

Why can't the law, which was introduced and maintained by Japanese between 1876 to 1945, be justified?

1. The political aspect of the law

a. Japan justified its military conquest of Asia by the term of international law : To the Asian, the essence of Western civilization seemed to lie in military and industrial technology and international law as the rule of game. International law had been destined to play such an important and often decisive role in channeling the imperialistic energy or the West upon the East by using higher technology. Japan did the same to Korea with what Western's had done.

b. The Result of Accepting Western Law System by Japanese: The first Westernized legal system was established in Korea as a part of the "reform" coerced upon the Korean government by Japanese while the Japanese army held the royal family captive in the palace and occupied the capital city. So Japanese-style government structure, whose members were composed of Korean elite friendly to Japan and Japanese advisors, was established. The result was the facilitation of Japanese domination of Korea.

2. The internal aspect of the law

a. The problem of administrative structures <Domination of Power>: Government-General was placed under the direct control of the Emperor and becoming an army general or a navy admiral. Minister of justice rather than traditional minister of punishment was entrusted with Courts, police and prisons. Chiefs of police station had a summary jurisdiction.

b. The problem of two different legal systems, <one for the Korean and the other for the Japanese>: Korean criminal law provided for more severe punishment and extremely high percentage of conviction. For example, during the twelve years ending with 1923 there was no year which less than 95.1% of the cases tried in the criminal courts ended in the conviction of the accused, and the average for the 96.8% of conviction, while criminal rate of Japanese came out over 3 times as high as the Koreans.

3. The practical aspect of the law

a. The number of between Korean and Japanese lawyer <Discrimination> In 1923, there were 162 Japanese and 37 Korean judges, 67 J. and 10 K. public prosecutors, 43 and No K. chief clerks. In 1940. Only 18 Korean judges and no Korean prosecutor, though less than 0.1% of Japanese compared with Korean lived in Korea

b. Korean people stayed away from legal systems: In 1938, The number of civil cases examined in local court of Korea amounted to only 13.1% of the number of cases handled by the Japanese local court. But the respect to criminal cases it was 42.2%.

c. The problem of high police : As the colonial police worked in detecting and exterminating "Korean nationalism" among Koreans rather than keeping the peace and protecting life and property, so the colonial judiciary embodied the legal system that guaranteed the colonial rule rather than securing justice and providing just remedies to the litigants