Maneuvering Modernity:
Family Law as a Battle Field in Colonial Taiwan (1895-1945)

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Twenty five years after launching its own legal modernization in response to Western imperialism, Japan imposed a modern legal system upon its first colony, Taiwan. In accordance with the “respecting old custom” colonial policy, the Japanese created a system called Taiwanese customary law, a mixture of imperial Chinese laws, local customs and European legal concepts, and gradually implemented its newly adopted European-style Meiji Civil Code (1898). However, even since the late 1910s when the colonial policy changed into “full-flag assimilation,” family law remained an exception to the transplantation of Japanese laws. That did not, however, mean that family law was insignificant in Japanese colonial governance. On the contrary, since family was deemed as the core of the national culture, Japanese colonizers regarded the extension of Japanese family law to Taiwan as crucial to both the cultural assimilation and the civilizing mission. For the same reason, Taiwanese family customs was regarded as the most “backward” aspect of Taiwanese culture.

The newly-emerged Taiwanese new intelligentsia, represented by a lawyer/journalist named Lin Cheng-Lu (1885-1968), resisted to the whole-sale imposition of Japanese family law on Taiwanese. Unlike many anti-colonial nationalists in the colonies, they did not uphold neo-traditionalist native family values to argue against the Western-European family laws. On the contrary, the Taiwanese anti-colonial activists welcomed the modern family law but claimed that the modernization of Japanese family law was in fact incomplete. Feudal Japanese customs (e.g. primogeniture) preserved in Meiji Civil Code were attacked and rejected. By separating modernity from the Japanese colonizer, the Taiwanese developed a strategy of modernizing rather than single-mindedly preserving traditional culture, as part of an effort to resist the assimilation project and preserve its
own identity.