiwan, which was set up by the colonial government to facilitate capital investment in Taiwan by Japanese corporations. Lin's salary was half that of his Japanese colleagues, typical for the time. Still, for a young Taiwanese individual, a job at the Bank of Taiwan was considered a rare accomplishment. Yet he did not stay long. A few months later, Lin worked as a common school teacher for a year or so in his hometown. Then he resigned and worked at the Taipei District Court as a non-permanent employee. Meanwhile, he self-studied law for the common civil service examination, the ladder for high-school graduates to enter the colonial bureaucracy as low-level civil servants (Wang, 1991: 25).

Many colonial Taiwanese youth could relate to Lin's restlessness. In a Japanese-language novel published almost 20 years later (*The Town with Papaya Trees*: 1937), the leading character, Chen Yo-San, is an ambitious Taiwanese high-school graduate. While Chen is paid a lower salary than his Japanese colleagues as an accountant-clerk in a small town hall, he is preparing for the Common Civil Service Examination with the hope of rising in the world. The author, Long Ying-Zong (1911-1999), was a vocational school graduate and also once worked at the Bank of Taiwan. Defeated by a hopeless love and the suffocating atmosphere in the colony, the fictional character Chen Yo-San gave up his ambitions in despair. In contrast, our main character, Lin, passed the civil service examination and became the only Taiwanese civil servant in the Taipei District Court.

Writing in the developing vernacular Chinese, a reporter in *Taiwan Daily Newspaper*, presumably a Taiwanese, described Lin as 'an up-and-coming youngster ... of few words yet full of talent'. Overjoyed by the fact that Lin got the highest grade among all the examinees, outshining all the Japanese examinees, the reporter concluded for his Taiwanese readers that Lin's and other Taiwanese youths' accomplishments signified the increase of Taiwanese intellectuals with modern knowledge (July 23 1910). Ironically, in ten years this diligent and well-behaved young man 'of few words' would become one of the most outspoken activists for the anti-colonial movement in both Taiwan and Japan.

Lin's story was also covered in the *Monthly Law Report (Hōin Geppō)*, a legal journal issued by the High Court of Governor-General of Taiwan and circulated in the colonial legal circles. Similar to the *Taiwan Daily Newspaper* story, this report extrapolated signs of the emergence of the modern Taiwanese intellectual from Lin's success. Lin was praised for his diligent study of law and his achievement. However, rather than being unreservedly proud of his fellow countryman, the writer here, presumably a Japanese colonial lawyer, cautiously observed the trend of emerging Taiwanese youth, the 'others,' so to speak, who were capable of competing with, or, in Lin's case, besting the Japanese (Anonymous 1910b: 151-152).

In a matter-of-fact style, the *Monthly Law Report* author stated that the 'islanders' were on the one hand 'reactionary, stubborn' and hopelessly 'uninstructed,' and on the other hand, that they were a people who were 'influenced by Confucianism with great literary tradition' and that, therefore, the Japanese should not regard them with scorn. In other words, what this author presents is not simply an inspirational story. The intended lesson was, for the author's Japanese colleagues, mainly a warning against treating the seemingly backward Taiwanese lightly. The Taiwanese were presented as a people who were primitive; however, they were also a people who were intelligent and ambitious and therefore threatening. This contradictory portrait nicely summarises colonial rhetoric toward the native: The colonised were too backward to be treated equally, but at the same time, too smart to be taken lightly (Anonymous 1910b: 151-152).

In his retrospective interview, Lin seemed proud of being a Taiwanese pioneer in modern Japan officialdom (Wang 1991: 25-26). Most parents of that era, whether Taiwanese or Japanese, would have been proud of what their son had accomplished in his case. At the same time, while receiving due respect as a civil officer, Lin watched painfully as his Japanese colleagues called other Taiwanese natives or Chinese ruffians (Wang 1991: 25-26). Furthermore, one of Lin's contemporaries mentioned that Lin was discriminated against in the Taipei District Court and was appointed to positions inferior to those held by Japanese with equivalent credentials. It was suggested that such unfair treatment was the reason for Lin's later resignation from the Taipei District Court (Huang et al 1991: 281). Lin's long-awaited trip for advanced legal studies in Japan was another.

In 1914, Lin departed Taipei to go to Tokyo, where he lived until 1926. Given the phenomenon of colonised youth everywhere traveling in flocks to the respective centres of their empires, be it London for Indians or Paris for Vietnamese, it is not a surprise to see Lin's pilgrimage to Tokyo. Judging from his transcript, Lin was just an ordinary law student.<sup>1</sup> The courses he took, including obligation (rights in personam), inheritance, private international law, and civil

procedure, were typical courses offered in a modern law school. Like any other ambitious law student in Japan, Lin prepared for the highly competitive judicial exam after graduation.

However, rather than becoming a jurist or bureaucrat, Lin got involved in the nationalist movement. His journey to Japan greatly strengthened his passion for activism. Lin remained in Tokyo during the era of the liberal movement known as 'Taishō Democracy' (1912-1926). Calls were raised for universal male suffrage, recognition of labour union, and genuine constitutionalism. In Meiji Law School, known for its liberal traditions and for producing Japanese civil rights activists, student organisations and movements mushroomed. Campus riots from both the left and the right happened from time to time.

It was also a moment of internationalism in Japan. The Paris Peace Conference in 1919 following World War I gave birth to the League of Nations. Japan joined the organisation in 1920 and was active in League as a permanent members of the League of Nations Council until its withdrawal in 1933. The Japanese liberal intellectuals, including academic, labour, and religious leaders, called for democracy and pacifism. Yoshino Sakuzo (1878-1933), a Tokyo University Professor, warned that Japan could no longer stay isolated from the global society and advocated democratising reforms, which would enable 'a special mission for Japan on the world stage'(Burkman 1983: 24-26). That was, to shepherd the nations in the world to progress. The ideas of 'catching up' with the trend of the world were not only ubiquitous in the rhetoric of the Taishō Democrats, as I will show later, these terms also presented the main theme of Lin Cheng-Lu's articles.

At that time, Tokyo was a nexus for young nationalists from Korea, China, and Taiwan. Partly due its liberal-oriented faculty in the studies of colonial policy and international relations, Meiji Law School was the most welcoming to foreign students among the professional schools. Many Taiwanese students pursued their advanced education there (Wakabayashi 2011: 33). Lin was a frequent visitor to the Young Chinese Christian Association in Tokyo and kept in close contact with its leaders (Tsai and Shie 1983: 157). According to a report prepared by

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the Japanese secret police force whose main mission was to investigate and control political activists, Lin and several other Taiwanese students co-founded a group called 'Echoing Association' with Chinese students in Tokyo in 1919 (Taiwan Shiryō Hozonkai 1969: 24-25).

As mentioned earlier, 1919 was the year that Korean nationalism attained its greatest momentum. Lin's close association with the leader of young Korean nationalists in Tokyo was also recorded in this report. Lin frequently contributed to a mouthpiece of the Korean nationalist movement called *The Korea Youth*, a name analogous to *The Taiwan Youth* (Taiwan Shiryō Hozonkai 1969: 24-25).

### **B The Text: The Taiwan Youth and Taiwan (Formosa)**

Founded in 1920, *The Taiwan Youth* marked the emergence of modern Taiwanese nationalism. It was the product of a joint effort between two groups. One was the rising modern intelligentsia, particularly the Taiwanese students in Tokyo. These bilingual young Taiwanese men developed an alliance with the second group, which was the indigenous and landowning elites, the traditional Taiwanese intellectuals. One such example of the latter group is Lin Hsien-Tang (1881-1956),<sup>2</sup> a widely known and respected Taiwanese landlord and businessman who financially supported the first group. In the spring of 1919, these two groups gathered in Tokyo for the inaugural meeting of the New People's Association, the first political organisation of the Taiwanese movement. They agreed to publish a periodical to serve as an organ for the movement.

*The Taiwan Youth* was the very first periodical run by Taiwanese activist-journalists, many of whom went on to found *Taiwan People's Daily*, the most influential polemical newspaper in colonial Taiwan. *The Taiwan Youth* was a bilingual monthly magazine, with most of the articles written in or translated into both Japanese and Chinese. *The Taiwan Youth* later changed its name to *Taiwan (Formosa)*. This reflected the anti-colonial movement's new agenda to awaken not only the elites, but also the masses in order to make the movement more inclusive. The magazine had published 14 issues by the time it was merged with

*Taiwan People's Daily* in 1922.

As its inaugural statement suggests, *The Taiwan Youth* took an editorial stance of liberalism, which was supportive of 'self-determination', 'equal rights between men and women', and 'harmonious labour-capital relations'. As the flagship publication of the Taiwan Parliament Movement, the first and longest-lasting nationalist movement in colonial Taiwan, *The Taiwan Youth* also championed home rule and liberal constitutionalism. It targeted highly educated readers and claimed to introduce the most modern trends of thoughts in the world. Many frequent contributors were in fact well-respected Japanese liberal intellectuals, including Yanaihara Tadao (1893-1961, Professor of Economics and the Chair of Colonial Studies at the University of Tokyo), Yamamoto Miono (1874-1941, Professor of Economics and Colonial Studies at the University of Kyoto), and Lin's mentor, Izumi Akira (Professor of Political Science and Colonial Studies at Meiji Law School) (Wang, 1991: 28).

The articles in *the Taiwan Youth* were not purely academic treatises, but were rather news reports and op-eds. Many of them aimed at making an impact in specific contexts in colonial Taiwan. It is noteworthy that these texts were written under censorship pressures. *The Taiwan Youth* was printed and published in Tokyo, then sent to readers in Japan and Taiwan. The articles needed to pass a dual censorship review enforced by the Ministry of Internal Affairs in Tokyo and the Governor-General of Taiwan (hereafter the GGT).

Adopting a strategy of internal reform, Lin made a significant effort to avoid stepping on red lines imposed by the colonial authorities and, not surprisingly, made compromises from time to time. For instance, before the first issue of *the Taiwan Youth*, Lin visited the then-governor-general, Den Kenjiro (1885-1930), in Tokyo. During the meeting, Lin asked Den to inscribe a motto in the inaugural issue and assured him that the magazine aimed at 'advancing Taiwan's culture' and would not have 'extreme' articles criticising the colonial administration. Lin also sent copies to the Tokyo branch of the GGT for review before its publication in Taiwan. Repeatedly in Lin's articles advocating for

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political reforms, he made it clear in both the opening remarks and the conclusion that he was merely a loyal subject who wished to contribute to the prosperity and development of the Japanese Empire.

Such efforts, however, did not absolve the magazine from arbitrary and strict censorship. For example, the circulation of Vol. 3 No. 3 (September, 1921) was entirely banned by the GGT, despite it having passed the Ministry of Internal Affairs' review. Ironically, the same articles were accepted and published by two government organs.<sup>3</sup> Several articles in the following issues were removed, while at least three other issues were entirely banned (Anonymous 1921).

## 2 Taiwan in the World: Taiwanese Nationalists' Imagination of Nation and Law

### A The Moment: The 'New Page' of the World

In the editor's statement in the inaugural issue of *The Taiwan Youth*, Lin described a historical moment:

The unprecedented World War is now a history. Millions of people shed their blood that flowed together into a river and many of them turned into skeletons. Alas! It was such a calamity! Was it not the greatest misfortune for all human beings? (Lin 1920)

However, Lin drew great hope from this unprecedented catastrophe. He viewed it as a time of awakening. Mankind awoke from darkness and brutality to enlightenment and justice, and progressed from an 'egotistic, exclusive, dominating, animal life' to a movement aiming at a 'co-existing, self-sacrificing culture which could enable mutual compromises. Such an irresistible trend would manifest in many new developments, such as 'the establishment of the League of Nations, the respect to national self-determination, the achievement of equal rights between men and women, and the movement of coordination between labour and capital' (Lin 1920a: 1).

Repeatedly, Lin reminded his readers that they needed to act during this turning point in world history. He ascribed the causes of the First World War to oligarchy on both domestic and international levels; the world was like a wild jungle where the weak fell prey to the strong. The ruthless competition between individuals as well as between countries inevitably led to a catastrophic ending. However, after deep reflection about the war could come a new spirit of a new age. It was a spirit that embraced social solidarity, humanity, reforms, and equality between all humans, free from discrimination due to race, ethnicity, class, or gender (Lin 1922a: 1). Lin considered this trend a 'turning point of the fate of the human race' from self-destruction to a 'new civilization of freedom and peace' (Lin 1922c: 1).

In this new chapter of human history, the strong should perform their civilised and holy mission, directed by humanity and justice. They should bear in mind 'the interests and the development of the weak'. On the other hand, 'the weak' who, as Lin defined them, were 'those who had not become independent in the keenly competitive society' and 'those who had been politically or economically suppressed by the privileged class and endured hardship in their lives', also had their own responsibilities. They should, in response to the new trends, awaken and strive for emancipation.

Lin suggested that there had been various occasions when 'the weak' had already made their voices heard:

In the social problems between men and women, there are movements for women's liberation and suffrage. In the question of a fundamental change in the economic structure, there have been proposals ranging from negotiation between labour and capital, the improvement of the status of the proletarians, and a fundamental abolishing of the class system. In politics, with regard to Constitutionalism, there are movements aiming at abolishing bureaucracy and stratocracy, implementing democracy, and adopting universal suffrage. Between nations, the example is the movement for national self-determination. Internationally, there is a demand for securing independence and justice. These are the demands made by the voices of the weak. However, these demands are also based on humanity, justice, freedom,



and equality and are therefore the voice of the goddess of peace (Lin 1920b: 31).

According to Lin, the new civilization was foreshadowed by past movements of the 'spirit of the people'. Some historical examples were the independence of Poland (1918), the return of Alsace-Lorraine to France (1918), and the collapse of the Austro-Hungarian Empire (1918) in the aftermath of WWI. Lin also viewed more recent events, such as 'the riot in India' (the Chauri Chaura Incident of 1922), 'the recognition of the Republic of Ireland by the United Kingdom' (the establishment of the Republic of Ireland following a war of independence, 1922), and 'the abolishment of protectorate in Egypt' (the independence of Egypt, 1922) as signs of this growing trend (Lin 1922c:1).

Addressing Taiwanese readers at home and abroad, Lin's reports from Tokyo were a celebration of the internationalisation of nationalism. The emerging nations from every corner of the world were suddenly and simultaneously awakened and eager to seize the 'Wilsonian moment' (Manela, 2007). In Lin's construction of 'the moment,' there was a 'world,' an imaginary entity in which all nations were connected. They were connected not only by similar anti-colonial struggles, but also by the sheer fact that they shared a simultaneous presence in a global community. The people, be they Egyptian, Irish, or Indian, might never meet each other, but they were all members of that world.

Anderson (1991) informs us how the 'simultaneity' shared by a people in a territory with clear geographic and political boundaries enables the imagination of nationalism. Lin's passionate narrative of the 'new age' constructed a worldwide simultaneity and represented an imagined global community. Moreover, as I will illustrate, this imagined world community was where Taiwan was to be born. This image of the relation between Taiwan and the world was shared by Lin and other Taiwanese nationalists who believed in a non-xenophobic, internationalist form of nationalism that would be compatible with a liberal understanding of rule of law.

## **B Taiwan's Debut: The Taiwanese People, The Japanese Empire, and the World**

Taiwan is more than the Taiwan that consists of three million and five hundred thousand people ... Taiwan is more than the Taiwan that constitutes a Japanese state ... Taiwan is part of the world (Lin 1920c: 39).

At this turning point of world history entered the Taiwanese people. Lin's quotation above asserted three constitutive aspects of Taiwan: Taiwan was not defined solely by its people or by its history as part of the Japan state, but by its role as a part of the world.

At first glance, the existence of Taiwan and the Taiwanese people seems rather ordinary, the former being 'a part of the earth' and the latter being 'a member of the human race' (Lin 1922b: 1). Lin was simply saying that the Taiwanese were just like any other people, be they Indian, Irish, or Egyptian, or any others in the world. Such a plain statement, however, was in fact significant and, for many Taiwanese, heartfelt. Following the order in Lin's statement, I will discuss its significance by analysing, respectively, Taiwan's relation to Taiwanese people, Taiwan as part of Japan, and lastly, Taiwan as a member of the world.

First, Lin's statement was one of the earliest attempts to construct the Taiwanese as a people (*volk*). By 1920, the 25 years of colonial rule had given this geographical unit a clear political meaning. That is, the island of Taiwan was a colony under the reign of the Japanese Empire. As discussed in the previous discussion on Lin's transformation from a colonial subject into a cosmopolitan intellectual, many Taiwanese elite shared common frustrations regarding the limited options within and beyond the colony for their career paths. The colonial experience contributed to the feeling of a shared predicament, a feeling that made the imagination of Taiwanese nationalism possible.

In 1920, the very first article Lin wrote for *The Taiwan Youth* began with a straightforward statement about the origin of his people: '3.5 million islanders living on the isolated island of Taiwan of 36,000

square kilometers are part of the Han people who possess long-lasting history of 4,000 years' (Lin 1920b: 31). Similar statements were repeated in several articles, including the petition for the above-mentioned Taiwan colonial parliament to assert Taiwan's subjectivity.

Second, Lin's statement claimed that Taiwan was not merely a colony of Japan, it was also owned by the Taiwanese people. Lin, a moderate and liberal anti-colonial nationalist, recognised Japan's sovereignty over the island.<sup>4</sup> Nevertheless, Lin rejected a view of Taiwanese merely as subjects of either the Japanese Empire or of the governor-general of Taiwan. In Lin's proposal for the colonial parliament, Taiwanese, along with the Japanese residents in Taiwan, owned this island and should have a say in its governance. The previous discussion regarding the movement for a Taiwan Parliament to consist of members elected by the people was also along this line of thought.

Lin was not the only one and probably not the first to express such a view. In his editorial announcing the inauguration of *The Taiwan Youth*, Izumi Akira, Lin's mentor-turned-ally in the Meiji Law School, clearly asserted that 'Taiwan is not the Taiwan of the governor-general of Taiwan. It should be the Taiwan of the inhabitants of the island of Taiwan' (Izumi 1920: 5-7). Lin echoed his Japanese mentor. Despite Lin's narrative about the Taiwanese people and their history indicated earlier, he advocated political rights, by the way of establishing a colonial parliament, not merely for the Taiwanese, but rather for all residents, including the Japanese, living in Taiwan (Lin 1921: 33).

The statement quoted at the beginning of this section is taken from the inaugural issue of *The Taiwan Youth*. As Lin observed: 'Taiwan is more than the Taiwan that consists of three million and five hundred thousand people ... Taiwan is more than the Taiwan that constitutes a Japanese state ... Taiwan is part of the world'. Later on, in an editorial also published in *The Taiwan Youth*, Ts'ai Pei-ho, as a precursor to the 1920s-anticolonial movement, also said something similar: 'Taiwan is the Taiwan of the Empire. At the same time, Taiwan is the Taiwan of we Taiwanese' (Ts'ai 1920a: 35, 1920b: 19).

In other words, while Taiwan was part of Japan, it was also 'more than' that. It also belonged to its constitutive members – the people living on the island. In this way, Lin was echoing Akira and Ts'ai in advocating for 'Taiwan-centered' reforms, opposing a 'Japan-centered' policy, and claiming special political rights for the colonised people.

Lin did not stop here. He added a third idea: 'Taiwan is part of the world' (Lin 1920b: 31). In the last part of the statement, Lin was saying that Taiwan was not the exclusive possession of either the Japanese or the Taiwanese. Rather, it was also 'owned' by the world. If the statement that Taiwan was an island 'consisting of 3.5 million Taiwanese' was an expression of (Taiwanese) nationalism, then 'Taiwan is part of the world' conveyed the internationalist characteristics of Taiwanese nationalism.

In the trilogy of ideas with which Lin constructed Taiwan's identity, the last statement is the one that is most relevant to our inquiry into the liberal tendency in 'Taiwanese nationalists' understanding of law and politics. Indeed, the assertion that 'Taiwan was part of the world' was a clear rejection of Japan's domination. Taiwanese elites in their limited journeys not only identified fellow Taiwanese, but also discovered a Taiwan constrained by Japanese rule. Beyond the authoritarian and discriminating colonial regime, there was a world of equality and freedom, a world to which Taiwan, as a colony, did not have direct access. Therefore, the idea of its inhabitants 'being like any other people,' which was one aspect of being 'a part of the world' was a passionate proclamation, but it was a condition that Taiwanese nationalists had not achieved.<sup>5</sup>

As mentioned earlier, in 1922 the name of *The Taiwan Youth* magazine was changed to *Taiwan* (or *Formosa*). On this occasion, Lin wrote a succinct chronicle of the Taiwanese people:

Taiwan is an isolated island in the corner of the Pacific Ocean. Since the sixteenth century when the Portuguese called it 'Formosa' with admiration, the island attracted Europeans' attention.<sup>6</sup> The occupation by Dutch and the Spanish from 1624 began the development of its rich natural resources. Then the three-generation Cheng dynasty

consolidated the foundation of the Han-Chinese settlement. Next was the 222-year rule of the Qing Empire, which opened up vast uncultivated land in Taiwan. In 1895, the island was incorporated into the territory of the Japanese Empire. There was no room for large-scale immigration from their homeland Japan. ... Because of such a 300-years past, this isolated island became not only a focal point of colonial competition but also a highway connecting Europe and Asia. In the end, through a long period of natural selection, only the Han-Chinese people obtained the name and the substance of being Taiwanese (Lin 1922b: 1).

In this bird's eye view of the three hundred years of Taiwan's history, Taiwan first emerged as an isolated island, but was nevertheless drawn into the competition between several powers. Taiwan turned into a focal point for colonial expansion as well as a 'highway' connecting Europe and Asia. Through successive occupations, including the Dutch, the Spanish, and then the neighbouring Chinese and Japanese, the Han-people from China became 'Taiwanese' and emerged as a people/nation in the world.

The Han-Chinese ethnicity of the Taiwanese is emphasised by Lin. Yet he does not refer to the thousand-years-old cultural legacy of China. Instead, he was talking about a specific experience of 300 years that was exclusive to Han-Chinese immigrants in Taiwan, who survived 'natural selection' and became the only ones who can claim the title of 'Taiwanese'. In other words, what he emphasised was a distinctive Han-Chinese Creole experience that not only distinguished between Taiwanese and Japanese, but also between other 'pan-Chinese'. It was the story of how a particular group of people evolved from Han-Creole into Taiwanese.<sup>7</sup>

### **C The Pursuit of a New Culture: Rule of Law as an Anti-Colonial Discourse**

In the discourse of Taiwanese liberals, the 'world' did not merely refer to a geographic or political space but also to a cultural space shared by the 'civilised' peoples. The concept of 'culture (*bunka*)' referred equally

to a specific set of customs, arts, and social institutions belonging to a particular group of people as to the status of intellectual development among such a people. The possession or lack of 'culture' could be evaluated by a kind of universal spirit. Specifically, it was the liberally oriented global ideals of the new age, such as self-determination and constitutionalism, that Taiwanese liberals celebrated.

The cultural 'world' was a destination at which the Taiwanese had not yet arrived. In the prospectus of *The Taiwan Youth*, an anonymous author juxtaposed the youth in Taiwan with those in Japan and the newly established Republic of China (1911-) (hereafter the ROC). In contrast with the 'pure idealism', 'fervent struggle', and 'vigorous movement' manifested by the awakened youth in homeland Japan and in the ROC, the youth of Taiwan remained 'silent and mute' (Taiwan Shiryō Hozonkai, 1969: 29). They were 'unaware of the unfree situation surrounding themselves' and 'indifferent to the trend of the world'. Ts'ai Pei-ho also showed remorse for having been, as one of the Taiwanese, 'numb' and lacking in 'enterprising spirit'.

Taiwan's backwardness was one of Lin's favourite topics. In contrast with his optimistic account of world trends and his passionate assertion of Taiwan's existence in the world, Lin usually shifted to a sentimental tone when describing the present situation of colonial Taiwan, a nation that had been 'secluded and cramped and was, therefore, falling behind the cultural trend of the world' (Lin 1920a: 1). Taiwan was described as an island where 'education was not yet popularised' and the common people were 'benighted' (Lin 1920b: 34-37). In his first Chinese editorial in *The Taiwan Youth*, he reiterated the subject:

The majority of the people in Taiwan are not aware of living in an environment without freedom. They are lacking in enterprising and fighting spirit. On the top of that ... they are sloppy, egoistic, and easily tempted by even small amounts of money. Therefore, most of them are disinterested and turned a deaf ear to the changing general trend of the times. However, since the new culture is moving full speed forward every single minute, Taiwanese are constantly falling further and further behind (Lin 1920b: 31).

While Lin was certainly proud of the Chinese heritage in Taiwan and regarded it as a distinctive feature differentiating the Taiwanese from the Japanese, he also attributed Taiwan's backwardness, in part at least, to the negative side of the Chinese culture. According to Lin, the Han-Chinese people had a bad reputation of 'toadyism' and a 'dependent mentality', They were in the habit of relying on others and had the tendency to 'curry favor with the strong'. Having become part of the culture in Taiwan, these bad characteristics and habits of the Han-Chinese people were the opposite of the spirit of self-reliance and should be uprooted (Lin 1920b: 37). In other words, the Chinese tradition in Taiwan was not exempt from scrutiny. For Lin, the negative side, such as the 'dependent mentality' of Chinese culture was an obstacle to the healthy development of the Taiwanese and needed to be eradicated (Lin 1920b: 37).

It is not difficult to see the source for Lin's image of the Taiwanese people as reactionary and backward. As I mentioned earlier, the Japanese reporter who covered Lin's success in passing the civil service exam did not shy away from characterising the Taiwanese as reactionary and stubborn. The notion of 'advanced Japanese versus backward Taiwanese' was in fact omnipresent in colonial governance. Goto Shinpei (1857-1929), a civil administrator of Taiwan (1898-1906), denominated his own philosophy of colonial governance as a 'politics of biology,' which could be exemplified by his famous metaphor about flounders and sea breams:

The eyes of flounders are on one side of their heads. Although flounders look ridiculous, we cannot change flounders into sea breams by relocating each of the eyes onto two sides of their heads. There is a biological necessity that the eyes of a flounder are on one side of its head ... this is also true in policy (Gotō Shinpei Tsutōki Hensanksi 1937: 399).

In Goto's politics of biology, the difference between the two people was analogous to the difference between two fishes. The flounder referred to the Taiwanese, the sea bream to the Japanese. They were not only different, but were situated in a hierarchical structure. The fish-

loving Japanese valued sea breams greatly: they were served in sacred ceremonies since ancient times. Flounders not only looked 'ridiculous' but were often found struggling in the mud.

From the very beginning of colonial rule, whether or not the Constitution of the Empire of Japan (1889) should be applied to Taiwan had been a controversial issue in both the Imperial Diet and in legal academia (Wang 1997: 183; 190). Speaking on behalf of the colonial government, Goto claimed that the 'crude and childish' Taiwanese were not able to appreciate the laws of civilised countries. To teach Taiwanese the concept of right was to imbue strange thoughts into a primitive people. In the worst-case scenario, the ideas in modern law might evoke the natives' resistance toward the government. Goto concluded that it was improper to apply Japanese laws to Taiwanese for the time being. The ideal model would be delegating to the governor-general extensive legislative power to make laws suitable to the particular circumstances of the colony (Oguma 1998: 132-133; Tsurumi 1937: 916).

Governor-General Den Kenjiro also adopted an evolutionary theory about colonial governance. In his report to the Diet in 1920, Den asserted that the Taiwanese were not yet 'civilised' enough to receive a Japanese-style constitution and laws (Taiwan Sōtokufu Kanbō Shingishitsu 1940: 62; 68-69; 74; 130-131; Wang 2010: 203). In the same year, a Japanese political commentator named Iwazaki Ketsuji claimed that, although the 25 years of Japanese colonial rule had raised the 'cultural level' in Taiwan to a certain extent, people in Taiwan remained under the influence of the 300 years of imperial Chinese rule.<sup>8</sup> Therefore, Iwazaki continued, a rash assimilation caused by extending Japanese law indiscriminately to Taiwan, would be not only unnatural but also detrimental (Taiwan Sōtokufu Kanbō Shingishitsu 1940: 146-147). He praised special legislations and measures in Taiwan, such as flogging, and a simplified criminal procedure that permitted police to adjudicate misdemeanors.

In other words, Taiwanese political power would not be granted unless the people's cultural level attained a standard deemed satisfactory by Japanese rulers. In the 1920s, they deemed the Taiwanese still too



backward to either enact their own laws or to use the laws designed for the Japanese.

On first glance, Lin seemed to merely accept popular colonial discourse regarding the Taiwanese as low on the 'civilisation ladder.' However, if we take a closer look at the ways in which Lin characterised Taiwan and positioned it in the world, Lin's self-criticism was more complex. According to Lin, Taiwan existed at 'the crossroad between Europe and Asia' but was also 'isolated in the remote corner of the world' (Lin 1922b: 1). It was a nation that possessed great history but was now 'falling behind' (Lin 1920a: 1). Moreover, as if these characterisations were not oxymoronic enough, Lin claimed that the inhabitants of the island of Taiwan were people who were 'endowed with age-old culture'. At the same time, the Taiwanese was also a people who were 'culturally undeveloped' (Lin 1920b: 35).

These pairs of opposing characterisations can be only understood through a highly contextual analysis. I argue that Lin's implication of 'duplicity' regarding Taiwan's status in the world was twofold. First, Lin's juxtaposition of the past versus the present, the island's cultural legacy versus its current barrenness, and the fast-moving world trends versus the sleeping Taiwanese, was an attempt to remind Taiwanese of their own cultural greatness. It was a way to conjure the Taiwanese people from their hidden corner to fulfil their mission as members of the world.

As mentioned earlier, Lin ascribed the Taiwanese people's lack of power to their suppression by the privileged, but he also asked 'the weak' to take responsibility for themselves; that meant to wake up in response to the 'trend of the world' and strive for their own emancipation (Lin 1920b: 31). For Taiwanese liberal nationalists, the ability to understand and to live up to such ideals was requisite for building a nation. They believed that if one was ignorant of the meaning and values of the new age, s/he was 'not worthy of being a human being, not to mention being a nation/people' (Lin 1920a: 1). If a nation lacked the spirit of self-reliance, its people were then 'an unnatural and abnormal people who should not be allowed to exist in the new age and new world' (Lin

1920d: 1). In other words, 'being part of the world' was inseparable from 'being a nation' in the liberal nationalist scheme (Lin 1920b: 35).

Lin's negative self-portrait was, therefore, as much a self-criticism as it was about other-imposed captivity. Lin's dual characterisation of Taiwan suggested that Taiwan's backwardness could not be simply attributed to certain inherent defects. Rather, it was a consequence of unfortunate historical processes; in particular Japan's outdated colonial policy, which suppressed the cultural development of the Taiwanese, a people with great history and culture, by depriving them of their chance to cultivate themselves into an independent and self-reliant nation in a self-ruled civic society.

According to Lin, until the 1920s Japanese colonial policy in Taiwan had focused on economic development but had neglected the development of culture:

At first, it [Taiwan] was governed under the guideline of economism, which centered on investing in industries, improving agriculture, and utilising labour. Lately, however, we can see that an age of culturalism is dawning ... Being used to the conventional, conservative, restrained life of the materialistic world for years, Taiwanese have yet to absorb the culture and way of thinking of creativity, progressiveness, and freedom. I can't help feeling forlorn when I think of such a situation (Lin 1922b: 1).

Lin also criticised Japanese colonisers for regarding Taiwan merely as a conquered land and simplifying Taiwanese education to be merely capable of producing low-tech labourers. Such an education offered basic skills but no training for independent or critical thinking. As a consequence, people could think of nothing but satisfying their own materialistic desires (Lin 1920b: 34-35). Such one-sided progress was therefore a 'limping progress'. Without a spiritual life, 'What is the difference between human-beings and farm cattle?' (Lin 1920b: 29-30).

Even more boldly, Lin's opening remarks in the second issue of *Taiwan Youth*, entitled *Cultivation of the Capacity of Self-Government*, accused the colonial authority of depriving Taiwanese of the opportunity to cultivate themselves in the capacity of self-governance.

The dictatorial rule of the military officer, the high-handed 'police state' (*Polizeistaat*), and the absence of constitutional governance resulted in the lack of a sense of civic responsibility in Taiwan. The Taiwanese became a people who were 'incapable of self-reliance in the society, merely subjects of the state, and falling behind in the human world' (Lin 1920d: 1).

In other words, in response to the colonial discourse that refused political rights to the Taiwanese, who were said to be unsuited to modern constitutionalism, Lin gave the colonisers tit for tat by manoeuvring the binary concepts of 'civilised versus uncivilised'. For him, Taiwan's backwardness was neither inherent nor should be perpetuated. He criticised the colonial policy for not meeting the standard of 'civilised' colonial governance and demanded instead a liberal colonial rule in which the colonised were able to exercise political rights in order to cultivate themselves into self-reliant and progressive people in the world (Lin 1920d:1).

For Lin, the rule of law was an essential part of the new culture. In an editorial entitled 'Advancing the Rule of Law in Taiwan', he distinguished 'rule of law' from Legalism in ancient China. Without democratic participation in the legislative process and proper protection of fundamental rights, Lin asserted, the sheer existence of laws and statutes, no matter how abundant they are, cannot create a modern political system (Lin 1922d:1).

Lin spoke even more baldly in his statement in the trial mentioned earlier. He criticised the absence of constitutionalism and the representative system in Taiwan as obstacles to Japan's goal of creating a genuinely 'civilised country':

Japan is a civilised country in the world. For the sake of the further improvement of Japan's status in the world, the uncivilised despotism [in Taiwan] should be abolished. The spirit of colonial governance after the war was meant to achieve the glorious mission of creating a civilised country. We, as members of Japan, should have the right and obligation to work together [to carry on such a mission] (*Taiwan People's Daily*, September 1, 1924).

Lin capitalised on Japan's anxiety at being a late-blooming 'civilised country' with the desire to prove itself as a qualified example of the colonial powers. He argued that the adoption of a representative democracy in the colony would determine whether Japan, 'the only Oriental colonial country in the world', could succeed in its governance of its new territory and therefore 'glorify the history of civilisation' (Lin 1920e: 31).

### **3 Conclusion: Rule of Law in Post-Colonial Taiwan**

As the counter-product of Japanese colonialism, anti-colonial Taiwanese nationalism simultaneously accepted and refuted the characteristics imposed by the colonisers. Lin's editorial remarks to his fellow Taiwanese youth reveal an internal and sometimes sentimental view about Taiwanese nationalism and its mission. He imagined a Taiwanese people who were full of potential but at the same time were suppressed by an outdated colonial rule. Despite recognising Chinese culture as a constitutive element of Taiwanese-ness, he did not regard either the Chinese or Taiwanese civilisations as self-contained cultural worlds. Instead, the liberal, progressive, and internationalist orientation went hand-in-hand with the nationalists' struggle to move beyond the constraints of Japanese colonialism. In this nationalist discourse, liberal constitutionalism, which asserted, among many other things, that laws should be made through a democratic process that would protect individual rights, was said to be the prerequisite for a nation to become a member of the world. In so-called 'oriental colonialism' (Wu 2003), in which the coloniser and the colonised shared cultural and ethical proximity, it was harder for the colonised to claim distinctive nationalist characteristic by appealing to tradition, be it cultural, religious, or historical. Meanwhile, this particular anti-colonial structure granted leeway for the natives to either accept cultural universalism or to ally with the West to overcome the regional empire.

Although this article does not cover developments after WWII, it is worth mentioning the similar tendency in postwar Taiwanese nationalists of not deploying orthodox Confucian values to forge an

indigenous Taiwanese identity against the incoming KMT regime. Instead, liberal political traditions, including rule of law, were the common values shared by the post-war Taiwanese nationalists.

After the Second World War, the Chinese Nationalist Party (aka KMT) government took control of Taiwan. The liberal and cosmopolitan character of Taiwanese nationalism remained; if anything, it became even stronger. The KMT Chinese nationalists adopted a similar approach to justify their authoritarian rule in Taiwan. Initially, KMT government decided that the Taiwanese, who had been 'enslaved' under the Japanese authoritarian regime, were unsuitable for Chinese constitutionalism. The KMT later brought its constitution to Taiwan when it retreated from China in 1949 but issued a Martial Law Decree that 'froze' the essential part of the constitution.

As I mentioned at the beginning of this article, leaders in Singapore see good reason to manoeuvre Confucianism in constructing a unique Asian or Chinese form of governance. In contrast, the post-war anti-KMT Taiwanese nationalists are never enthusiastic about this approach. In the 1980s political movement that shattered KMT's dictatorship, the normalisation of the constitution was the main demand. As recently as March 2014, when the Taiwanese students occupied the Parliament to protest against a trade pact with China, rule of law was once again the key point of contention. The protesters, consisting of students and civil rights groups, claimed that they were not against the treaty with China per se, but rather insisted that such an agreement should be reviewed and signed with due process and democratic participation. Interestingly, President Ma Ying-Jeou, who is also the chairman of ruling party, the KMT, stressed rule of law, or, more precisely, rule by law, in response to the movement. He criticised the occupation as being illegal and therefore detrimental to the rule of law and to democracy, which he claimed, are the core values in Taiwan (Anonymous 2014).

Another theme that continued after World War II is the Taiwanese's feeling of constraint and their desire to 'join the world'. In the KMT regime under Chiang Kai-Shek and Chiang Chin-Kuo, Taiwanese

were again systemically discriminated against. Until the late 1980s, the majority of important positions in both the government and the KMT were reserved for the so-called Mainlanders (*waishengren*) who immigrated from China to Taiwan right after World War II with the defeated KMT. It is arguable that the KMT is another colonial regime in its early days in Taiwan (Jacobs 2013: 573-575).

The sentiment of exclusion does not stop at the domestic level. In the early 1970s, Taiwan was expelled from the U.N. when the People's Republic of China replaced the KMT-led Republic of China in Taiwan as the rightful representative of China and one of the five permanent members of the U.N. Security Council. Over the years, Taiwan has applied for U.N. membership but repeatedly encountered opposition from China, which claims sovereignty over Taiwan despite the fact that the PRC never ruled Taiwan. Many Taiwanese see themselves as a people being systematically excluded from the international society. In a documentary called 'Dear Taiwan' (2011), Feng Qiao-Lan, a Taiwanese NGO activist, said sentimentally: 'The issue of national identity made us suffer more than others. ... But we are also very fortunate that perhaps with our own hands we will bring this country into the world'. In other words, Lin's remarks in the 1920s speak powerfully to the present. Almost a century later, being recognised as members of the world is still an unfulfilled dream for the Taiwanese people; so too is the pursuit of a genuine rule of law.

### Notes

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- 1 Lin's transcript in Meiji Law School. Courtesy of courtesy of Lin's great-grandson, Lin Zhong-Guang.

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- 2 Despite sharing a family name, Lin Hsien-Tang was not a relative of Lin Cheng-Lu.
- 3 According to the preface, the two government organs which accepted this article is *Tainan News* (Taiwan Shin Po) and *Taiwan News* (Taiwan Shinbun). Also, several issues of *The Taiwan Youth* were banned (including 1/4 October, 1920; 3/6 December, 1921; 4/1 January, 1922; 4/2 February, 1922).
- 4 The Taiwanese liberal nationalists never openly advocated for independence, let alone armed resistance. Their petitions for a Taiwanese parliament emphasized that the island would remain under the Imperial Diet's legislative authority for matters pertaining to all territories within the Japanese Empire and that a Taiwanese parliament was comparable to universal suffrage that was being advocated at the same time in Japan. It is understandable that the emerging Taiwanese Marxists would view the liberal nationalists as a group of pampered sons from wealthy families, who were cowardly and out of touch with the general public's needs and concerns. On the other front, the colonial government never ceased charging the liberal nationalists for advocating a 'secessionist goal', despite all their efforts to present themselves as mild reformers, who advocating for rights laid out in the Meiji Constitutionalism.
- 5 As for now in 2014, Taiwan is not a member in many international organizations, such as the United Nations and World Health Organisation.
- 6 Ilha Formosa, literally meaning 'Beautiful Island', is a name given to Taiwan island by passing Portuguese mariners in 1554.
- 7 Anderson discusses about European creole (Anderson 1991: 47-67).
- 8 Note that the Qing-rule in Taiwan is only 212 years (from 1683-1895).

## References

- Anderson B 1991 *Imagined Communities: Reflections on the Origin and Spread of Nationalism* Verso London
- Anonymous 1910a 'Aotou Duzhan' [In a League of his Own] *Taiwan Nichinichi Shinpo* [*Taiwan Daily Newspaper*] Chinese Column 23 July: 5
- Anonymous 1910b 'Hontō-jin no Shiken Tōdai' [Islanders Pass the Civil Servant Exam] *Taihō Geppō* [Monthly Law Report] 4/8: 151-152

- Anonymous 1924 'Taiwan Yihui Qicheng Tongmenghui Zhian Jingchafa Weifanxianyi de Gongpan' ['The Trial on the METP Activists Charged with Violating The Public Order and Police Law'] *Taiwan Minpo* [*Taiwan People's Daily*] 1 September: 15
- Anonymous 2014 'Taiwan Leader Says Protest-hit China Trade Pact Vital for Economy' *Business Insider* 23 March Available from <http://www.businessinsider.com/r-taiwan-leader-says-protest-hit-china-trade-pact-vital-for-economy-2014-23> Last accessed December 20.
- Anonymous 1920 'Ichi Nōryoku Yōsei' ['Cultivation of the Capacity of Self-Governing'] *The Taiwan Youth* 1/2
- Anonymous 1921 'Preface' *The Taiwan Youth* 3/6 (Preface, no page number)
- Anonymous 1924 'Taiwan Yihui Qicheng Tongmenghui Zhian Jingchafa Weifanxianyi de Gongpan' ['The Trial on the METP Activists Charged with Violating The Public Order and Police Law'] *Taiwan Minpo* [*Taiwan People's Daily*] 1 September 1: 15
- Chen L dir 2011 *Dear Taiwan* Documentary Taipei.
- Baxi U 2011 'The Colonialist Heritage' in Legrand and Munday 2011: 46-75
- Burkma T W 2008 *Japan and the League of Nations: Empire and World Order, 1914-1938* University of Hawaii Press Honolulu
- Engel K 2002 'Culture and Human Rights: The Asian Value Debate in Context' *N.Y.U. Journal of International Law and Politics* 32: 291-333
- Goodroad S L 1998 'The Challenge of Free Speech: Asian Value v. Unfettered Free Speech, An Analysis of Singapore and Malaysia in the Global Order' *Indiana International and Comparative Law Review* 9: 259-318
- Gotō Shinpei Tsutōki Hensankai [*The Editing Society of Gotō Shinpei's Biography*] 1937 Gotō Shinpei: Ni [Gotō Shinpei, Volume II] Gotō Shinpei-haku Denki Hensankai Tokyo
- Huang F and L Chen eds *Jinxiandai Taiwan Koushu Lisbi* [*Oral History of Modern Taiwan*] San-Min Publisher Taipei
- Izumi A 1920 'Taiwan Tōmin ni Tsugu' ['To the inhabitants in Taiwan island'] *The Taiwan Youth* 1/1: 4-10
- Jacobs J B 2013 'Whither Taiwanization? The Colonization, Democratization and Taiwanization of Taiwan' *Japanese Journal of Political Science* 4:/4: 567-586



## Chen

- Legrand P and R Munday eds 2011 *Comparative Legal Studies: Traditions and Transitions* Cambridge University Press Cambridge
- Lin C 1920 a 'Preface' *The Taiwan Youth* 1/1: 1
- 1920b 'Jinggao Wuxiang Qingnian' ['To the Youth of My Hometown'] *The Taiwan Youth* 1/1: 36-37 (Chinese Column)
  - 1920c 'Shin Jidai ni Shosuru Taiwan Seinen no Kakugo' ['The Awakened Taiwan Youth in the New Age'] *The Taiwan Youth* 1/1: 29-40 (Japanese Column)
  - 1920d 'Ichi Noryoku Yosei' ['Cultivation of the Capacity of Self-Governing'] *The Taiwan Youth* 1/2: 1
  - 1920e 'Rokusan Mondai no Kichoten' ['The Conclusion of the Question about Law Title 63'] *The Taiwan Youth* 1/5: 24-41 (Japanese Column)
  - 1921 'Taiwan Gikai Setsuritsu Seigan Nitsuite' ['On the Petition for the Establishment of Taiwan Parliament'] *The Taiwan Youth* 3/1: 29-41 (Japanese Column)
  - 1922a 'Preface' *The Taiwan Youth* 4/1: 1
  - 1922b 'Taiwan no Shin Shimei' ['The New Mission of Taiwan'] *Taiwan* 3/1:1
  - 1922c 'Seun Tenki no Taisaku' ['Measures to the Turning Point of the World'] *Taiwan* 3/3:1
  - 1922d 'Shinka Subeki Taiwan no Houchi' ['The Rule of Law in Taiwan Should be Further Developed'] *Taiwan* 3/7: 1
- Manela E 2007 *The Wilsonian Moment: Self-Determination and the International Origins of Anticolonial Nationalism* Oxford University Press Oxford
- Oguma E 1998 *Nihonjin no Kyōkai : Okinawa, Ainu, Taiwan, Chōsen, Shokuminchi Shibai Kara Fukki Undō Made* [The boundaries of the Japanese: From the Colonial Governance in Okinawa, Ainu, Taiwan, Korea to Eversion Movement] Shinyōsha Tokyo
- Pang L 2005 Post-1997 Hong Kong Masculinity in Pang and Wong, 2005: 35-56
- and D Wong eds *Masculinities and Hong Kong Cinema* Hong Kong Hong Kong University Press

- Taiwan Shiryō Hozonkai [Association for the Preservation of Historical Materials on Formosa] 1969 *Nihon Tōchika no Minzoku Undo: II, Seiji Undo Hen* [*Formosan Nationalist Movements under Japanese rules, II, History of Political Movement*] Fūrin Shobō Tokyo
- Taiwan Sōtokufu Kanbō Shingishitsu eds 1940 *Ritsuryō Seido no Enkaku* [*The History of GTT- Ordinance*] Taiwan Sōtokufu Kanbō Shingishitsu Taipei
- Ts'ai, Pei-ho 1920a 'Wodao yu Wodeng' ['Our Island and We'] *The Taiwan Youth* 1/5: 35-46 (Chinese Column)
- 'Wagashima to Wagato' ['Our Island and We'] *The Taiwan Youth* 1/4: 13-24 (Japanese Column)
- Tamanaha B Z 2004 *On the Rule of Law: History, Politics, Theory* Cambridge University Press Cambridge UK
- Tsai S and D Shie 1983 'Taiwan Chiantu de Mosuo yu Hueigu: Lin Cheng-Lu yu Huang Chau-Chin' ['On Lin Cheng-Lu and Huang Chau-Chin: The Retrospect of Taiwan Nationalist Movement'] *Taiwan Wenyi* [*Taiwan Literature*] 83: 153-174
- Tsurumi E P 1977 *Japanese Colonial Education in Taiwan, 1895-1945* Harvard University Press Cambridge
- Tsurumi Y 1937 *Gotō Shinpei*. Gotō Shinpei-haku Denki Hensankai Tokyo Taiwan
- Wakabayashi M 2011 *Taiwan Kōnichī Undōshi Kenkyū* [*The Anti-Japanese Movement in colonial Taiwan*] Kenbun Shuppan Tokyo
- Wang S 1991 'Lin Chenglu Xiansheng Fangtan Jilu' ['An Interview with Lin Cheng-Lu'] in Huang and Chen 1991: 21-67
- Wang T ed 1997 *Taiwan Falu shi de Jianli* [*The Establishment of Taiwan Legal History*] San-Min Publisher Taipei
- 1997 'Taiwan Rizhi Shiqi Xianfashi Chutan' in Wang 1997: 183-256
- 2010 *Juyou Lishi Siwei de Faxue: Jiehe Taiwan Falushehuishi yu Falu Lunzheng* [*Jurisprudence with Historical Thinking: Combination of Taiwanese Social History of Law and Legal Reasoning*] Wang Tay-Sheng Taipei
- Wu R 2003 *The Formosan Ideology: Oriental Colonialism and The Rise Of Taiwanese Nationalism, 1895-1945* PhD Dissertation Chicago University