

Translating University Regulations

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By

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This book is dedicated to my father,
who passed away before its completion.

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CHAPTER 1

UNIVERSITY REGULATIONS

Translating University Regulations outlines a framework for the management of translation projects in university settings, using the National Taiwan University regulations translation project as a case study. The book is divided into three parts that cover the following: (1) *standardisation of university regulations*, (2) *management of university regulation translation projects* and (3) *translations of cultural-specific terminologies*. As such, this book contributes to addressing the increasing demand for university regulation translation projects and can help translators, terminologists, researchers and teachers understand phraseologies, language norms and sentence structure in the context of university regulations.

1.1 University regulations in Taiwan from a historical context

Taihoku Imperial University, the first university in Taiwan, was established in accordance with Japanese government regulations in 1928 during the Japanese colonisation. In line with the Japanese government's modernisation policies, the 1886 Imperial University Order required universities 'to be engaged in teaching scientific knowledge and arts relevant to the needs of the State, and to pursue a profound study of these areas of knowledge and

the arts' (MEXT Japan 1990). Article 2 of that order stipulated that imperial universities should include a graduate school for research on the arts and sciences, as well as colleges for law, medicine, engineering, literature and science, each with a college head, a lead teacher, professors, assistant professors, a dormitory dean and administrative clerks. In general, professors had considerable power over academic affairs and teaching, while deans comprehensively managed various departmental affairs with the consent and approval of the professors. The Japanese Ministry of Education later revised both Imperial Ordinance No. 269 of the Imperial University Order, relating to the fixed number of professors and associate professors, and Imperial Ordinance No. 270, limiting the capacity of personnel at imperial universities (Hata 2003).

The Imperial University Order charged professors with appointing the university's president and charged the president with protecting the appointment of professors. Nevertheless, the university's first two presidents were appointed by imperial order rather than being elected by professors because Taiwan was under the colonisation of Japan at the time. However, after Taihoku Imperial University operated for a time, its professors gained more power. Following the resignation of the institution's second president in 1941, the professors began following Japanese imperial university practices and, thus, elected the third president of the university. As noted in Article 2 of the Imperial University Order, 'neither the will of the minister of education nor the decision of the faculty could override the decision of the president' (Shogimen 2014, 80). This paved the way for imperial universities to achieve independence.

The review council (評議會) and the professorial council (教授會) of Taihoku Imperial University were two important bodies in place that advised on university policy during the period of Japanese colonisation. The review council was the chief advisory body and was responsible for decision-making regarding major university affairs, including, as stipulated by Article 7 of the Imperial University Order, reviews of the formation and suspension of academic disciplines; consultations on the establishment and abolition of lectures; and authorisation of internal university rules and other matters raised by the minister of education, culture, sports and cultural affairs or the president of the imperial university. The review council consisted of two representatives elected by the deans of each college and professors from each department (L.-L. Cheng 2010).

Traditionally, Japan's imperial universities have been thought to be influenced by German universities (Scalapino 1962; Dore 1965). Along those lines, Bartholomew (1978) compared the ideological orientation, social function, formal organisation, pedagogy and informal organisation of Japan's imperial universities and German universities; the author claimed the extent of the influence had been exaggerated but affirmed that German universities were essential to Japan's modernisation process. The imperial universities expanded between 1886 and 1920 to focus on training more people in engineering, medicine and the applied sciences (Bartholomew 1978).

During the 50 years of Japanese colonisation, Taihoku Imperial University was the only university established in Taiwan and the seventh imperial university founded by Japan, after Tokyo (1886), Kyoto (1897), Tohoku (1907), Kyushu (1910), Hokkaido (1918) and Keijo (1924; (MEXT

Japan 1980). Notably, the city referred to as Keijo during the Japanese occupation later became Seoul City. After Japan was defeated in World War II (WWII), Keijo Imperial University was abolished and later reorganised as Seoul National University.

According to the first president of Taihoku Imperial University, Dr. Shidehara Taira, the mission of the university at the time was to lay a foundation for Taiwan's development to enrich the Japanese government's understanding of Southeast Asia, especially pertaining to human science research and tropical and subtropical diseases of the region. The university was also needed for sharing Japanese culture and values with neighbouring countries. These considerations strengthened the establishment of the Taihoku Imperial University Faculty of Literature and Politics and Faculty of Science and Agriculture. The former focused on research on East and Southeast Asia, while the latter emphasised Taiwan-centred tropical research.

As a result of Japan's surrender at the end of WWII, Taiwan was placed under the governance of the Republic of China, ruled by the Kuomintang. Dr. Tsung-lo Lo was the first to serve as president of Taihoku Imperial University after WWII; he renamed the institution National Taiwan University (NTU). The institution's management was based on the 1948 University Act promulgated by the national government. Based on Article 36 of the University Act, the NTU Organizational Charter was approved by the Ministry of Education in 1980, and the president of NTU is elected by a presidential search committee to oversee university affairs. According to regulations, the presidential search committee includes seven academic division representatives, one administrative division representative,

one student representative, nine alumni and advocates for social justice and three representatives appointed by the Ministry of Education. The review council of Taihoku Imperial University was renamed the university council after the Republic of China took control of Taiwan. Like the review council, the university council is responsible for decision-making regarding major university affairs.

From its days as Taihoku Imperial University through its time under the NTU nomenclature, the institution has operated under two regimes. Language-wise, Japanese was the main language used in the university rules and regulations during the Taihoku Imperial University period, and such language policy changed after the transition in power and university administration, with the Chinese language used in university rules and regulations. The status of English translations of Chinese rules and regulations became important when the Tsai administration advocated the 2030 Bilingual Nation policy. Although the university rules and regulations under different administrations were inseparable from the economic, political and social contexts in which they had been established, the regulations still were very similar, particularly relative to the emphasis on academic independence and autonomy.

In its first year, Taihoku Imperial University enrolled 60 students, mostly Japanese, in two colleges. In 1945, the year Taihoku Imperial University transitioned to NTU, the organisation supported five colleges and 382 students. As of 2024, the university had 16 colleges, 60 departments and 152 graduate institutes, with over 35,000 students, including 17,117 undergraduate and 17,926 graduate students.

The history of Taiwan and of NTU has had a vast influence on student identities. However, the complexity of translating and conveying the meaning of terminology from a historical perspective to mediate contemporary discourse and the role of translators in the process of representing and recontextualising terminologies with historical traces are understudied (Schäffner and Bassnett 2010; Liu 2021). This book explores the terminologies in NTU's regulations, with a special focus on the Chinese terminologies and English translations of Chinese administrative protocols, and reflects on the evolution of and translation strategy for the guidelines. The terminologies and translations identified were compared with terminologies from the Laws and Regulations Database of Taiwan. The aim was to identify terms delineated for specialised concepts and examine whether appropriately nuanced terminologies, texts, and translations that can function as socio-political and cultural envoys in the public, academic, and diplomatic spheres were created.

1.2 University regulations in the UK, US and Canada

Like Taiwan, the founding of universities and changes in power throughout history also resulted in different legal natures of universities in the UK, US and Canada.

Although the University Act in the UK was established as early as 1825, universities set up before 1992 were established by royal charter issued by a monarch, and universities established after 1992 were founded by higher education corporations. According to Schedule 2 of the Universities (Scotland) Act 1966, the powers of universities can be exercised by ordinance, by resolution and in accordance with procedures

prescribed by the University Court (UK Parliament 1966). In addition to the Universities (Scotland) Act 1966, the Higher Education Act 2004 (UK Parliament 2004) makes provisions for arts and humanities studies, student complaints, fees payable by students in higher education and student grants and loans. The Higher Education and Research Act 2017 (UK Parliament 2017) makes provisions about higher education and research and about alternative payments to students in higher or further education. The Education Reform Act 1988 (UK Parliament 1988) makes statutes for all universities in England and Wales. Respective parliamentary university acts mostly regulate the rights, properties, assets and obligations of the university and are considered UK local acts.

The University of Oxford and the University of Cambridge are exceptions. As one of the oldest universities in the UK, the University of Oxford was first established at common law by custom, and at common law, organisations have the right to make rules governing their internal affairs, including procedures for making new rules and abolishing or modifying existing rules. After Oxford and Cambridge Universities were formally incorporated in 1571 by statute, the early statutes stipulated the rules for convening congregations, meeting procedures and voting. The Oxford University Act was passed in 1854, the Cambridge University Act in 1856, and the incorporated Universities of Oxford and Cambridge Act in 1859. These acts regulated the constitution of the universities, provided the universities with a status of autonomy, secrecy and unsupervised operation, and allowed them to enjoy a certain degree of privilege and control over their assets.

Universities in the United States were first established to train ministers. Harvard College was founded by the Massachusetts Bay colonial legislature in 1636 and was established under a charter in 1650, with most of the funding coming from the colony (Harvard University 2021). Modelled after Oxford and Cambridge Universities in England, other colleges were founded before the start of the American Revolution. Few universities are congressionally chartered universities, whereas other universities are chartered by the colonial governments or by state legislatures. Universities in Canada are established and operated in accordance with provincial and territorial government regulations.

Before the United States of America became a sovereign nation, universities in the colonial period were established through a charter. After the founding of the United States of America, the management of colonial colleges became the jurisdiction of local and state governments. In the mid-nineteenth century, the federal government became directly involved in higher education. In 1900, the presidents of fourteen institutions created the Association of American Universities (Thelin et al. 2021). The association works with policymakers to help with issues in inconsistent higher education regulations across federal agencies and regulations that are inappropriately applied to universities.

The Higher Education Act of 1965 was legislation signed into United States law to strengthen educational resources and provide financial assistance. The US Higher Education Opportunity Act of 1965 was amended and extended in 2008, defines higher education, and makes provisions for teacher quality, student assistance, international education programmes, student loans, studies and reports, and so on.

The structure of Canadian universities was issued in the charter in 1841 by Queen Victoria. The royal charter established the structure of the university, a board of directors, a senate, and the post of principal. After several modifications, including the creation of the position of chancellor, the royal charter gained authority through the Parliament of Canada (Dorrance 2016). Canadian universities established by royal charter were subsequently reincorporated by acts of legislature (Shanahan, Nilson, and Broshko 2016, 59-60). In 1911, the Association of Universities and Colleges of Canada was formed to represent Canadian universities and university colleges in Canada, providing public policy, research and scholarship and international programmes. This non-profit national organisation was renamed 'Universities Canada' in 2015.

Universities Canada represents Canada's colleges and universities and coordinates university policies, guidance and direction. The institutional members of Universities Canada have governance and administrative structures suitable for the university. This includes granting academic staff the power to influence academic programmes through academic senate membership, including admissions, content, graduation requirements and standards and related policies and procedures or other appropriately elected academic representatives of academic staff.

Despite similarities and differences in the historical traces of university regulations, the legal nature and purpose of university regulations remain the same. Also unchanged are the subjects these regulations are aimed for. The importance of university regulations should be highlighted to facilitate university operations.

1.3 Administrative regulations and revision procedures

Social interactions are governed by rules, and as effective regulations are essential for the operation of a university, institutional rules help safeguard the rights and obligations of students and faculty members within the institution. Students and faculty members comply with the rules by internalising the values of the university and believe that the rules set forth by the university are, in the words of Tyler (2006, 375), defining 'legitimacy' as 'appropriate, proper, and just' (p. 375), thereby exemplifying the analysis of social behaviour.

From the perspective of the university, administrative regulations provide the legal basis for university operations. On the one hand, the operation of the university must reflect the spirit of university autonomy, while on the other hand, the university must comply with the provisions of the law. University autonomy is guaranteed by Article 11 of the Taiwan Constitution related to freedom of teaching. Article 1 of the University Act also expressly affirms that universities shall be guaranteed academic freedom and shall enjoy autonomy within the scope of laws and regulations. With respect to the university's operation, university autonomy includes the freedom to conduct academic research, training and education. In addition, relevant administrative regulations can be formulated by the university in accordance with its own policies and operational needs.

From the perspective of the rule of law, university autonomy must be exercised within the scope of the law (Article 1, Item 2 of the University Act). Additionally, universities must operate in compliance with the provisions of various laws or administrative orders authorised by laws, such as the provisions of the University Act regarding the establishment and

classification of universities, their organisation and meetings, professorial ranks and recruitment and student affairs regulations, as well as the regulations on appointing educational personnel and the law on teacher qualifications, appointments, rights and obligations. For example, the student guidance law regulates matters related to student advising and counselling. The formulation of university administrative regulations must follow these laws and regulations to comply with the rule of law principle of administration by law.

According to Article 162 of the Constitution, ‘all public and private educational and cultural institutions in the country shall, in accordance with law, be subject to State supervision’. The competent authority has the right to supervise the formulation of university administrative regulations. This supervision is conducted without violating the autonomy of the university and by following the law to comply with the principle of Article 23 of the Constitution.

In a democratic society ruled by law, administration by law is the priority, and the institution of laws and regulations should follow the principles of administration by law and general administrative law. University administrative laws and regulations are tools for implementing university autonomy and policies. Decision-makers must keep abreast of the pulse of society and world trends to construct sound legal systems and to improve universities’ campus governance systems and administrative operations.

1.4 Positioning of university administrative regulations¹

Before we explain the positioning of university administrative regulations, the positioning of the university itself must first be understood. According to current law, all Taiwan universities are administrative organs of higher education. The basis lies in Article 4, Item 2 of the University Act:

The establishment of, alterations to, or cessation of operations of any national university or any private university shall be approved or necessary adjustments shall be indicated by the Ministry of Education, in light of education policies and after carefully examining the actual circumstances in different localities. Proposals for the establishment of, alterations to, or cessation of operations of a university established by a special municipality, county, or city shall be submitted to and examined by each successive level of government and then the Ministry of Education which shall give approval or indicate necessary adjustments. A private university shall also act in accordance with the provisions of the Private School Law when handling any such matters.

Hence, the establishment, modification and closure of universities are all supervised and managed by the Ministry of Education.

In addition, the university has institutional status according to the Supreme Judge's Interpretation Reason No. 382:

Public universities are institutions established by governments to implement education according to laws and regulations. Private

¹ Section 1.4 is translated from the *NTU Handbook for Drafting University Regulations*.

universities are approved by the competent education administrative agency in accordance with the Private School Law and may establish and issue official seals for authorized use. Within the scope of education, the university has the authority to enrol students, determine student status, reward and punish students, issue graduation or degree certificates, and is an educational institution authorized by law to exercise public power within a specific scope. When dealing with the above matters, it also has a status equivalent to that of an institution (refer to the interpretation of No. 269 of the Interpretation of the Court).

As administrative structures presided over according to law, universities also enjoy autonomy within the scope of the law, and the regulatory status of the administrative regulations they issue is unique. However, no conclusion has been reached in theory or in practice on the way to position university administrative regulations. University administrative regulations do not apply the provisions of Taiwan's Central Regulation Standard Act (CRSA) because the CRSA was established for the 'promulgation, enforcement, application, amendment and discard of a central regulation' (Article 1), and university administrative regulations are not central regulations. Hence, the CRSA does not apply to university administrative regulations, neither as an object of its regulation nor as a procedural provision of the central regulations.

Secondly, whether university administrative regulations are legal orders as defined in Taiwan's Administrative Procedure Act remains open to discussion. According to Article 150 of the Act, a legal order is 'an abstract prescription with external legal effects, established by an administrative authority as enabled by law in respect of general matters and

applicable to a multiple number of non-specified persons'. The law authorises the university to formulate some administrative regulations, such as organisational charters or academic regulations. However, only internal personnel are constrained by these regulations; the regulations are not legally enforceable on unspecified people or outside the university. Moreover, not all university administrative rules are authorised by law.

Thirdly, the administrative rules referred to in Article 159 of the Administrative Procedure Act refer to generalised and abstract provisions issued by a superior authority to its lower units or by a superior officer to his subordinate officers, by virtue of its or his powers, for the purpose of regulating the internal order and operation of the authority, with no direct external effects as legal norms.

University administrative regulations are, indeed, not standards that are required to be followed externally. Some are authorised by law but are not rules created by higher authorities or chief executives according to their authority. As such, the administrative rules referred to in the university administrative regulations and in Article 159 of the Administrative Procedure Act seem to conflict. In addition, although some administrative regulations are formulated by the university based on its autonomy within the scope of the law in terms of the unity of its internal organs, no independent distinction has been made between superior and subordinate organs. Therefore, these university administrative regulations also seem to be inconsistent with the definition of administrative rules.

Finally, Article 3, Item 3, Subparagraph 6 of the Administrative Procedure Act expressly stipulates that internal procedures established by schools and other educational institutions for educational purposes shall not

be subject to the procedural provisions of the Act. In other words, regardless of the positioning of university administrative regulations, these rules are not subject to the procedural provisions of the Administrative Procedure Act. For example, although all university administrative regulations stipulate that they should be published after approval, the publication of any such regulation does not have to comply with the provisions of Article 160, Item 2 of the Administrative Procedure Act – that is, it is not required to be released through publication in a government gazette.

Despite these issues pertaining to university administrative regulations, they should still be positively positioned within a feasible range. First, although the provisions of the CRSA and the Administrative Procedure Act are not applicable to university administrative regulations, their jurisprudence still has reference value for the formulation of university administrative regulations. Article 7 of the CRSA distinguishes between ordinances enacted by government agencies with legal authorisation and orders based on an agency's statutory authority. Since university administrative regulations are also based on these two sources – one as the legal authorisation of administration according to law and the other as the authority of the autonomous university organs – university administrative regulations should be divided into these two types of provisions.

1.4.1 Authorised orders

Some important administrative regulations involve organisational operations and the rights and obligations of faculty, staff and students and are authorised by laws or administrative orders of the competent authority to be formulated by the university. Such regulations constitute authorised

orders of university administrative regulations. Article 32 of the University Act authorises and requires universities to formulate academic regulations and student reward and punishment regulations; Article 70 of the Labor Standards Act stipulates that universities, as employers of more than 30 workers, should formulate work rules, such as the university's 'Work Rules for Engaging Staff or Workers'. Article 16 of the 'National University School Affairs Fund Management and Supervision Measures' authorises the university to formulate self-raised income and expenditure management regulations.

1.4.2 Power orders

As an autonomous organisation, the university may, within the scope of its authority, without legal authorisation or requirements, formulate and promulgate university administrative regulations based on its authority. Of course, university administrative regulations, such as power orders, must not violate the law (reference Article 11 of the CRSA).

In short, although university administrative regulations are not central regulations, whether they belong to regulatory orders or administrative rules under the Administrative Procedure Act is under debate. However, as higher education administrative organs, universities have internal administrative rules that have the force of regulations and can be divided into authorised orders and power orders. As an administrative institution of higher education that enjoys autonomy within the scope of the law, university administrative regulations have a unique position.