The formation of the legal system for modern planning in China before 1950: comparison with Japan’s 1919 act

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ABSTRACT

Traditionally, city construction in China was to follow an order guided by the Book of Rites, and city management has no independent law but relies on the traditional Lu Li legal system. Overall, their modern transition started after the Opium War, beginning with the foreign settlements and concessions, and spurred on by the late Qing Reform for constitutionalism and a modern state legal system. From then to the 1930s, the whole nation experienced frequent wars and overlapping political powers. Local urban planning exploration was active and diverse, but the overall development path was complex. In this context, two urban planning laws were born in late 1930s. Given this complex development background, further review of knowledge dissemination and interaction is needed to clarify the formation history and concurrently analyze its meaning. Japan, which not only shared a similar modernization experience but was also one of the important sources of introduction for modern knowledge, was selected as an object of comparison. By comparing the terms used, the specific content, and development path of the respective countries’ laws, this article aims to reveal and outline the overall characteristics of how the legal system for modern planning formed in China.

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1. Introduction

In the past two decades, the historical research on Chinese cities’ modernization has grown rapidly, especially in the fields of urban planning, historical geography, and urban history (Zhang and Wan 2018; Li and Han 2000; Cheng 2017; He 2000), mainly in the form of in-depth study of case cities and key figures. The promotion of case city research has enriched our understanding China’s urban modernization, but at the same time has blurred its overall characteristics. Meanwhile, the advancement of case studies brought more focus to planning legislation, which gradually traces the progress in planning skills and the formation of the legal system for modern planning. However, there are not many specialized works focused on studying this legal aspect. One reason is that there is no independent branch of the traditional Chinese legal system dedicated to urban planning and construction, for which reason it is not considered mainstream in the field of legal history research. The other reason is that in the field of urban studies, it is rare to set aside the practice to discuss the legal system separately, due to the concern that a legal discussion without real practice tends to remain superficial. But since the legal system for modern planning did influence and is a concrete reflection of the achievements and characteristics of the modernization of Chinese cities, it is clearly a fundamental issue for understanding Chinese planning history and therefore worth further exploration.

Traditionally, city construction in China was to follow an order guided by Li (礼), the Book of Rites, written 3000 years ago. Meanwhile, city management was based on the traditional legal system, composed of Lü (律), Li (例) and Tong-Xing (通行), and local legislation such as the Tong Chi Zhang Cheng (通行政程) in the Qing dynasty, rooted in the rigorous political system inherited from the Sui and Tang Dynasties (Hu 2010). Overall, their modern transition started after the Opium War (1840), beginning with the construction and management of foreign settlements and concessions within a small range. The general transition, however, was spurred on by the Late Qing Reform, combined with preparations for constitutionalism, which was an attempt to establish a modern state legal system (Han 2012), as well as the local practice of urban modernization construction gradually starting from roads, markets, and parks (Fu 2017). From then to the 1930s, the whole nation experienced frequent wars and overlapping political powers. Local exploration was active and diverse, but the overall development path was complex. In this context, two urban planning laws were born at almost the same time: Du Yi Ji Hua Fa, promulgated by the Manchukuo puppet state in 1936, and Du Shi Ji Hua Fa, promulgated by the Chongqing Kuomingtang government in 1939.

The few existing studies related to the legal system for modern planning in China include: those focusing on the legal system of concessions (Wang 2011; Lian 2010); those interpreting typical cities’ modern planning and
spatial constructions (Zhang 2008; Wang 2008; Wei 2011; Xie 2014; Fu 2016; Warner 1996; Koshizawa 1988, 1989); those highlighting foreign planning professionals and their influences on modern planning practices (Cody 1996; Hou and Wang 2016); those collecting and classifying relevant planning and architecture regulations of the nation as a whole (Li and Guo 1994; Niu 2011); and those examining Japanese influences on the Chinese modern legal system (Li 1994; Xie 2017). Taken together, these studies demonstrate that the formation of the modern planning system was intertwined with the introduction of diversified sources of knowledge, testing out various practices, and adaptive adjustment.

Given this complex development path, further review of knowledge dissemination and interaction is needed to clarify this formation history and concurrently analyze its meaning. Japan, which not only shared a similar modernization experience but was also one of the important sources of introduction for modern knowledge, was selected as an object of comparison. Inspired by Stephen Ward’s typology of planning borrowing, and transfer of planning ideas (Ward 2002), Patsy Healey’s (Healey and Upton 2010), and also Watanabe’s work on interpreting the formation of modern Japan’s planning act in 1919 by international comparison (Watanabe 1993), this paper does not simply look into and stage the historical formation process, but compare the terms used, the specific content, and development path of the respective countries’ laws, aiming to reveal and outline the overall characteristics of how the legal system for modern planning formed in China.

2. Three keywords for characterizing the formation and development process

In order to better draw out the characteristics of the development process that China’s modern urban planning has undergone, instead of dividing the general history into sharply delineated time periods or following the changes in regimes, three keywords were picked out and arranged chronologically: “Ma Lu [马路, road construction],” “Shi Zheng [市政, municipal administration],” and “Ji Hua [计划, planning practices].”

The first, Ma Lu stage began approximately after the 1840 Opium War. In order to improve the living environment, modern roads were first constructed in foreign settlements. In Shanghai, after the first Committee on Roads and Jetties (founded in 1846) was created in the British Concession and the Municipal Council (formally the Council for the Foreign Settlement North of the Yangking-pang, 1854) in the International Settlement, land regulations [Tu Di Zhang Cheng] and building codes were gradually introduced at the end of 19th century, although the aims of the first Council were merely to assist in road creation, refuse collection, and taxation across the disparate Concessions (Shanghai Archive 2001). Meanwhile, as a response to the improvements made in foreign settlements, the local Qing government started to create Road Engineering Bureaus [Ma Lu Gong Bu Ju] in Shanghai (Nanshi, founded in 1895) (Shanghai Records 2005, 3480), Nanjing (founded in 1902) (Nanjing City 1994, 324), and Wuhan (Hanzhen, founded in 1903) (Wuhan City 1990, 31) to handle issues related to road construction. Later, with the foundation of the Engineering and Police Bureau [Neiwaicheng Gong Xun Ju] (1902), General Police Office [Neiwaicheng Xun Jing Zong Ting] (1904), and Ministry of Civil Affairs [Ming Zheng Bu] (1906) in Beijing (Beijing City 2013, 323–325), duties expanded to other related matters in public facilities management, such as lamps, parks, city wall removal, sanitation and hospitals.

The second, Shi Zheng stage lasted from about 1911 to 1927, a period when two central governments existed at the same time, a northern government and a southern government. The northern Bei Yang Government, based in Beijing (Bei-ping), was supported by local warlords who governed their spheres of influence separately, exercising local autonomy. According to the Capital Municipal Bylaw (1913), Beijing underwent “municipal improvements” by delineating a Municipal Improvement Area [Shi Zheng Li Qu Yu] (1914), publishing the Policy of Land Adjustment [Fa Gei Fang Di Zhuan Yi Pin Dan Gui Ze] (1914), Building Regulations [Jian Zhu Guan Li Ban Fa] (1916), Building Line Regulations [Fang Ji Xian Shi Xing Gui Ze] (1918), and the publication Municipal Announcement [Shi Zheng Tong Gao], etc. (Wang 2008, 59–106) If we look at the wording, the modern words and ideas introduced from Japan, such as “Shi Zheng [市政, municipal],” “Shi Qu Gai Zheng [市区改正, municipal improvement],” “Shi Zheng Li Qu Yu [市政整理区域, municipal improvement area],” and “Fang Ji Xian [房基线, building line],” reflect strong influences from Japan. Although the key figure, Zhu Qi-qian, the mayor and head of the Ministry of Civil Affairs, had no foreign education background, he had experience supervising the Translation Division at the Imperial University of Peking (1903) and had visited Japan to see its urbanization in Hokkaido (1907) (Xu 1991, 200). Therefore, municipal-related books and articles, mainly from Japan, including Japanese versions of Western publications, were translated and introduced, further influencing actual practice.

Meanwhile, the southern Kuomingtang Government established the Guangzhou Municipal Office in 1920. To distinguish itself from the northern government and its innovation, it replaced the characteristically Japanese word for administration, “Shizheng Gong Suo [市政公所],” which was the office’s name in 1918, with a new word, “Shizheng Ting [市政厅].” Following the Guangzhou Municipal Interim Bylaw (1921), a series of committees were organized to handle matters related to urban construction (Guangzhou 2012), such as the Engineering Design Committee [Gong Cheng She Ji Wei Yuan Hui] (1921), Architecture
Beauty Committee [Jian Zhu Shen Mei Wei Yuan Hui, 1922], and later a Civic Design Committee (Cheng Shi She Ji Wei Yuan Hui) (1928) under the Land Bureau [Tu Di Ju] (1926). (Guangzhou City 1995, 90, 444) The Guangzhou Municipal Bulletin [Guangzhou Shi-zheng Gong Bao] was published for announcing new decisions and broadcasting the newest planning ideas from Europe, the U.S., and Japan, including the newest trends such as garden cities. In the publications and the wording of the committee names, there is a noticeable emphasis on design and urban beauty, further strengthened after 1928 when the southern government won the civil war in 1927. This reflects strong U.S. influences, which can be explained by the educational backgrounds of its key figures. The mayor, Sun Yat-sen’s son Sun Ke, received a Bachelor of Arts from UC Berkeley (1916) and a Master of Science from Columbia University (1917) (Xu 1991, 774). The chief of the Construction Bureau, Cheng Tiangu, studied two years at Oxford (1904–1906) and got a Master’s degree in Economics and Political Science from UC Berkeley (1911) (Xu 1991), 1145–1146).

The third, Ji Hua stage lasted about 1927 to 1937, a ten-year golden age before the Second Sino-Japanese War, when the southern government finally won the civil war and established Nanjing as its new capital. During this centralization period, five cities were selected to be Special Cities (Te Bie Shi), equivalent to a municipality and able to carry out their own planning practices according to the Municipality Organizational Law (Te Bie Shi Zu Zhi Fa, 1930) (Dong 1929, 57–67). In Nanjing, the Municipal Zoning Act and Regulations were implemented during the process of drafting a Capital City Plan, which continued Guangzhou’s emphasis on design and urban image, led by the former Guangzhou mayor Sun Ke, American architect Henry Killam Murphy (Cody 1996, 355–366), and his assistants.

In Shanghai, on the other hand, based on the legacy of foreign settlements, the Land Bureau Bylaw (1927) and Construction Bureau Working Rules (1928) were soon enacted in order to continue development, which resulted in the introduction of a registration system for professionals, a Land Law (Li Fa Yuan 1930), and detailed Building Codes (updated 1938) (Cai 1999, 352–360). This focus on the regulatory system design and land rights reflects a strong influence from Germany, corresponding to the educational background of Shen Yi, the chief of the Construction Bureau, who studied hydraulic engineering and got his doctorate in engineering at the Dresden University of Technology (Xu 1991, 423). But if we look at the planning drafts, such as the Draft of City Zoning Plan (1928), City Central Area Plan (1929), Zoning and Transportation Plan of City Central Area (1930), New Harbor Plan (1930) and the Great Shanghai Plan (1930–1931) (Wei 2011, 63–67), where the diagrams resemble those from Nanjing, we will see strong influences from the U.S., from a group led by the U.S-educated architect Dong Dayou and with consultation from U.S. professionals.

But in other normal big cities, such as Wuhan, the story is different. The leaders had more complex educational backgrounds. The mayor, Liu Wentao, first studied political economy at Waseda University in Japan and then moved on to the University of Paris law school, where he received a doctorate in law (Xu 1991, 1407). The chief of the Construction Bureau, Dong Xiujia, studied political economy at Michigan State University and then moved on to the University of California, where he got his Master’s degree in Municipal Management (Lai 2006, 25–26). He was also one of those most important professionals in the previous, Shi-zheng stage (Fu 2017, 39). Essentially, Wuhan continued to explore in municipal administration rather focusing than on visual design.

In 1932, beyond the control of the Nanjing Kuomintang Government, a state of Manchuria (Manchukuo) was founded, with the last Qing Emperor Puyi as its figurehead. Manchukuo was under the de facto control of Japan, which took over Russia’s spheres of influence after the Russo-Japanese War (1905) and continuously dominated Eastern China and Inner Mongolia until 1945. Building up from disparate concessions’ planning practices along the Chinese Far East Railway and South Manchuria Railway, a Capital Construction Plan (1932, finalized in 1937) was developed by the Economy Research Branch (経済調査会) of Manchuria Railway, a branch belonging to the Japanese military, and later carried out by the Capital Construction Bureau and its consultant committee (Koshizawa 1988, 93–100). The Capital Construction Bureau functioned not only as an administration, but also as the land owner and developer. It published a series of rules and regulations for implementing the

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1"Mei Guo Zui Jin Xin Xiong De Shi Zheng [Most Recent Municipal Administration in U.S.]" (Guangzhou City 1923, 82); "Ou Mei Ge Guo Shi Xing Cheng Shi Ji Hua Zhi Li Cai Fa [Recent Urban Planning Methods in Europe and U.S.]" (Guangzhou City 1923, 77–82).
2"Ri Ben Dong Jing Shi Gei Shui Zhi Shi Kuang Yu Qi Kuo Zhang Ji Hua [Water Supply Situation and its expansion plan in Tokyo, Japan]" (Guangzhou City 1922), and later a Civic Design Committee (Guangzhou City 1923, 93–100).
3"Mei Guo Tian Yuan Shi Ma Li Men Tuo [Garden City Mariemon in U.S.]" (Guangzhou City 1927, 265).
4Articles introducing theories about Garden Cities, Civic Design, and City Beautiful were published in Guangzhou Municipal Bulletin. See "Tian Yuan Shi Lun [Garden City Theory]" (Guangzhou City 1930, 366); "Ou Mei Du Shi She Ji Xing Xing Yang [New European and American Trends in Civic Design]" (Guangzhou City 1931, 380); "Jian Zhu She Ji Yu Du Shi Mei Zhi Guan Xi [Architecture Design and City Beautiful]" (Guangzhou City 1931, 383).
5Nanjing, Shanghaid, Guangzhou, Qiongdao, and Beijing.
6Plan-related content, including acts and regulations, was published in 1929 (Guo Du 1929).
7From 1927 to 1928, Engineer Registration Rules and Construction Firm Registration Rules were enacted.
8Dong got his Bachelor of Architecture from the University of Minnesota and a Master’s degree from Columbia University, and worked for Murphy & Dana from 1927 to 1928. (Lai 2006, 23–24).
construction plan, such as the Capital Construction Bureau Rules for Sale and Loaning of Land and Buildings (1932), and later the Capital Construction Bureau Building Codes and the Zoning Regulations for the Capital Construction Planning Area (Koshizawa 1988, 110–149). Since the Capital Construction Bureau was directly headed by the prime minister of Japan, it could be seen as an organization having a completely Japanese background, even though it nominated a Chinese director, Ruan Zhenduo.

3. Birth of two urban planning acts: background, content and purpose

After these three stages, two urban planning acts were created in the 1930s. One is called Du Yi Ji Hua Fa [都邑計画法] (Manchukuo 1936, 1936 Act for short), published in 1936 and updated in 1942 by the Manchukuo puppet state’s government. The other is called Du Shi Ji Hua Fa [都市計畫法] (1939 Act for short), announced in 1939 by the Kuomintang government, which had relocated its capital from Nanjing to Chongqing for better defense during the war. The existence of two planning laws at the same time allows us a further understanding into the formation of the Chinese modern planning system. In addition to the three stages of gradual development, there are two parallel paths. One path began with open ports and foreign settlements, and later in occupied areas, where foreign authorities were a direct source for space construction and institutional design. The other path begins with the implementation of constitutionalism and local autonomy by local authorities, which tried to modernize the urban space by introducing various foreign experiences.

In this context, the 1936 Act can be regarded as a product of the first, foreign path. Japan established its first colonies after the First Sino-Japanese War (1894), and Taiwan was where Goto Shinpei first carried out his practice of colonial investigation and construction. Later, the Russo-Japanese War (1904) enabled Japan to replace Russia and gain actual control over Northeast China and the Korean Peninsula. Drawing on the experiences in Taiwan, Japan established an Investigation Department within the South Manchuria Railway Association (1906) to carry out its colonial planning and construction for railway-affiliated settlements, the goal of which was Japan’s further expansion and control of resources and economy throughout Northeast China. After the Manchurian Incident, the Manchukuo puppet state was established in 1932. From then, Japan achieved complete control over Northeastern China and was fully committed to developing and building up this new territory. The Manchurian Colonial Outline (1933) was issued, and city planning was introduced to build the new capital, Changchun, to match the new regime (1933–1937). The 1936 Act was drafted at the end of the capital’s construction, summarizing all the state-of-the-art experience of Japanese professionals that had honed their skills in colonial construction training in other Japan-occupied territories such as Taiwan and Korea (Goto 2016) or had experience with the previous Capital Plan in Changchun, which served to establish an institutional foundation for further urban construction in other important cities.

The 1936 Act consists of 40 provisions and 1 supplementary clause. It begins by defining 3 key terms: Du Yi Ji Hua [urban planning] (no.1), Di Fang Guan Shu [municipality] (no. 2), and Du Yi Ji Hua Qu Yu [planning area] (no.3). It goes to define a planning project (no.4), its executive body or committee, and organizational regulations (no.5 to no.9). Further definitions include the sources of expenses (no. 10), benefit assessments (no.11, no.38), land acquisition rules (no.12 to no.15), and land re-division (no.16). Based on these initial definitions, the act continues to its main part: zoning regulations which divide the land use into three types: residential, commercial and industrial (no.17 to no. 22); three special regulated districts, titled “residential district,” “scenic district,” and “green district” (no.23 to no. 25); building regulations, including building and demolition permits; definitions of “building line”, building codes, execution, and compensation (no.27 to no.36); and the definition of a road (no. 37). The act concludes with penalty rules (no.39 to no. 40) and 1 supplementary clause about the adoption of previously approved Harbin city planning.

On the other hand, the 1939 Act was the result of the second, local path. Building from the constitutionalism-based autonomy of the late Qing Dynasty, the new southern Kuomintang government began its practice of exploring new municipal construction in Guangzhou, by introducing experience from Western countries such as the United States. As the civil war progressed, this government’s scope of control gradually expanded. From 1927 to 1937, a relatively stable and long-term regime was formed that controlled China’s southern coastal areas, with Nanjing as the center, called the Nanjing Kuomintang government and led by Chiang Kai-shek. As the area it controlled expanded, the Nanjing government continuously absorbed the construction achievements and institutional advantages of local autonomous municipalities, and further consolidated them with the establishment of five special cities and the urban planning practice represented by Nanjing and Shanghai.

As a systematic summary of the above practices and record of the legal system, the Nanjing government introduced the Land Law, which was passed in 1930 and enacted in 1936 and contains seven chapters and 397 regulations. Comprehensive provisions covered urban and rural land. There are stipulations on land ownership, land redrawing methods, land registration, land administration, land acquisition, farmland rent,
land tax, value-added tax, and punishments. However, in 1937, the Japanese army launched a full-scale war of aggression against China, which caused the Nanjing government to lose most of its cities within one year and forced it to retreat to Chongqing. A large amount of retreating materials and personnel flooded into Chongqing, leading to a series of problems, such as rapid urban expansion, disorderly construction, and poor sanitation. Therefore, although the Kuomintang government’s main task at the time was to prepare for a counterattack, it had to urgently introduce the Building Codes (1938) and the Urban Planning Act (1939), which were formulated in preparation for the subsequent Chongqing Three-Year Construction Plan (1940) and housing construction.

The 1939 Act was drafted by Ha Xiongwen, a young chief officer of the Construction Division, who had graduated from the architecture department of the University of Pennsylvania and was at the same time the drafter of the Building Codes (1938). The 1939 Act consists of 32 provisions. It begins with a series of detailed definitions, including the scope of the act (no.1), the executive body for city planning (no.2), priority city types (no.3), planning modification conditions (no.4), administrative procedures for approval and execution (no.6 and no.7), and the establishment of the planning committee and its organizational regulations (no.8 and no.9). It continues by defining the necessary contents and recording methods of a city plan (no. 10), the principle of planning area delineation (no. 11), zoning regulations, which divide land use into five types: residential, commercial, industrial, administrative, and culture (no.12 to no. 17), and execution and composition (no.18). In addition to this main portion, guidelines were added for plan making, such as that a new urban area should be planned in old cities (no. 5), that roads, sewers, and land readjustment should be priority issues in new urban areas (no.29 and no.30). It also included methods for road planning (no.19 to no.21), park planning (no. 22), water supply (no.23 to no. 24), garbage collection (no.26), cemetery (no.27), other public facilities (no. 25), and finally the act’s legal implementation date and related rules (no.31 to no.32) (Cai 1999, 99–102).

Simply by looking at these two acts, we can see two major differences. When it comes to contents, the 1936 Act imposed systematic regulations on the actual contents for completing the work of urban construction, including land acquisition, land re-division, benefit assessments, building codes, etc. Meanwhile, the 1939 Act is much closer to a guideline for organizing and drafting plans, specifying the target cities that need to be planned, the contents to be included in the plan, the principle of dividing areas by function, zoning regulations, etc. As for terms, the 1936 Act used more classical phrases from ancient writings, such as “Du Yi (都市)” to represent the concept of a city, which must have come from the Japanese political consideration of claiming the independence and orthodoxy of Manchukuo. The 1939 Act used more modern phrases, such as “Du Shi (都市)” to represent the meaning of city, even though these phrases were introduced from Japan.

4. Japan’s 1919 act and its comparison with the two Chinese planning acts

For comparison, Japan enacted its first planning act much earlier, in 1919. Before the 1919 Act was enacted, Japan was promoting Shikoku Kaisei (municipal improvement) under the leadership of the Home Ministry. From the enactment of the iconic Tokyo Shikoku Kaisei Jorei (Tokyo Municipal Improvement Regulations) in 1888, several plans were formulated by Yoshikawa Akimasa to further Tokyo’s improvement, which focus on the improvement of urban traffic and other infrastructure, such as railways, waterways, sewage and parks. In 1918, when the urban improvement regulations were prepared for adoption in other cities nationwide, such as Kyoto, Osaka, Kobe and Nagoya, the Urban Planning Act (1919 Act for short) was issued. The 1919 Act, although also assigned by the Home Ministry, is different from the aforementioned Municipal Improvement, as it was drafted and promoted by another group of people, the newly established Urban Planning Discipline officials, including legal and civil engineering technocrats such as Ikeda, Kasahara, and Yamada.

The Japanese 1919 Act (Urban Planning part) consists of 26 provisions and seven supplementary provisions. It begins with definitions of urban planning (no.1), its applicable cities (no.2), procedures (no.3), committee (no.4), and executive bodies (no.5). After that comes the main part: the sources of expenses and taxes (no.6 to no.10), the definition of planning area and its regulation (no.11 to no.12), Kukaku Seiri (land readjustment, no.13 to 15), land acquisition rules (no.16 to no.21), management authorities (no.22 to no.23), benefit assessments (no.24) and litigation (no.25 to no.26). The act concludes with supplementary provisions (no.27 to no.33) on implementation time, supplementary clauses, etc. (Watanabe 1993, 269–270)

In the classical Chinese text, “Du Yi” represents the cities.

There is a record of the 1936 Act being amended in 1942 (Hideshima 1954) that claims “Du Yi” is “Du Shi (都市)” plus “Yuan Yi(園邑)”, where the word “Yuan Yi” is taken to mean “Green Land”, so Du Yi Ji Hua Fa denotes a Planning Act aimed at planning urban and green space. However, “Yuan Yi” originally meant “mausoleum guarding settlements,” and neither Chinese nor Japanese used this term to refer to gardens or green space, so this statement is more likely to have been made later to emphasize the influence of the Manchurian planning practices on green space, but does not reflect the original consideration.
Unlike the Municipal Improvement idea, which depended on local autonomy, Urban Planning had the centralized state system as its foundation. Therefore, it is a continuation of Germany’s “Lex Adickes (1902),” introduced as Kochi Seiri Ho [Arable Land Arrangement Act, 1899, renewed 1909], which brought about Japan’s most significant feature in urban planning: the *Kukaku Seiri* [land readjustment] system (Sorensen 2010). Another major planning technique, the *Kenchiku Sen* [building line], was introduced from the German Bebauungsplan, but developed into the characteristically Japanese method of gradually broadening roads without public investment (Ishida 1987, 125–142). In addition, a zoning method that divided land use into 3 types – residential, commercial and industrial – was also introduced into 1919 Act from Britain and America, acting in conjunction with the Building Codes part to regulate the function and height of buildings, although it was not followed. This zoning idea was introduced by another architecture-focused Urban Planning Research Committee (Toshi Keikaku Chosakai, 1918), including 24 committee members who were provincial executive officials and professionals such as Seki, Kataoka and Sano (Watanabe 1993, 136).

However, the 1919 Act’s contents covering land readjustment and benefit assessments ran directly counter to the vested interests of the landlord class and met strong resistance. Therefore, it was nearly impossible to form “landlord association” to promote the formulation and implementation of the plan in accordance with the Act. As a result, although the 1919 Act had been applied to 25 cities across the country in 1923, it actually had little effect and cannot be compared with the construction completed in the preceding Municipal Improvement period. At the same time, however, outside of Japan, the strong control and rapid construction needs brought about by the occupation offered an excellent space for the development of urban planning, where the Korean Planning Act (Chosen Shigaichi Keikaku Ryo, 1934), Manchukuo Planning Act (the 1936 Act), and Taiwan Planning Act (Taiwan Toshikeikaku Ryo, 1936) were developed and actually produced action.

When the aforementioned two Chinese Acts are compared with Japan’s 1919 Act (Figure 1), it is clear that the 1936 Act is strongly related to the 1919 Planning Act, both in the source of its authorization and its main contents, such as the way it defines key terms, focuses on land readjustment, and contains a specific building line system. However, the 1936 Act was announced without other related laws and legal provisions as applied in Japan, such as the *Kochi Seiri Ho* [Arable Land Arrangement Act, renewed 1909], *Tochi Shuyo Ho* [Land Acquisition Act, 1900], and was not combined with the other, separate Building Codes part. Therefore, detailed terms about land charges, zoning, and architecture regulations were added in the 1936 Act. Furthermore, unlike in Japan, since the Manchukuo government was able to purchase land and function as developer, the 1936 Act omitted detailed regulations on taxes and litigation, while penalty rules were listed instead of the litigation rules. If we further consider the background of Manchukuo’s reality as a region occupied by Japan, and that the other 1939 Act was actually comparable to Japan’s 1919 Act, as a complete legal system implemented in concert with a Land Law and Building Codes, it can be argued that although the 1936 Act is very similar in form to a national law, it is not, being rather a special law to meet the demands of war.

Meanwhile, if we look further into the wording and detailed contents of each provision, there are, unexpectedly, more differences between the 1936 Act and Japanese 1919 Act, which are supposed to come from the same origin, while more similarity can be found between the 1936 Act and 1939 Act. For example, in the provision on land readjustment, the 1936 Act did not use the Japanese word *Kukaku Seiri* [区画整理], which is also a key concept characteristic of the Japanese modern planning system, replacing it with the phrase *Tu Di Chong Hua* [土地重划, land redraw], which, conversely, is the same as in the 1939 Act. This leads us to look for reasons from a broader perspective, and we find them in influences from the *Land Law* [土地法] published by the Nanjing Kuomintang government in 1930. The Japanese Economy Research Branch, which was also responsible for the Capital Construction Plan of Manchukuo, did study the Land Law and adapted it into the Proposal for Manchukuo Land System [滿州國土地制度案] (1933–1934), aimed at solving the problems left behind by the various land policies of the Manchu, Mongolian, and Han peoples since the Qing Dynasty (Hirokawa 2004). Although this proposal was not realized due to strong opposition from Manchu and Mongolian nobles, it did influence the 1936 Act, and this influence can be seen as an adjustment to local conditions.

The 1939 Act, on the other hand, is a relatively complete national law in its format. However, when the content and framework of this Act are compared with the Japanese 1919 Act and the 1936 Act, it demonstrates a bias toward explaining what specific contents should be included in urban planning while lacking other contents to ensure plan implementation. Of course, the reason may be that the relevant, robust Land Law already covers many things that should have been implemented through the urban planning act, such as the land readjustment required.

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1The 1919 Act includes two parts, Urban Planning Act and Building Codes, whose full name is Toshikeikaku Hou Oyobi Kenchiku Hou [Urban Planning Act and Building Codes].
for the implementation of urban planning. It could also be due to the social context, the rapid introduction of the Act, and the urgent need to make plans for solving urban problems in Chongqing. At the same time, the special context of wartime also renders the work of land readjustment and acquisition, which requires legal basis, less important. Therefore, the 1939 law is characterized by attaching importance to the contents of a plan, ignoring the legal basis and mechanism design that would guarantee implementation. These features have had a continued impact on the urban planning system in China, limiting the content and scope of the urban planning profession and also affecting the development of core technologies, such as land adjustment in Japan’s urban planning field.

Figure 1. Comparison of the three acts’ contents. [Author Drawing].
Inspired by Watanabe (1993, 144). The original languages of the Acts were used in the figure.

Figure 2. The relationship between the major regimes and the acts. [Author Drawing].
5. Discussion

Through the previously described study of the formation process and comparison of different outputs, we can summarize several relatively obvious pointers for characterizing the legal system for modern planning in China (before 1949), from the perspective of its mutual influences with other countries. In the early stage, there was more independent development and exploration, which may be classified into two categories. One is the foreign settlements and concessions, represented by Shanghai, which received direct influence from its dominant foreign countries, such as the UK, France, the U.S., etc. The other is local traditional cities, represented by Beijing, which saw exploration led by local Chinese society and received more influence and translated knowledge through Japan, given the large number of students studying in Japan at the end of the Qing Dynasty.

From the development of these two key facets, the two major regimes that ultimately won out resulted in the formulation and promulgation of two Urban Planning Acts. The one from the Manchukuo puppet state was drafted by Japanese professionals, undeniably with direct influences from Japan, and is a special law to meet the demands of war. The one from the Chongqing Kuomingtang government of the Republic of China had its start from the municipal practices in Guangzhou and developed by absorbing other important cities’ urban planning experiences in the process of expansion, and finally formed in response to the urgent needs of Chongqing during the war. Whether in the background of the Act’s drafter and the government’s core politicians, or in the focus on urban design and urban beauty in Guangzhou’s practices through to the Nanjing Capital Plan, the formation of the 1939 Act reflects strong US influences (Figure 2).

But if we look more closely into each facet we observe a more complicated situation. During the late 1930s, there were other influential regimes. For example, the puppet Huabei Temporary Government (1937-1940) and Wangjingwei Reorganized Kuomingtang Government (1940–1945), which was established with Japan’s support and had control of central and coastal areas during the Sino-Japanese War, also implemented a series of urban construction and legal practices. Yan Xishan, a warlord who graduated from the Imperial Japanese Army Academy and established a continuous and substantially independent northwestern regime from 1911 to 1949, implemented new policies and modernization centered on Shanxi Province. At the same time, the Chinese Communist Party, based in Yan’an, established a Soviet-style regime and gradually began to explore urban construction and management, the impact of which spread after the Communist victory in 1949.

In addition, as a result of the war, the Chinese Communist Party won ultimate control, and even though the cities retained the results of the urban planning practices of various regimes, the two modern Urban Planning Acts did not directly apply to and affect the main territory of China from 1949 on. Compared with Japan’s relatively clear development path, from Shiku Kaisei (municipal improvement) to Kyu Ho (1919 Planning Act) to Shin Ho (1968 Planning Act), the establishment and development of China’s modern urban planning legal system shows the distinctive features of multi-path and discontinuity, although there is no doubt that many planning concepts reflected in the modern law compose the important foundation for contemporary development.

6. Conclusion

In summary, the overall characteristics of the formation of the legal system for modern planning in China can be described in terms of three aspects. First, chronologically speaking, China had experienced three stages of development, from road construction to municipal administration to final planning practices. The planning regulatory system began to take shape on the basis of these pre-stages.

Second, from a geographical perspective, the entire process started from the foreign settlements and concessions along the coast and went from there to the inland traditional cities, as relatively independent point-source exploration gradually spread throughout the territory. Then, under the influence of the formation and centralization of two dominant regimes, the Kuomingtang government of the Republic of China and the northeastern Japanese puppet state Manchukuo, two planning acts were promulgated. The Kuomingtang’s 1939 Act was enacted in a context where a Land Law had been enacted to cover land issues related to urban planning, and there was an urgent need to restore the temporary capital of Chongqing in a time of war. Therefore, the 1939 Act inherited the tradition, starting from the planning practices in Guangzhou, that valued and focused more on design and urban beauty rather than issues related to planning implementation, ended up as guidelines for organizing and drafting plans. Meanwhile, the Manchukuo 1936 Act selectively absorbed the effective contents from the Japanese Planning Act (1919) and Kuomingtang Land Law (1930), and added necessary provisions about land charges, zoning and architecture regulations, in order to adapt to local conditions and effectively promote planning implementation according to Japan’s demands as a conqueror.

Third, from the perspective of knowledge dissemination and interaction, although there were various sources from different countries, Japan and the U.S. played a more important and prominent role during the formation process. Japan became a major source of knowledge for local cities’ early modernization through a large number of returning students in the late Qing
Dynasty, and then it directly practiced or influenced through the puppet governments in the region it occupied in the 1930s. In contrast, the U.S. played a decisive role from the 1920s to the 1930s, mainly by cultivating and supporting the central figures of the Kuomintang government of the Republic of China.

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