

## **THE REACH AND LIMITS OF WESTERN MODELS OF CONSTITUTIONALISM IN ASIA**

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Constitutionalism as a school of thought and as a set of political and legal practices was originally a product of modern Western civilization. In the course of the last two centuries, it has spread to all corners of the earth. This paper examines and reflects on the transplant of Western models of constitutionalism to Asia, focusing on several case studies from South Asia, East Asia and Southeast Asia – India, China, Korea, Japan and Indonesia. It traces the origins and development of constitutionalism in the countries concerned. It considers the extent to which constitutionalism (if any) practiced in the countries concerned is “Western” or indigenous, and whether constitutionalism may be regarded as having a universal appeal far beyond the Western nations in which it originated.

For the purpose of this paper, Western models of constitutionalism include both its liberal democratic form that originated in Britain, France and America, and its Leninist-Stalinist form that originated in the former Soviet Union, although the latter form can hardly be regarded as genuine constitutionalism. The transplant of Western models of constitutionalism to Asia sometimes occurred in the course of colonization (e.g. in the case of India), and sometimes by voluntary and conscious importation or imitation as an Asian society sought to modernize itself when confronted by the challenges posed by the West (e.g. in the cases of China and Japan). In some cases, liberal democratic forms of constitutionalism were introduced when the Asian nation first became an independent state, but became superseded by authoritarianism (e.g. in the cases of South Korea and Indonesia). Such authoritarianism, however, did not last and eventually gave way to liberal democracy (in the cases of South Korea, Taiwan and Indonesia). In some cases, liberal democratic forms of constitutionalism were successfully integrated with the local culture and local circumstances and resulted in stable forms of rule (in the cases of India and post-War Japan). In still other cases, the Leninist-Stalinist form of constitutionalism, once introduced, proved to be resilient and still endures in the early twenty-first century (in the cases of China and North Korea).

This paper compares and contrasts the different experience of the countries concerned in the introduction and practice of constitutionalism, and provides an assessment of the extent to which Western models of constitutionalism have “triumphed” in the Asian countries concerned.