

From the Provisional Treaty of the Republic of China To see why the capitalist road does not work in China

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Abstract

The Provisional Treaty of the Republic of China was enacted after the founding of China and was regarded as a capitalist constitutional document. The "super-presidential system" established by France corrects the "abnormal cabinet system" and "ultra-parliamentary system", but it is not applicable in the Chinese environment and limits the capitalist road. Various policies are aimed at the upper class and aggravate the internal contradictions. At that time, China was dominated by agriculture, with weak industry, frequent external interference and political unrest. Feudal culture and the capitalist concept conflict, the people are conservative, the political corruption problem is prominent. After the reform and opening up of modern China, China has blazed a socialist road with Chinese characteristics. [1]The twists and turns lay the foundation for the development of today's socialism and provide a model and enlightenment.

Keywords

Republic of China law, capitalism, socialism, economics, politics, culture.

1. Introduction

This paper focuses on the formulation of the Republic of China in the early days of the founding of the Republic of China. The author chooses the *Temporary Treaty of the Republic of China* as the research object to understand and explore the reasons why China tried to go to capitalism in the process of modernization reform. The paper hopes that by analyzing the attempt and practical operation of the capitalist model in the *Temporary Treaty of the Republic of China*, the main obstacles affecting China's path to capitalism can be sorted out, so as a reference for today's political and economic development. In the view of this paper, although China's capitalist road is tortuous, it provides a solid foundation and reference value for the development of the socialist road, and provides a good model for the socialist economic and social development in the future.

The enactment of the *Temporary Treaty of the Republic of China* is an important milestone in China's modern history. It has had a far-reaching influence in China's history, politics, rule of law, economy and society. Especially in the political aspect, the *Temporary Treaty of the Republic of China* tried to provide a blueprint for China to become a modern society, to bring China to capitalism, and at the same time provided a large number of modern legal templates, and created political conditions for the establishment of national enterprises. At the same time, at the economic level, the *Temporary Treaty of the Republic of China* also imitated the western capitalist economic system, including the protection of private property rights, the operation of the market mechanism, and the prevention and control of inflation.

In the circumstances of turbulence and sharp domestic contradictions, the introduction of the law stabilized the domestic situation to a certain extent, but under the ruling environment of capitalism at that time, the law exerted a lot of economic pressure on the proletariat and the middle class.

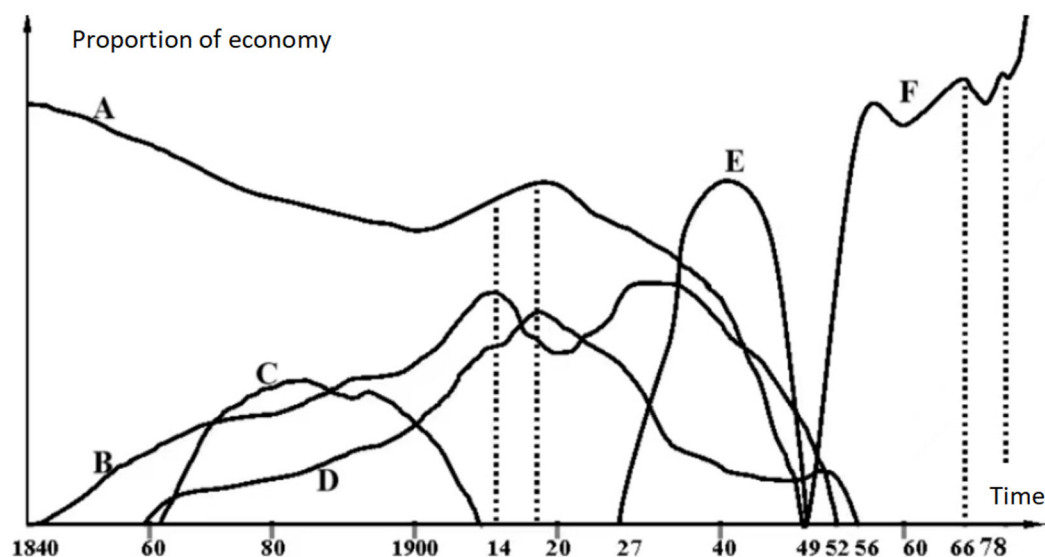


Figure 1. China's economic development since modern times

2. Organization of the Text

2.1. Research thought

2.1.1. Research approach

The core problem of this paper is to explain a series of problems and public reactions produced in the establishment and development of the *Temporary Treaty of the Republic of China*, so as to deduce the reasons why the provisional treaty represented by capitalism is not established and suitable in the development of China's development. On the one hand, this paper will analyze the external and internal causes of China's rejection of capitalism at that time from the perspective of society, which can be called cause analysis. On the other hand, we will explore the problems in the law of law and the exclusion of it and traditional Chinese ideas, which can be called process analysis. We hope to find out the substantial reasons why capitalism cannot take root in China through two aspects of research, but we also hope to use the past and find out the appropriate laws and regulations for today's reference, so as to better develop socialism.

2.1.2. Research technique

The methods in the study in this paper are: empirical analysis method. Under neutral conditions, the author establishes and tests on the basis of the observation of historical facts the reasons for the failure of the bourgeoisie represented by the Provisional Treaty; the class analysis method. Adhere to the position of the proletariat, observe and analyze the class representative behind the formulation of the Provisional Treaty law from the perspective of class and class struggle, clarify its class attribute and nature, and adhere to the proletarian position of this paper. This paper will strengthen the position of the proletariat to explore the exclusion of the bourgeoisie and the proletariat under the temporary contract.



Figure 2. Research way of thinking chart

3. Research on the Influence of Social Conditions

3.1. The influence of Chinese historical and cultural background

3.1.1. The influence of Confucianism

China's rich history and cultural traditions, shaped over thousands of years, have contributed to the country's unique identity and social structure. Influential elements such as Confucianism, Daoism, and Buddhist beliefs have deeply rooted traditional values in Chinese society. The clash between these traditional values and the emergence of Western culture during modern history, including the introduction of the *Temporary Treaty of the Republic of China* by the Nanjing Provisional Government, reflects the conflicts within Chinese society. Confucian culture emphasized family culture and collective culture, but the Covenant weakened the collective culture.

3.1.2. The influence of Confucianism

Confucianism, as the cornerstone of Chinese culture, has profoundly influenced various aspects of Chinese society for centuries. Emphasizing ethical values, family principles, and societal order, Confucianism has shaped collective and familial culture. However, the "Temporary Constitution" demonstrated deviations from traditional Confucian values, particularly in terms of centralized governmental power. Traditionally, Confucian culture prioritizes collective harmony, reverence for authority, and maintenance of family values, while the "Temporary Constitution" appears to prioritize central governmental authority. This shift may have caused potential conflicts and challenges in family and social relationships, as it altered traditional authoritarian structures. Moreover, the restructuring of governmental power and authority, as depicted in the "Temporary Constitution," deviated from the centralized authority historically prevalent in Chinese society. While Sun Yat-sen's representation of the new capitalist generation reflected Western ideologies, the deep-rooted influence of Confucianism on the Chinese societal power structure cautioned against blindly embracing Westernization. The "Temporary Constitution" introduced a modernized political system emphasizing a system of checks and balances, yet it failed to contain conflict and achieve internal stability. Hence, the constitutional reform may have evoked skepticism toward governmental authority, while also promoting broader political participation and social checks and balances in some instances.

3.2. Political system and social conditions

The evolution of China's political system and societal conditions have been pivotal in the process of modernization and the implementation of a capitalist path. From the late Qing Dynasty to the early 20th century Xinhai Revolution and the Kuomintang-Communist cooperation, Chinese political history has shaped the trajectory of the political system, profoundly impacting societal power structures and political stability. Bureaucracy has long been a defining feature of the Chinese political system, constraining political reforms and the implementation of a capitalist path. For example, article 4 of the *Temporary Treaty of the Republic of China*, "The Republic of China exercises its dominance by the Senate, the provisional president, the state official and the court." [4] This study delves into how these factors impacted Chinese societal conditions and provides background for discussing the implementation of capitalism in China. Despite efforts to reform bureaucratic constraints, such as those outlined in the *Temporary Treaty of the Republic of China*, the deeply ingrained

bureaucracy led to challenges in political reform and hindered the pursuit of a capitalist path. Additionally, political reforms faced resistance and challenges in China's history, highlighting the struggle to balance power distribution and centralized authority. The interplay between bureaucracy and political reform has impeded the exploration of a capitalist path in China. Further exploration will delve into how bureaucracy and political reforms have hindered China's pursuit of a capitalist path.

4. The Study of the Influence of Economics

4.1. The influence of China's traditional economy

4.1.1. Feudal economic system

During the period of the "*Temporary Treaty of the Republic of China*," China's traditional economic structure continued to deeply influence the country's economy, politics, and society. The dominance of feudalism and agricultural economy presented challenges to the development of capitalism. The feudal economic system, emphasizing land feudalism and centralized land ownership, hindered equitable land distribution and trapped many farmers in poverty. This traditional economic structure, along with the concentration of labor in rural areas due to traditional agriculture, restricted urbanization and industrialization. Additionally, the traditional commercial and handicraft sectors faced constraints from the feudal system, limiting market freedom.

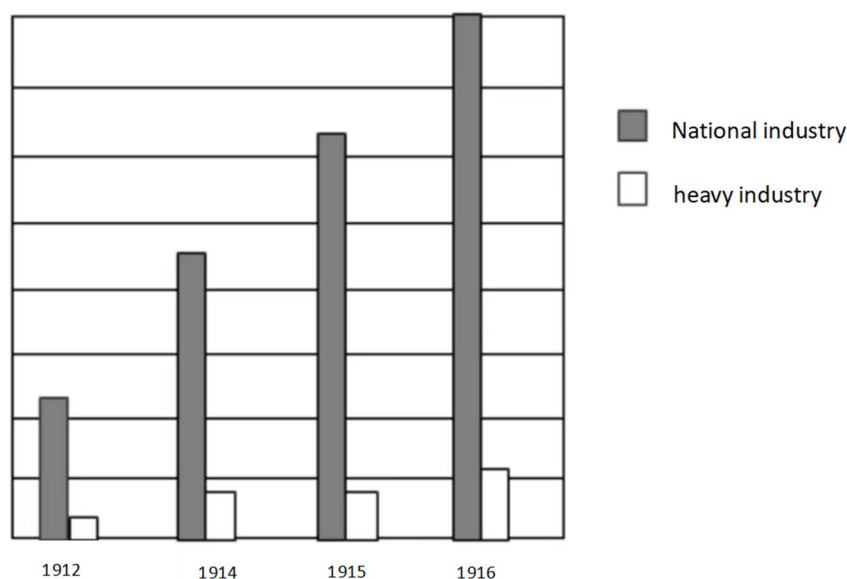


Figure 3. First World War, China's national industry and heavy industry development

4.1.2. The impact of the agricultural economy

During the period of the "*Temporary Treaty of the Republic of China*," the dominance of agriculture in the economy posed challenges for implementing a capitalist path, particularly in terms of land reform, rural economic development, inadequate market mechanisms, and potential social instability. The slow progress in addressing land issues, underdeveloped rural economies, limited market reforms, and existing social inequalities hindered the transition towards a capitalist economy. Addressing these challenges required more extensive reforms and policy support to improve rural livelihoods and promote economic development in rural areas.

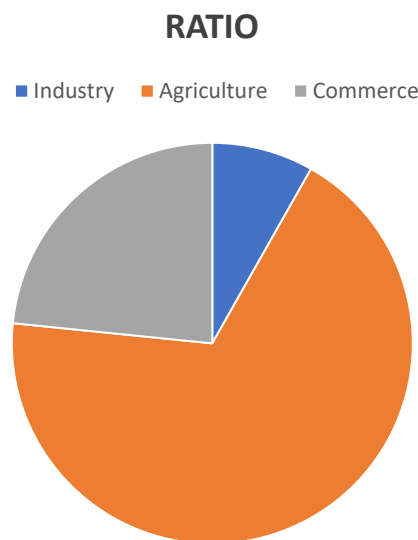


Figure 4. The proportion of industry and agriculture and commerce in the 19th century

4.2. The introduction of western capitalist ideas

4.2.1. The introduction of western economic ideas

During the period of the "*Temporary Treaty of the Republic of China*," the strong impact of Western economic ideas influenced China's political and economic systems, particularly in promoting the implementation of a capitalist path. Key aspects of this influence included the emphasis on free market principles, private property rights, financial system reform, and international trade openness. While the introduction of Western economic ideas had a positive impact on driving the implementation of capitalism, actual reform and marketization processes were constrained by China's feudal system, societal traditions, and economic limitations, leading to challenges in achieving a healthy development of capitalism. As the anthropologist Apobaum (Kalman Appabaum) summarized, anthropological market research includes both the site of commodity exchange and the market as a complex, and more importantly, anthropology is keen to examine and examine the "market model". Western economic ideas emphasize the importance of free market and competition.[3]

4.2.2. The idea of a capitalist economic system

Although the "*Temporary Treaty of the Republic of China*" is primarily a political document, it embodies key concepts of the capitalist economic system that influenced China's economic development path. The concepts of private property rights and market competition are subtly reflected in the constitution, indirectly supporting the foundation of a market economy. While advocating for free market principles and competition, the constitution's promotion of capitalism's free trade ideals was progressive for its time. However, the direct importation of Western models may not directly apply to the actual conditions in China, highlighting the need for considerations beyond mere adoption of foreign templates. From the "Guliang Zhuan": "The community well-field consists of 900 mu, with one mu for the public field." [5] During the Tang Dynasty, Li Guo deeply realized that "without the establishment of laws, the distribution of land will not be fair." [6] Moving on to the Song Dynasty, they established the system of limiting land to restrain the insatiable desires of the wealthy. Traditional Chinese land laws emphasized the distribution of land by the court, but in the "Treaty Laws" it is written: "The people have the freedom to possess property and engage in business," indicating that in the early years of the Republic of China, land began to transform into a tradable commodity.

This conflict with traditional Chinese law exacerbated the issue of land consolidation domestically. The introduction of external cultural influences on legal concepts and the

resulting conflicts with traditional Chinese notions led to practical problems. Just like in the "Treaty Laws," where "the provisional president may declare amnesty, pardon, commutation, and restoration. However, amnesty requires the approval of the Senate." [7]

4.3. Limitations of economic reform

4.3.1. The contradiction between social stability and capitalist reform

During the early 20th century, China faced severe social unrest, political turmoil, and external pressures while attempting to embark on capitalist reforms to adapt to modernization trends. The contradictions between social stability and capitalist reform posed significant challenges. The era was characterized by social turbulences, both domestically and due to foreign interventions, threatening social cohesion and national independence. The "**Temporary Treaty of the Republic of China**" aimed to introduce capitalist economic principles, encouraging private enterprise and protecting property rights. However, these reforms clashed with societal unrest, exacerbating inequalities and potentially leading to further conflicts. External pressures and internal reform efforts added complexities, as the government sought to balance national security with social stability amidst rising disparities and challenges in wealth distribution. Thomas Piketty once said that the fundamental reason of capitalist wealth differentiation is that the return on capital (r) is higher than the economic growth rate (g) for a long time ($r > g$, which Piketty calls the "second basic law of capitalism"), which leads to the increasing gap in wealth distribution.[8] This period of exploration and challenges in China highlighted the intricate balance required between capitalist reforms and maintaining social stability.

4.3.2. The continuation of traditional economic concepts

In early 20th century China, the "**Temporary Treaty of the Republic of China**" played a crucial role as a political and legal document, navigating the challenges posed by traditional economic beliefs during the capitalist reform process. The continuation of traditional economic concepts influenced the development of commerce and handicraft industries, where societal status limitations hindered their potential despite efforts to promote business growth and property protection. Additionally, the persistence of Confucian values emphasizing familial ties and tradition perpetuated a focus on lineage over individual rights and legal systems, impeding the progress of modernization and legal reforms advocated by the constitution. The perpetuation of wealth inequality due to traditional economic beliefs led to social unrest and governmental pressures to maintain stability, yet challenges arose in implementing effective measures due to the entrenched values favoring the elite. The clash between traditional economic beliefs and capitalist reforms highlighted the profound impact of economic ideologies on China's societal evolution during this period.

5. Warning to the Construction of The Rule of Law

As General Secretary Xi Jinping pointed out, " We should pay attention to the study of ancient Chinese legal tradition and success and failure, excavate and inherit the essence of Chinese legal culture, absorb nutrition and use good." [9] The "**Temporary Treaty of the Republic of China**" reflects the early attempts to establish a modern legal system in China, introducing Western legal concepts emphasizing individual rights and equality. However, it clashed with traditional Chinese culture, which emphasizes collectivism, family, and societal importance. This conflict highlights the need to carefully consider how to integrate modern legal principles while respecting traditional values in legal development. The constitution's attempt to establish a centralized political system also faced challenges due to its contradiction with China's traditional emphasis on local governance and decentralization, emphasizing the importance of designing political systems in legal development. Moreover, the implementation of the constitution weakened traditional social order and authority structures, leading to social unrest,

emphasizing the need to consider the role of social order and authority structures in legal development. Overall, the lessons learned from the failure of the "**Temporary Treaty of the Republic of China**" underscore the importance of both legal and political system in modernization, and the need to balance modern legal principles with traditional values and societal stability. These insights present important challenges and core issues in China's modernization process.

6. Implications for political reform

In the process of modernization, China has explored political reforms with lessons from the experience of the "**Temporary Treaty of the Republic of China**". Reflecting on history, insights can be gained to guide the direction of political reforms in China:

A) Emphasize decentralization and local autonomy: Political reform should prioritize decentralization and local autonomy to align with China's historical emphasis on regional diversity and minority populations, ensuring governance tailored to local needs.

B) Transparent and accountable government: Striving for transparency and accountability is crucial in political reforms to establish trust in government institutions, ensuring the legitimacy and fairness of decision-making processes for societal stability and sustainable development.

C) Design of the political system: Careful consideration is necessary for designing a political system that balances centralization and local autonomy, ensuring the government's legitimacy, transparency, and accountability to effectively serve the populace.

D) Democracy and participation: Emphasizing democracy and citizen participation in political reform processes can enhance government legitimacy by providing avenues for public opinion expression and involvement in decision-making, promoting governance closer to the people's needs.

E) Respect for the rule of law: Upholding the rule of law is paramount in political reforms, ensuring government adherence to legal constraints and decision-making based on legal principles to uphold fairness and justice in society.

In conclusion, the lessons from the failure of the "**Temporary Treaty of the Republic of China**" offer crucial insights for guiding political reforms in China towards modernization and societal development. Political reforms should focus on decentralization, transparent governance, political system design, democracy, participation, and respect for the rule of law to enhance governance effectiveness and improve the quality of life for the people. These key principles constitute the direction for political reforms in China and are central themes in the country's modernization process.

7. Reference to China's Economic Reform

China's modernization process not only necessitates political reform but also relies on support from economic reform. Reflecting on the experience of the "**Temporary Treaty of the Republic of China**" provides valuable insights for contemplating the pathway and direction of China's economic reform:

A) Market economy and state-owned enterprise reform: While the "Temporary Constitution" attempted to introduce capitalist ideologies, it did not successfully drive the development of a market economy. However, China's significant economic achievements at the end of the 20th century and the beginning of the 21st century demonstrate the importance of state-owned enterprise reform in encouraging market competition and driving economic growth.

B) Opening up to the outside world and international cooperation: The "Temporary Constitution" did not extensively promote opening up to the outside world and international cooperation, but recent Chinese experience highlights the critical role of international

engagement in attracting foreign investment, expanding international trade, and enhancing technological and managerial expertise, all contributing to economic growth.

C) Technological innovation and talent development: Modernizing China necessitates a strong focus on developing technological innovation and cultivating high-quality talent, areas that have gained importance in contemporary China and require continued investment and attraction of outstanding domestic and international talent to enhance innovative capabilities and competitiveness.

D) Taxation system and fiscal reform: Adjusting taxation policies, increasing fiscal transparency, and ensuring fair and efficient resource allocation is an essential aspect of economic reform, facilitating healthy economic development and societal stability.

E) Environmental protection and sustainable development: Balancing environmental protection and sustainable development is crucial for China's modernization, with efforts towards clean energy and sustainable development being essential for reducing pollution and maintaining ecological balance.

In summary, the experience of the "*Temporary Treaty of the Republic of China*"

These aspects collectively support China's modernization process, enabling sustainable economic growth and comprehensive societal progress.

8. Conclusion

This in-depth study of the "*Temporary Treaty of the Republic of China*" sheds light on its impact on China's modernization process and explores the challenges hindering the implementation of a capitalist path in China. Various aspects of the "Temporary Constitution" are analyzed in relation to traditional Chinese culture, social conditions, political system, and economic structure, highlighting the conflicts and obstacles faced.

The study delves into the influence of societal conditions on China's modernization, examining the impacts of Confucian culture, social order, political system, and external influences reflected in the "Temporary Constitution." Economic perspectives are also explored, considering the dominance of agricultural economy, the introduction of Western economic ideologies, and challenges to traditional economic structures, all influencing China's modernization pathway.

Through a critical evaluation, insights are derived from the shortcomings of the "Temporary Constitution," such as conflicts with traditional culture, political system issues, and societal order discrepancies, emphasizing the importance of rule of law and political system reform in modernization. Lessons and inspirations for political reform, rule of law development, and economic reform are discussed, drawing from practical experiences and historical documents.

In conclusion, the complexities of China's modernization process are outlined, emphasizing the interactions among different factors and the non-linear nature of China's modernization journey. Successes achieved, particularly through reform and opening-up policies, provide valuable experiences and lessons to navigate contemporary challenges and opportunities, urging a deeper understanding of the interplay of factors for effective response and future development paths.

Acknowledgment

Chinese history

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