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## 比較法在現代中國的發展\*

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本文討論了自晚清以來，比較法在現代中國的發展。首先，以鴉片戰爭作為中國法律發展及精英們移植西方法律的分水嶺，本文追溯了中國在晚清時期對外國法的繼受。其次，本文將思考「比較法」如何在民國時期被形塑為一門正式學科，並且將審視在中華人民共和國時期（1949-1978），伴隨蘇聯法律取代了歐美法律成為主要外國資源，所出現的完全不同的法律改革範式。最後，本文將描述在毛澤東於1976逝世後，新時期的政治和法律改革，尤其關注中國政治與儒家實用主義、民族主義、共產主義與西方自由主義的關係。

關鍵詞：中國法、共產主義、比較法、外國法、法律改革、自由主義、民族主義、實用主義、蘇聯法、西方法

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## **The Development of Comparative Law in Modern China**

Taisu ZHANG\* (author) and Weilin XIAO\*\* (trans.)

This article discusses the historical development of comparative law in modern China, from the late Qing dynasty to the present day. It first traces the origins of China's reception of foreign law in the late Qing period, citing the Opium War as a watershed moment in the development of Chinese law and the efforts of elites to transplant Western law into China. It then considers how 'comparative law' as a formal academic discipline took shape during the Republican era. It also examines the emergence of a completely different paradigm for legal reform under the People's Republic of China (1949-78), with Soviet law replacing Western European and American law as the primary source of foreign influence. Finally, it describes the new era of political and legal reform that came after the death of Mao Zedong in 1976, focusing on Chinese politics in relation to Confucian pragmatism, nationalism, communism, and Western liberalism.

**Keywords:** Chinese law, communism, comparative law, foreign law, legal reform, liberalism, nationalism, pragmatism, Soviet law, Western law

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