

The Drafting of the Constitution of the Union of Burma 1947

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This paper aims to consider the constitutional history of Burma leading into the drafting of the independence constitution of 1947. It first examines the question of Dominion status in relation to Burma. It then outlines the Burmese drafting process, highlighting the links between Rangoon and New Delhi. The provisions of the Burmese Constitution are then analysed for comparative influences using a combination of algorithmic and manual comparison between the Burmese Constitution and texts and drafts of foreign constitutions that we know were in the hands of the Burmese drafters. This demonstrates the single biggest foreign influence was the Irish constitution. Finally, we consider some of the intellectual links between Burma and Ireland at the time.

A Quest for Nirvana of ‘Vicious Constitutional Cycle’ in Post-1997 Thai Legal History: The Roles of Legality Reconsidered

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In post-absolutist Thailand after 1932, the conflict between the pro-democracy and the conservative factions resulted in military coups together with martial law supported by the suspension of liberal democracy viewed as a threat to the nationalist-conservative tradition known as Thai-ness and other uses of emergency legislations by the government of both factions. Though the royalist-conservative still holds the upper-hand in politics given its ability to engineer a coup, such hegemony and ability have been declining in recent years due to the struggles for a commitment to liberal constitutionalism. My main concern is the post-1997 constitutional history of Thailand. Here, I ask: To what extent did the irresistible and continuous rise of liberal demands and the trends of constitutionalism, modernisation, and democratisation in Thai legal history challenge the hegemony of Thai-ness before 1997? How does Thailand’s post-1997 constitutional history suggest an alternative understanding towards ‘legality’? The Thai experience, I argue, asks us to think beyond ‘legality qua normativism’ as it suggests its four alternative roles, namely rationalisation, institutionalisation, condemnation, and insulation.

Transnational Labor Issues in Korea: Weimar Constitution (1919) and the Codification of Labor Law in Korean Constitution (1948)

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When the U.S. Army Military Government in Korea (hereafter USAMFGIK, 1945-1948) was established in September 1945 below the 38th parallel north, US officials met the Korean laborers who were managing industrial facilities which all the Japanese deserted. The Korean laborers were raising their voices of Korean labor rights while they also argued for labor union's participation in industrial plant management. Although Japanese colonial government mobilized Korean laborers and achieved industrialization to some extent, post-war Korea saw the limitations such as the divided economy between South and North Korea, and discontinuance of Korean and Japanese economic integration and complementation. Thus, labor issues were not simply economic ones but political issues.

When US officials and Koreans debated Korean constitution, Korean legislators were demanding labor protection clause in the Constitution draft. This is a new phenomenon that both legislators and labor activists upheld labor clauses in the Constitution. Thus this paper tries to trace the origins of the this labor right-clause in the Korean Constitution. I will argue that this labor clause dates back to Weimar Constitution in 1919, which supported laborer's rights, a clause that vehemently supported Hugo Sinzheimer who was a legislator in a new German Republic (Ruth Dukes, "Hugo Sinzheimer and the Constitutional Function of Labor Law,"). The labor clause in the Weimar Constitution was Art. 157, "Labor shall be under the special protection of the Reich. The Reich shall adopt a uniform labor code," and it had great impacts upon Korean legislators, though Korean version showed its own limits. Ernest Fraenkel, Sinzheimer's student who came to Korea as a legal advisor to US military government played a key role in this process while Jeon was the Korean counterpart.

The Influence of East Asian Culture and Western Constitutional Ideology in Vietnam First Constitution

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This article presents what influenced the formation and content of the first Vietnam constitution in 1946, include the historical context of contemporary Vietnam, East Asian culture, and Western constitutional ideology. The content of the Vietnam 1946 Constitution is quite close to the ideas expressed in typical contemporary constitutions, because the Vietnam 1946 Constitution was born as a result of a journey of searching, observing, and receiving streams of legal and political ideology in the world into Vietnam.

For nearly half a century, political and legal knowledge, ideology of freedom, popular sovereignty, civil rights, democracy, the republic, the organizational model of the state apparatus, and division of power entering Vietnam from France, Japan, the US through different routes. Firstly, the classic books such as Social Contracts, The Spirit of the Law were translated and published, disseminated, articles published in newspapers, lectures at schools, forums like Dong Kinh Nghia Thuc. At the same time, many Western intellectuals studied in France or received French education, in which many studied in law, later directly involved in drafting the Vietnam 1946 Constitution such as Phan Anh, Vu Dinh Hoe, Do Duc Duc. Especially base on the efforts to go abroad and bring back, spread from patriotic scholars and intellectuals such as: Phan Boi Chau, Phan Chau Trinh, Phan Van Truong, Huynh Thuc Khang ect. These are journeys to Eastern countries opened soon like Japan; to countries where are home to constitutional ideas such as France, America, and Great Britain.

Through that movement, the common constitutional ideas and values of humanity have been popularized in Vietnam. Moreover, although more or less, the constitutional ideology of patriotic scholars and intellectuals have influenced the visions, views and constitutional contents of those directly involved in the drafting of the Vietnam 1946 Constitution; and president Ho Chi Minh has communication, exchange, and observance of the development of constitutional ideas of many of them.