

Researches on Modern Chinese Students Who Studied Law and Politics in Japan and Modernization of Zhili Province Legal and Political Education

FAN Guofu^{[a],*}

^[a]The Central Institute for Correctional Police, Baoding, China.
*Corresponding author.

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Abstract

Modern Chinese students who studied law and politics in Japan have played an important role in promoting the modernization of Zhili Province legal and political education as well as China’s legal and political education. Based on this, the paper focuses on the spread of modern legal and political educational concepts, modern legal and political theories, writings and the introduction of modern legal and political ideas, etc., makes objective and realistic analysis in order to correctly understand and evaluate the historical status and influences that modern Chinese students in promoting the modernization of Zhili Province legal and political education as well as china’s legal and political education.

Key words: Modern times; Students who had studied in Japan; Zhili province; Modernization of legal and political education

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INTRODUCTION

An important feature of the Chinese Students who studied in Japan in the late Qing Dynasty is the “law and politics

hot.” According to statistics, in 1904 China had 1,300 students studying in Japan, out of whom more than 200 students were studying martial arts, and more than 1100 were studying liberal arts (including law, politics, normal education and general).¹ It is evident to find the occupied proportion of those studying law and politics of the total students at that time. Meanwhile, gave special political history of Zhili Province, a considerable part of the student majored in law and politics in Japan returned to Zhili Province for work. They have played an important role which cannot be underestimated in promoting the modernization of Zhili Province legal and political education as well as China’s legal and political education.

1. ESTABLISH LEGAL AND POLITICAL SCHOOLS, SPREAD MODERN LEGAL AND POLITICAL EDUCATIONAL CONCEPTS

In the Westernization Movement, although the Qing Government has founded a series of language, military and technical Industrial schools, it did not establish a specialized school which cultivates legal and political talents. The earliest comprehensive university which explored legal and political education is Peiyang University which has been established in 1895 (the university has set up “law studies” in the beginning of foundation), but the earliest specialized legal and political school began in the “Preparation for Constitutionalism” period of the late Qing Dynasty. Prior to the period Qing Government prohibited to establish legal and political schools. Until 1905, with the development of constitutional thoughts, the demand for talents majored in law and politics increased sharply, which enabled

¹ Yang Shu. *Proposal to the Throne for being in Charge of Educational Affairs*. Collected Proposals (Volume 32, Part 2).

the founding of legal and political schools to be a top priority. Afterwards the Ministry of Education instructed repeatedly “each province without a legal and political school should make efforts to establish one, and those provinces which have already founded this school should consider expansion as needed”². “Legal and political schools should be set up in a timely manner.”³ Especially, the Ministry of Education unbanned the private legal and political schools in 1910, which is an important development of legal and political schools in the late Qing Dynasty. “Location in provincial capitals, abundant funds and complete curriculums should be met before applying to establish a provincial legal and political school.” Its subjects, courses and students’ entry level should be in accordance with the undergraduate regulation of government legal and political schools, and is temporarily approved to set up other majors. But the school cannot set up other majors solely, otherwise it will easily fall into the disadvantage of simplicity and quickness. In addition, if autonomous training institutes have already been established, they cannot falsely claim to be a legal and political school so as to avoid confusion.”⁴ Afterwards the setting condition for legal and political school has

been further loosened, “once being located at a prosperous commercial place with convenience transportation, having ample funding and complete programs, it will be granted to establish a legal and political school in order to cultivate more talents.”⁵ On the one hand the society badly needed talents majored in law and politics, on the other hand Qing government promoted, legal and political schools spread all over the provinces and developed rapidly. Overall, the development of legal and political schools in the late Qing Dynasty presented a trend of “rising tide”, after the Republic of China presented a state of “ebb tide”. According to the statistics, “in 1909 there were 127 schools (refers to higher education level) and 23,735 students, including 47 legal and political schools and 12,282 students, accounting for 37% and 52% of the total number of schools and students respectively.” (Tang, 1995, p.135) “From 1915 to 1916, China had 42 provincial legal and political schools, where 24 were run by government. Public schools had only 15,405 students. In 1921 this figure was reduced to be less than a half.” (Liu, 1999)

By 1926, China’s public and private legal and political specialized schools have been reduced to be 25. Please finds the table below:

Table 1
The Late Qing Dynasty Legal and Political Schools and the Number of Students Statistics

Year	1907	1908	1909	1912	1913	1914	1915	1916	1921	1926
School Number	27	37	47	64	56	44	42	32	31	25
Student Number	5,766	9,756	12,282	30,808	27,848	23,007	15,405	8,803	9,228	--

Note. From The Republic of China Ministry of Education, 1934.

As the first group of intellectuals who accessed to and understood law in modern China, the students who studied law and politics in Japan naturally became the managers and new teachers aiming to develop modern legal and political talents after they returned to China. “Teachers or professors in law subjects in the existing domestic public and private universities are mostly former students studying in Japan.” (Sun, 1997, p.69) (Xiaolou said in the 1930s), “No matter in terms of guidelines, school system, curriculum, teaching materials or teachers, the influences of legal and political education of Japan have been witnessed everywhere.” (Yao, 2003)

In the late Qing Dynasty the province with a more developed legal and political education is Zhili province. It not only created a precedent for the establishment of modern China’s legal and political school, but also had greater demonstrative impacts to other provinces. For example, the regulations of Zhili Legal and Political School and Peiyang Legal and Political School have become the foundation and standard to establish other provincial legal and political schools. The schools which have been established in accordance with the regulation of Zhili Legal and Political school are: Jiangning Legal and Political School, Zhejiang Legal and Political School, Liangjiang Legal and Political School, Guizhou Legal and Political School, Xinjiang Legal and Political School, Hunan Legal and Political School and Sichuan Legal and Political School. The schools which have been established following the regulation of Peiyang Legal and Political school are: Shanxi Legal and Political School, Shandong Legal and Political School, Jiangxi Legal and Political School and Shanxi Legal and Political School.

² Refer to *Censor Qiao Shunan Submitted Proposal to the Throne for Establishing Legal and Political Schools in Provinces*, and attached *Qiao Shunan Original Proposal*, edited by Ministry of Education General Affairs Department: *Ministry of Education Proposal Summary*, Volume 1, Printed in the Spring of 1st Year of Xuantong’s Reign.

³ *Telegraph to Restrict Students to Study across Provinces and Promote Various Schools*, edited by Ministry of Education General Affairs Department: *Ministry of Education Proposal Summary*, Volume 1, Printed in the Spring of 1st Year of Xuantong’s Reign.

⁴ Refer to Ministry of Education: *Reply to the Proposal of Zhejiang Provincial Governor on Approving Private Schools to Establish Law and Politics Subjects*. Chen, X. X. (1986). *China modern education history teaching resources* (volume 1, p.763). Beijing, China: People’s Education Press.

⁵ Approval on Establishing Legal and Political Schools in Commercial Ports. Declaration, 1910-12-24; *Attached Proposal by Ministry of Education to Promote Private Legal and Political Schools*, *Ministry of Education Proposal Summary*, 3rd Compilation.

Table 2
Late Qing Dynasty Legal and Political School Management and Teaching Background Statistics

	Studied law and politics in Japan		Studied other majors in Japan		Others	
	Number	Percentage	Number	Percentage	Number	Percentage
Management total number 69	47	68%	5	7%	17	25%
Teacher total number 104	89	85%	8	9%	7	6%

Note. Quoted from Kuang, 2008.

According to statistics, in the legal and political schools established in Zhili Province in the late Qing Dynasty, the founders, administrators or teachers who had studied in Japan accounted for a considerable proportion of the total. By the positive impacts of these students who studied in Japan, legal and political schools in Zhili province, such as Peiyang University Law Division, Zhili Provincial Legal and Political School, Zhili Legal and Political School, Peiyang Legal and Political School, Baoding Police School, Tianjin Police School and Peiyang Patrol School, etc., followed similar schools in Japan to offer majors, set curriculums, introduce teaching materials and developed rapidly.

Overall, the education of legal and political schools which was deeply influenced by Japan and the students who had studied in Japan in the late Qing Dynasty,

was basically controlled in the hands of the students who studied law and politics in Japan. They followed Japanese legal education modes, Japanese textbooks, teaching methods, legal terminologies and legal systems to cultivate a large number of talents majored in law and politics badly needed by China in the transition period, and these talents transferred and popularized the Western modern legal knowledge understood by them to the entire society through different channels, thus most Chinese people's new legal concepts and legal knowledge have been formed. (Hou, 2004)

The activities of the students who studied law and politics in Japan

not only promoted the constitutional movement and anti-Qing revolution in the late Qing Dynasty, but also helped to improve Chinese people's political participation awareness and political quality in the early Republic of China, enhanced the democratic republic concept, promoted anti-feudal and anti-restoration campaigns, local autonomy movement and development of extraterritoriality recovery movement, and had a certain positive influence to the democratization and legalization of the entire

Chinese society. (Zhongshan University Sun Yat-sen Institute, 1999, p.281)

They laid the foundation of modern Chinese legal and political education.

2. ACTIVELY TRANSLATE LEGAL AND POLITICAL BOOKS, INTRODUCE MODERN LEGAL AND POLITICAL THEORIES AND WRITINGS

"After Japanese Restoration, translating Western books have blossomed. Today Chinese people have gained a lot from a variety of Western knowledge, which should be owing to the translated Japanese books" (Tang, 1995, p.185). "Japan can stand proudly among the world as an island, which proves that the effects are evident." (Zhu, 1986, p.529) Thus most legal experts at that time believed that it was appropriate for China to imitate Japan for legal and political reforms. The dual advantages of influence in Japanese language and specialization in law and politics made those students naturally become the main compilers and translators of modern legal and political theories, writings and textbooks, which further had a profound impact to modern China's legal and political education.

At the beginning of the establishment of provincial legal and political schools, China has not yet enacted a new law. Most law school curriculums imitated the Japanese express legal and political classes, which were mainly based on Japanese and Western jurisprudence and political science..... The foreign legal and political subject textbooks were mainly compiled and translated by Japanese teachers, students, some bookstores and publishing houses with reference to Japanese legal and political textbooks. (Zhongshan University Sun Yat-Sen Institute, 1999, pp.266-267)

Table 3
List of the Legal and Political School Textbooks in the Late Qing Dynasty (Majored in Law, Politics, and Economics)

Total teaching materials	Teaching material compiler background classification					
	Studied law and politics in Japan		Studied other majors in Japan		Others	
	Number	Percentage	Number	Percentage	Number	Percentage
54	25	46%	14	26%	15	28%

Note. Refer to Oriental Magazine, 11th Issue 1910; Cheng, 2003.

In the legal and political modernization process in the late Qing Dynasty, law revision is a major event in the

political life. When the minister of law revision Shen Jiaben organized to translate laws of various countries, he actually

employed graduates who had studied in Japan for this mission. Taking 1907 for example,

Among the 30 people whom Shen Jiaben transferred into the law revision office, 14 had studied in Japan, accounting for nearly half of the total, including the Tokyo Imperial University graduates Fan Xireng, Wu Zhenlin, Lu Zongyu, Cao Rulin and Zhang Zongxiang, University of Law and Politics graduates Xu Tongxin, Jiang Yong and Wang Youling, Central University graduate Gao Zhong (Zhili), Waseda University graduate Zhang Xiaoyi, Imperial College graduate Zhu Xianwen, Kyoto University graduate Cheng Mingchao and Tokyo College of law graduate Xiong Gai, etc..

Another example is on October 28, 1908 there were 12 graduates who returned from Japan worked in the office, including Jin Bangping from Zhili Province, Li Yuan (although was not from Zhili Province, but was the supervisor of Peiyang Legal and Political School at that time), etc..

From May 15, 1904 when the Qing government law revision office has been founded to January 6, 1910, the office has translated 69 kinds of law books, of which there were 29 Japanese books, 13 German, 5 Austrian, 4 French, 3 US, UK, Swiss and Italian each 2, Portuguese, Spanish, Romanian, Netherlandish and Russian each 1 and other 4 kinds of laws and legal writings, reflecting the tendency to learn from Japan and the important role of students studying in Japan on introducing Eastern and Western laws.” (Shang, 2003, pp.113-115)

In addition, according to *The Comprehensive Catalog of Chinese Translation of Japanese Books*, from 1896 to 1911, a total of 98 kinds of legal and political books have been translated (Tan, 1987, p.47), most of which were translated by the students who had studied in Japan.

In the Republic of China, Ministry of Education issued in October 1912 the *Specialized School Order* to change legal and political schools to be legal and political specialized schools, and legal and political education still followed the mode in the late Qing Dynasty, which further enabled them to gain a rapid development by adapting to the special needs of regime reform in the early Republic of China.

Most people's attitude towards the law has changed from the former disdainful attitude to acknowledge that law is an important tool to dominate society. At the same time, legal task has been recognized as a social task, and legal cause has been recognized as a public good. (Yan, 1934)

Huang Yanpei, the founder and theorist of modern Chinese vocational education, famous patriot and democrat educator commented with emotion,

Since the recovery, education has all been abandoned, an only exception is the legal and political specialized education which has gained a surprisingly rapid development. I have wondered that, relatives and neighbors wrote letters for children to find a good school, what's the school? Legal and political school. Former teachers requested to get introduced to work in school, what's the school? Legal and political school. For recruitment advertisements published in newspapers, 70% or 80% come from legal and political schools. For official documents asking for approval from the government, 70% or 80% also come from legal and political schools. (Huang, 1913)

However, during the developmental process the problem of excessively emphasizing on quantity and ignoring quality has occurred, which was because

people merely inherited the limited number of legal documents of the Qing Empire, and could not read the books of Western law, thus naturally turned to resort to the Western legal writings which were written mostly in Chinese characters by Japanese people. A lot of people went to Japan to study law, thus China's law schools soon were dominated by the Chinese people who had graduated from Japan. 70% of school textbooks were translated from Japanese language, and 60% of teachers were students who had studied in Japan. (Liu, 1999)

The development of legal and political education in the Republic of China is an indispensable path that education in China's social reforms must go through, is the result of the combined effects of Japanese educational model and students who studied in Japan, which further promoted the modernization process of legal and political education in the specific historical period.

According to statistics, “during the 42 years from 1896 to 1937, legal and political writings which were translated from Japanese language amounted to 374 kinds, of which foreign legal writings which were published between 1901 to 1904 were 70 kinds.” (Zhang, 1957) Such as *Evolutional Theory of Law* written by Japanese Suijichenzhong and translated by Huang Zunsan and Sa Mengwu, etc. who had studied in Japan, *The Evolutionary History of China's Codification* written by Japanese Qianjinghufu and translated by Chen Zhongmin who had studied in Japan, *General Theory of Law* written by Japanese Jiguxingcilang and translated by Wang Guowei who had studied in Japan, *Chinese Theory of International Law* which was the textbook of Japanese Songjingjiaxing and translated by Li Dazhao (born in Leping, Zhili) who had studied in Japan, and *Outline of Jurisprudence* written by Japanese Suijichongyuan and translated by Li Heming who had studied in Japan, etc. In addition to translating Japan's political and legal writings, some students who had studied in Japan also wrote books on the basis of their learning and absorption, such as *Discussions on the Republic of China Constitution* written by Wang Chonghui who had studied in Japan and the US, *Interpretations on Civil Procedure Regulations, Civil Procedure Practices and New Civil Procedure Law* written by Shi Zhiquan who had studied in Japan, *International Law Outline* written by Zhou Susheng who had studied in Waseda University in Japan, University of Edinburgh (Ph.D.), University of Paris in France (Ph.D.), and *Constitutionalism and Provincial System* written by Zhang Dongsun who had studied in Japan, etc.. In the process of translating law books, Zhili provincial student who had studied in Japan have played an important role, such as Feng Runren from Zhili province and Liang ZhiChen from the major of legal economy of Waseda University in Japan have participated in translating the important reference book *Newly Translated Japanese Law Complete Collection* by which Chinese people learnt Japanese laws and regulations

at that time; Ji Jing, who was closely related to Zhili provincial legal and political education has translated the Japanese *Essence of Constitution*, etc. Another example is in the fields of legal philosophy and jurisprudence introduction.

From the late Qing Dynasty to the Republic of China, China has published about 11 writings in the name of “legal philosophy”, out of which 9 writings were translations...Although modern China has published more than 140 kinds of books and teaching materials with the same name, their structures and contents basically came from *General Theory of Law* written by the Japanese scholar Jiguxingcilang (translated by Wang Guowei, Shanghai Commercial Press, 1902), *General Theory of Law* written by Zhitianwan (translated by Liu Chongyou, Shanghai Commercial Press, 1907), and *General Theory of Law* compiled by Xiong Yuanhan based on the notes of Japanese scholar Gangtianchaotailang’s lectures in Jingshi Law School after 1906 (Beijing Anhui Law Club 1911) and other works. (He, 2004)

Therefore, some people say that modern Chinese juristic system can be called as “translated jurisprudence” to

some extent. These translations and writings served as the textbooks of legal and political schools at different levels, promoted the birth and improvement of the juristic discipline system, and constituted the theoretical basis of modern Chinese legal and political education. According to Japanese scholar of Shitenghuixiu’s statistics, the translated books of the majority of Chinese students in Japan were related to law and politics. According to the statistics of *The Comprehensive Catalog of Chinese Translation of Japanese Books* chiefly edited by Tan Ruqian, from 1896 to 1937, China has translated a total of 2,718 kinds of Japanese books, including only 665 kinds of translations in natural science and applied science, accounting for 24.5% of the total, while the translations in humanities and social sciences were up to 2,053 kinds, accounting for up to 75.5% of the total. Among social science books, political and legal books were the majority. Please refer to the table below:

Table 4
The Statistics of Chinese Translations of Japanese Books From 1896 to 1937

	Social sciences	History and geography	Chinese study	Applied science	Natural sciences	Philosophy	General	Religion	Art	Total	Translations annually
1896-1911	366	238	133	89	83	32	8	6	3	958	63.86
1912-1937	660	161	312	244	249	62	20	19	33	1,760	70.4
Total	1,026	399	445	333	332	94	28	25	36	2,718	
Percentage of total translations	37.75	14.68	16.37	12.25	12.21	3.46	1.03	0.92	1.32	100.00	

Note. From Tan Ruqian (1980, pp.45-49).

3. ACTIVELY FOUND LEGAL AND POLITICAL MAGAZINES, INTRODUCE MODERN LEGAL AND POLITICAL THOUGHTS

According to statistics,

from the late Qing Dynasty to 1949, about 150 kinds of legal and political magazines have been founded in succession, out of which more than 20 kinds have been founded in the late Qing Dynasty, more than 30 kinds have been from the early Republic of China to 1926, and more than 90 kinds have been founded from 1927 to 1949. (Cheng, 2006)

Before 1926 legal and political magazines amounted to over 50 kinds, accounting for more than one-third of the total number of the magazines. However, due to the different standpoints, “the purposes of different legal and political magazines also vary: Some focused on the translation of Western books, Western language or Western laws. Some strived to compare Chinese and Western laws, and some concentrated on elucidating China’s own legal system and ideology.

In summary, there are no more than two points for the purpose of the modern legal and political magazines: (i). seek China’s legal construction (modern legal and political system); (ii) seek the prosperity of China’s jurisprudence (modern legal and political science). The former is for practice, the latter is for truth. Practice must take truth as the cornerstone, and truth must take practice as the goal.” (Cheng, 2006) Among the modern legal and political magazines, the famous ones related with the students who studied law and politics in Japan are *Yishuhuanbian Press*, *Zhishuo*, and *Peiyang Political Science Quarterly*, etc.. These magazines play an important role in introducing modern legal and political thoughts to China and promoting the modernization of China’s legal and political thoughts.

CONCLUSION

In summary, because of the special political history and geographical advantage, Zhili Province attracted a large number of graduates who had studied law and politics in Japan to return to work in various departments of the

field of law and politics in Zhili Province. They taught in legal and political schools, disseminated modern legal and political philosophy, translated books, introduced modern legal and political theories and works, founded legal and political magazines and introduced modern legal and political thoughts, etc., making China's new legal and political education get started in Zhili Province, and making Zhili Province play an important role as the leader in the modernization process of China's legal and political education. No matter Zhili created "patrol organization", "improved justice" or "education popularity", became the model emulated by other provinces and cities.

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