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## **Voter Education: Provincial Autonomy and the Transformation of Chinese Election Law, 1920–1923**

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### **Abstract**

Beginning in 1909, mainland Chinese governments routinely held elections, and lawmakers devoted considerable resources to writing and revising election laws. The earliest elections, held under the late Qing and the early Republic, utilized laws based on restricted electorates and indirect voting. By contrast, election laws designed during the provincial autonomy movement of the 1920s and the post-1927 Nationalist government featured direct voting in elections with (near-)universal adult suffrage. Each of these two systems of electoral law incorporated different elements of foreign electoral practice with concerns and ideas that arose from the experiences and ideals of late imperial Chinese political thought. The transition between these two systems highlights the surprising influence of the short-lived provincial autonomy movement on the legal structures of the centralized one-party states that followed.

Keywords: Republican China, election law

### **Introduction: A Question for John Dewey**

Three months before the end of a lengthy sojourn in China, American educator and philosopher John Dewey (1859–1952) met with members of the Jiangsu Education Association (*Jiangsu sheng jiaoyu hui*) for a conversation on “current global trends in elections.” Among the Republic of China’s most influential voluntary associations, this Shanghai-based group included many of the nation’s most prominent political, intellectual, and business leaders. The first questioner at this April 9, 1921, event asked Dewey to comment on an election that had just taken place in China:

Of course, republics ought to have parliaments, but the Chinese parliament—both the old one [elected in 1912, but disbanded and reconvened multiple times since] and the new one [elected in 1918 and permanently dissolved in 1920]—is a bankrupt institution. The attitude of Chinese citizens to the current [parliamentary] election is extreme indifference. What can be done to repair this? (*Shenbao* 1921b)

Dewey's laconic response—"Unless one first understands China's national conditions, this will be difficult to solve"—may or may not have satisfied his audience. Anxiety and uncertainty, generated both by the controversial March 1921 attempt to elect yet another parliament and by a lawsuit that challenged the election's outcome, lurked behind this question. The 1921 election symbolized the failure of early Republican institutions in China but also created space for discussing alternatives.

The initial focal point for this conversation, as all in Dewey's audience would have known, was an unusual and well-publicized Shanghai court case. Upset by fraud during the election, a well-connected young lawyer, Yang Chunlü (ca. 1887–1932), filed suit against several members of Shanghai's political establishment on March 6, 1921. This lawsuit featured prominently in the Shanghai press, particularly in the mass-circulation daily *Shenbao*, which ran frequent updates. One of the Jiangsu Education Association's leaders, Shanghai educator Shen Enfu (1864–1944), had helped instigate Yang's challenge: he wrote an account of his own experiences with voting irregularities that was widely reprinted in major Shanghai daily newspapers and was cited in Yang's court filings (Shen 1921, 11). Dewey's visit to Shanghai at this time was coincidental, but many of the issues he raised touched directly on those that spurred Yang's lawsuit. In the years after Yang's case, these concerns would motivate Shen and others to attempt to reform China's failing political institutions through the establishment of provincial constitutions.

Electoral reform was a critical part of their vision for these proposed provincial governments. The election laws used in 1921, based on indirect voting and sharply restricted electorates, had been inherited from codes designed in the final years of the Qing dynasty. Although some questioned this limited electoral system in the wake of the 1911 Republican Revolution, it retained broad support among the nation's political and intellectual elite for another decade. This consensus had begun to crack by 1920 and, within three years, support for a new kind of election system based on direct voting and universal suffrage would become the norm. This transformation of Chinese election law was part of a broader shift in understanding what elections were for, what they could accomplish, and how they should be organized. Although this transition manifested itself as a part of a program for provincial autonomy, it had an impact on national political consciousness. Little recognized today, the creation of direct elections with universal adult suffrage was an artifact of the diffuse and short-lived provincial

autonomy movement of the early 1920s, rather than the mass-based political parties that followed it.

### **Electing a “New New” Parliament with Old Election Laws, 1920–1921**

The spring 1921 election that vexed Dewey’s audience was intended to revitalize a battered Republic of China by reconnecting it with the legal structures established in the months after the 1911 Revolution. The decade that followed the revolution witnessed a marked decline in the fortunes and power of the Beijing-based central government. Delegitimized by years of intermittent civil war and foreign assaults on Chinese sovereignty, the nominal national authorities found themselves challenged by a variety of other actors, including a rival government based in the southern city of Guangzhou. The current rulers in Beijing—who had themselves only risen to power in the late summer of 1920 after a brief war—sought to demonstrate the legitimacy of their rule by scheduling the election of a new parliament based on the Republic of China’s 1912 election law. This return to the original election law (which had been ignored, discarded, or modified by governments between 1913 and 1920) would symbolize continuity between this new government and the values and ideals of the revolution itself. Thus, President Xu Shichang (1855–1939) and his new cabinet issued an order on the last day of October 1920 for a parliamentary election to occur the following spring. The parliament that was supposed to be produced by this vote was dubbed the “New New Parliament” (*Xin xin guohui*), contrasting it with the “Old Parliament” (*Jiu guohui*) elected in 1912 and the “New Parliament” (*Xin guohui*) of 1918.

Few people had much hope that these elections could mend the republic’s torn political fabric. Members of the 1912 “Old Parliament” still in the capital objected to the proposal, claiming that their term had not yet officially expired. Sun Yat-sen’s (1866–1925) regime in Guangzhou, which included its own rump group of 1912 parliamentarians, likewise condemned the upcoming elections as “illegal” and persuaded several southern provinces to boycott. Outside observers tended toward cynicism: a *Shenbao* editorialist compared the current plans for elections with earlier attempts by “militarist factions” to “expand their power by using money to compete in elections” (Mo 1920, 7). Yet some retained a smattering of guarded optimism. The Shanghai-based English-language *North China Herald*, for instance, reported a flurry of public interest in the elections in the weeks just before they were held, commenting that “[the Chinese

people] seem suddenly to have realized that even a bad parliament is a symbol of the people's right and a pledge that one day a truly representative body shall sit in [Beijing]" (*North China Herald* 1921; Gilbert 1921). Perhaps seeking to encourage this sentiment, President Xu exhorted local political and legal authorities to prevent abuses that might undermine the election. Through such efforts, Xu hoped to avoid a situation in which "the structure of elections remains, but their spirit is lost."

Xu did not elaborate on what constituted the "spirit" of elections, although the first sentence of his order hinted at it: "The system of elections is the means by which a political community for all [*tianxia wei gong*] honors popular political rights by allowing each person to select someone whom he wholeheartedly admires to represent his will in Parliament" (*Zhengfu gongbao*, November 18, 1920, mingling 1). The description of the republic as a "political community for all" tied this exercise in voting both to deep currents in Chinese political philosophy and to a particular vision of Chinese elections. Though enshrined in post-1927 Nationalist China as Sun Yat-sen's favorite maxim from the classical literary canon, in the early republic this four-character phrase was still concretely anchored in the context of its textual origins, rather than in the nuances of Sun's political ideas. The full quotation, as would have been known to virtually anyone who had enough education to read Xu's edict, came from the *Classic of Rites* [Li ji]: "When the Grand Course was pursued, a public and common spirit ruled all under the sky; they chose men of talents, virtue, and ability; their words were sincere, and what they cultivated was harmony" [*Da dao zhi xing ye, tianxia wei gong, xuan xian yu neng, jiang xin xiu mu*] (*Li Ki* 1885, 364–365). Xu deliberately linked the practice of voting to the idea of selecting "men of talents, virtue, and ability." Voting for a person that a voter "wholeheartedly admires" did not mean choosing a candidate on the basis of loyalty to a political party, locality, or any other sort of particularistic tie; it was to elevate universally recognized moral exemplars to office.

President Xu did not create this vision of the purpose of elections—instead, he was merely part of a tradition that stretched back to the first Chinese experiments with elections in 1909. The continuity of assumptions about the purpose of elections was reflected in the relatively stability of election law itself between the republic and its Qing predecessor. As part of its "New Policy" reforms, the Qing government designed election laws for provincial assemblies in 1908 and held elections the following year. The laws restricted suffrage to adult men who held the

proper educational, social, or economic credentials. The Qing's "Provincial Assembly Regulations" and "Provincial Assembly Election Regulations" limited the right to vote to male Chinese nationals over the age of twenty-five who were living in their province of ancestral residence and had either (1) managed a public welfare organization; (2) earned a degree from a Western-style middle school; (3) held a county-level *shengyuan* degree or higher from the recently abolished civil service examination system; (4) held a position in the civil or military bureaucracy; or (5) owned a minimum of 5,000 *yuan* of real estate or commercial capital. Certain behaviors resulted in disenfranchisement, including declarations of bankruptcy, illiteracy, coming from an "impure background," or using opium. Several occupations were also barred from participation; these included government officials, police, active-duty soldiers, monks or other clergy, and students.<sup>1</sup>

Those who were qualified to vote participated in an indirect, two-stage election process: voters did not directly elect representatives but instead voted for an intermediate group of electors who would then be responsible for the final selection. Each county functioned as a single electoral district in the primary-stage election and was assigned a quota of primary-stage election winners. The winners of this election, determined by a mathematical formula that specified the minimum number of votes needed to win, gathered together with winners from other counties in the same prefecture, which formed the secondary-stage election district, and held another election. The winners of this secondary-stage election then became the new provincial assemblymen. No detailed Qing-era explanation of why this system was attractive survives. Speculatively, part of its appeal may have rested in the similarity of its tiered structure of selection to the various levels of the pre-1905 imperial civil service examination system.

The laws designed by the Qing would be used only once before the dynasty fell, but they survived the 1911 Revolution to become the foundation for the new republic's electoral laws for both the new national parliament and the legislatures of the various provinces. The fundamental structures of Qing electoral law—a restricted electorate voting in indirect elections—would be adopted by the new government of the Republic of China in a set of three interlocking laws adopted by the Provisional Senate during the summer of 1912.<sup>2</sup> Even the design of the ballot boxes and the ballots remained virtually the same (figures 1 and 2). Outside of the Provisional Senate, mainstream intellectual discourse about elections, as represented by thinkers such as Kang Youwei (1858–1927) and Liang Qichao (1873–1929), also tended to reaffirm these two

basic principles (Liang 1999; Kang 1914). Similarly, the provincial governments, such as Jiangsu's, that drafted their own election laws in the months before the national system proposed comparable systems (*Jiangsu linshi shengyihui yijue'an* 1912).

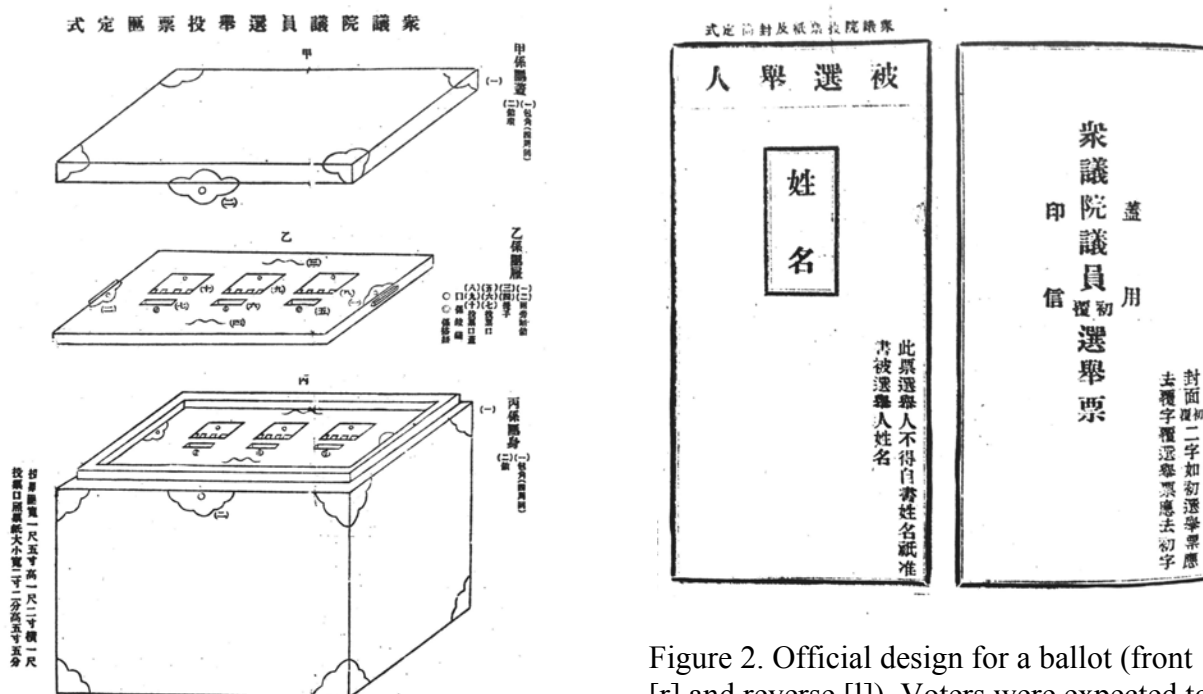


Figure 1. Official design for a ballot box. Source: *Zhengfu gongbao*, September 21, 1912, unnumbered page.

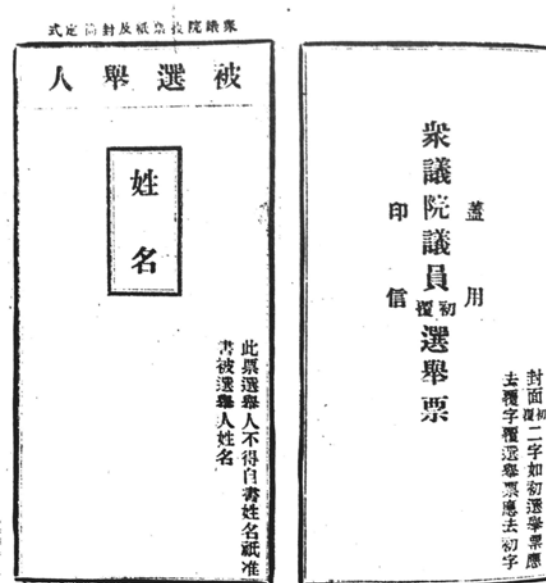


Figure 2. Official design for a ballot (front [r] and reverse [l]). Voters were expected to write their candidate's name in the rectangle on the reverse side. Source: *Zhengfu gongbao*, September 21, 1912, unnumbered page.

The reasoning behind these decisions became evident during the course of Provisional Senate's 1912 deliberations. It overwhelmingly voted to maintain the system of two-stage, indirect elections (*Zhengfu gongbao*, July 13, 1912, fulu 9–15). In a summary of the committee deliberations, one senator argued that “it is easier to select excellent, talented people through a system of indirect elections” (*Zhengfu gongbao*, July 10, 1912, fulu 18–19). While the retention of indirect elections proved essentially uncontroversial, restrictions on suffrage sparked debate. Seemingly all agreed that some sort of limitation on voting was natural: only a handful of senators voted in support of universal male suffrage (*Zhengfu gongbao*, July 13, 1912, fulu 15–19). One senator explained that according to international practice, there were two basic principles governing restricted electorates: the laws should be designed to enfranchise “those of

independent means” and “those with learning” (*Zhengfu gongbao*, July 25, 1912, fulu 21–27). Yet there was also a broad consensus that franchise in a republic should be more widely shared than it had been under the emperor. The debate came to focus on how to widen the electorate while still restricting the vote to those who were presumed to have the correct background to exercise it responsibly. A number of prominent female activists outside of the government advocated vigorously (and with a significant degree of media savvy) for women’s suffrage (see, for example, Edwards 2008). Their advocacy of female voting rights, however, did not indicate support for universal adult suffrage, but rather for the inclusion of qualified women into the restricted electorate.

The final law to emerge from the Provisional Senate in 1912 restricted voting rights to adult men at least twenty-one years of age who had lived in the same voting district for at least two years and either (1) had graduated from a Western-style primary school (or held an “equivalent” qualification, such as a pre-1905 civil service examination degree); (2) owned 500 *yuan* or more in real estate; or (3) paid annual “direct taxes” to the central government in excess of 2 *yuan*. These qualifications, which were significantly less restrictive than the ones used during the Qing, laid the groundwork for a sizable expansion of the electorate from fewer than two million persons in 1909 to nearly forty-three million in 1912. As in 1909, those who used opium, were unable to write Chinese characters, had a mental illness, or had declared bankruptcy were disenfranchised, as were those engaged in occupations that had the potential to intimidate voters. Much like the Qing electoral law, the new law served to select an electorate that was assumed to have the correct intellectual and moral background to participate in politics.

The 1912 revisions to the Qing election law remained the bedrock of the Republican system until the rise of the Nationalist government in the 1920s. President Xu Shichang explicitly reaffirmed them in his call for elections in 1921, indicating their perceived legitimacy nearly a decade after the revolution. Yet by the time of Xu’s presidency, a rival set of election laws, based on an alternative source of foreign inspiration and a different understanding of the Chinese past, began to eclipse this old consensus. Yang Chunlü’s legal challenge to the 1921 elections in Shanghai and the public discussion about election law between Dewey and the Jiangsu Education Association’s leaders crystallized a moment in which the indirect, restricted election system of the late Qing and early Republic lost its last remnants of credibility. In its



place, lawyers, educators, and public intellectuals proposed a different kind of election law with a different goal.

### **Challenging Shanghai's Elections in Court, 1921**

The lawsuit filed in Shanghai after the elections for the “New New Parliament” was not framed as a challenge to the system of indirect, restricted franchise elections, although those who sponsored the lawsuit would soon come to support alternative election systems. Taking a lead from Xu’s November 1920 presidential declaration, which also urged political and judicial authorities to enforce election laws against corruption, a previously unknown local lawyer, Yang Chunlü, decided to monitor the primary-stage election in Shanghai County for compliance with national law. Yang’s initial petition laid out a narrative of his experiences on election day. Arriving at his assigned polling place, Yang witnessed three large groups, each made up of thirty to forty “suspicious-looking” people, rushing in and out of the polls. After these groups left for a break, Yang snatched up the nearly 250 polling station admission tickets that they had abandoned on the ground. Upset, he decided not to vote. Instead, he visited two other polls, where he collected several hundred additional discarded admission tickets. Some of these tickets, which were supposed to be individually produced for each voter at the time of registration, bore identical names; many more were found in sequential order according to their identification numbers (unlikely to happen naturally, as voters would presumably not appear at the polls in the exact order in which they had registered to vote weeks earlier). Together, these occurrences suggested to Yang a comprehensive effort to stuff ballot boxes and steal the election (*Shenbao*, 1921a). Others, too, shared this suspicion (see figure 3).

Yang’s account, the cornerstone of his lawsuit, was incomplete in two important respects. First, Yang himself was a candidate in the primary-stage election and had garnered enough votes to be declared an “alternate winner” (*houbu dangxuan*), a position that Chinese election laws created in the event that the election’s actual winners could not fulfill their role or were disqualified for fraud. Yang’s lawsuit did not mention his personal stake in the election’s results. Second, although Yang cited Jiangsu Education Association leader Shen Enfu’s account of witnessing election fraud as corroboration for his own claims, he never divulged any personal connections with Shen. While no evidence exists to show that the two men had met before the lawsuit, later newspaper accounts revealed that Yang and Shen had overlapping membership and

leadership roles in a number of political organizations in the mid and late 1920s. While it is possible that Yang came to Shen's attention through this lawsuit, it seems more likely that Yang filed his case only after securing approval from this influential civic leader.



Figure 3. A political cartoon critical of election corruption. The stack of paper (perhaps ballots or polling station admission tickets) on the right is labeled "election" and is being sold to the two men on the left. *Source: Shenbao*, March 5, 1921, p. 14.

The support of established figures like Shen would have been necessary, given that Yang deliberately targeted three of the city's most powerful men in his lawsuit. The first, county magistrate Shen Baochang (1880–1935), was ex officio the election commissioner for the primary-stage election; his inclusion in this lawsuit was thus expected. Shen Baochang did not appear in court, complied with orders to turn over evidence slowly, and generally seems to have been indifferent to this case. The other two defendants, Yao Wennan (1857–1934) (figure 4) and Lu Wenlu (1855–1927), had been pillars of Shanghai civic life since the late Qing and had been prominent leaders in what one historian has termed Shanghai's "gentry democracy" (Elvin 1969). One or both had served on every Shanghai local government council that had ever been

seated and each held a civil service examination degree. Yao had been elected to the first Republican parliament and had won primary-stage elections a number of other times in the following years. Both Yao and Lu, significantly, were among the primary-stage winners in the 1921 election. They owed their status to traditional means; they were members of the old gentry class, deriving power from their participation in the civil service examination system and management of various community projects, such as the compilation of a local gazetteer and the repair of Shanghai's temple for the city god. These two men symbolized Shanghai's official power structure.

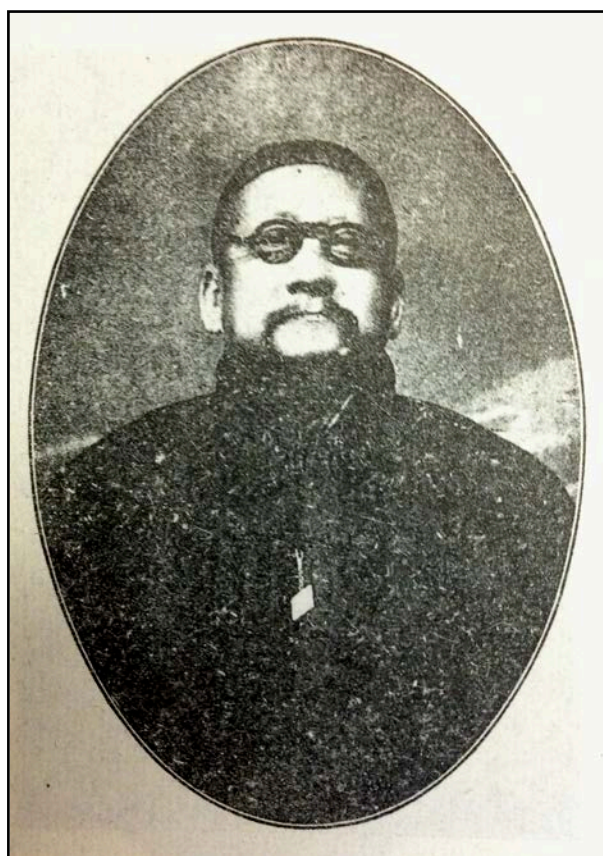


Figure 4. Yao Wennan, a prominent early twentieth-century Shanghai political leader and one of the defendants in Yang Chunlü's 1921 lawsuit. *Source*: Satō (1967 [1916], 157).

Yang's case took several weeks in March and April 1921 to resolve. Several hearings were held, during which a series of technical questions about the election laws arose. After a lengthy correspondence with the national Supreme Court (Daliyuan), the Shanghai local court

ruled on April 15 that the county's primary-stage election was void. The thirty-one winners of that election, as announced in March, were stripped of their victories. The court justified this invalidation on the basis of improper voter registration practices and sloppy voter sign-in procedures, leaving Yang and Shen Enfu's claims of deliberate fraud unaddressed (*Shenbao*, 1921c). Regardless, this verdict was remarkable, perhaps even unprecedented. Qing and Republican lawmakers had drafted procedures for electoral disputes and the invalidation of electoral results, but this seems to be the first time that such codes were used by a court of law to cancel the entire outcome of a particular vote.

Given its unusual nature and dramatic result, this trial and its verdict became the focus of public attention in Shanghai. Some found the whole affair distasteful—one *Shenbao* essayist, commenting on the crowds that flocked to the courtroom to listen to Yang's case, explained that he avoided the case because he preferred "fresh air" to the "stench of politics" (Laopu 1921, 16). After the verdict was announced on April 15, the Nationalist Party-backed Shanghai newspaper *Guomin Ribao*, which had long characterized the election as "illegal" in accord with the party line emanating from Guangzhou, celebrated the result. Defendants Yao and Lu, predictably, were less enthused and publicly accused Yang and the judge of conspiring to deny their election. Other critics would later claim that jealousy, and a desire for mischief, motivated Yang's suit. Many mocked those who had presumably won election by bribing voters only to find that their purchased positions had been seized by the court system (*Shenbao* 1921d; 1921e; Ne 1921, 11).

The secondary-stage election for the region that included Shanghai was briefly postponed during the early phase of the trial, although primary-stage winners (including those from Shanghai whose election was about to be invalidated) continued to gather in Suzhou, where the secondary-stage vote was to take place. On April 4, over a week before the Shanghai verdict, these electors cast their votes for Jiangsu's parliamentary delegation. Perhaps this would have led to a second legal confrontation (as it was, Yang and the defendants continued to file motions well into the summer of 1921), but soon after the initial verdict was announced, the balance of forces in Beijing shifted again, ensuring that the just-elected "New New Parliament" would never be seated. Some hopeful would-be parliamentarians gathered in Beijing anyway, where—at the margins of warlord politics—they repeatedly petitioned in vain for someone to pay attention to their plight.

This set of elections, the winners of which would never be seated in Parliament, served as a coda to the late Qing and early Republican electoral system. They were the last national parliamentary elections held using the indirect voting and restricted franchise structures inherited from the Qing. Provincial-level legislative elections based on this system died a slower death. The July 1921 provincial legislative elections in Jiangsu would be the last in that province to use such laws, but several provinces in the northeast continued to use the system until the late 1920s. In the wake of his hollow legal victory, Yang turned his attention to redesigning the institutions of the republic, beginning at the provincial level. He parlayed his fame into a set of relationships with prominent Shanghai professionals and activists, leading ultimately to a career in political advocacy.

### **Provincial Autonomy, the Shanghai Professional Elite, and Election Law Reform**

In his April 1921 talk at the Jiangsu Education Association, Dewey briefly spoke in favor of provincial constitutions that would allow for the selection of “good representatives” as a potential solution to China’s electoral problems. These charters, designed and enacted at the subnational level without regard to the Beijing authorities, had become an intellectual fad in 1920. Dewey promoted these documents in other public speeches, including during an earlier trip to Changsha, the capital of Hunan Province and a center of the autonomy movement. Many in his audiences across the country put faith in the power of newly designed provincial constitutions to mend the damaged fabric of the Chinese republic. In particular, the Shanghai professional, educational, and media communities embraced this push for redesigning the Republic of China as a federation of self-governing provinces (Bergere 1989, 217–227). From the perspective of history, the 1920s “provincial autonomy movement” proved to have significantly greater discursive effects than practical political results. It did little to halt the increasingly intense civil wars of the mid-1920s and was unable to prevent the emergence of a highly centralized Nationalist state after 1927. Yet this movement did leave an important legacy for the governments that ruled China for the remainder of the twentieth century: a series of election laws that, for the first time in Chinese history, were based on universal adult suffrage and the direct election of representatives.

The origins of the linkage between provincial autonomy and election law reform are obscure, although the fusion between these two causes occurred early in the movement's history. Calls for reformed election laws had become increasingly common in 1920: in August of that year, the Shanghai Federation of Street Unions (Shanghai gelu shangjie zong lianhehui) demanded a directly elected national Citizens' Assembly based on universal adult suffrage, one of the earliest such publicized calls (*Shenbao* 1920a). By October 10, direct elections and expanded suffrage had become foci of provincial autonomy activists in Hunan, and protesters in Changsha carried banners emblazoned with these demands (Duara 1995, 191). Theorization of the linkage between autonomy and elections soon followed. An early exposition—published on the same day as the Changsha protests by Shanghai educational reformer, political activist, and Jiangsu Education Association member Huang Yanpei (1878–1965)—argued that two pairs of ideas defined the provincial autonomy movement. The first pair drew attention to the relationship between the province and the nation: the movement aimed to “smash centralized power” and to “eliminate the warlords.” The second pair, however, focused on transformation of how elections would function: autonomy activists planned to “implement systems for direct popular expression” and “implement representation systems by occupational group” (Huang 1920, 46). Although Huang expressed significant doubt about the viability of direct elections in China and said nothing about the scope of the electorate—the two issues that would come to define electionlaw writing during the provincial autonomy movement—his essay indicated that, for many, provincial autonomy was inextricably tied to a radical transformation of the existing system of voting. The link was made explicit a month later, in Shanghai-based scholar Zhang Taiyan's (1868–1936) canonical formulation of the provincial autonomy movement's goals, aims, and methods. Zhang explained that the movement envisioned a China in which “the people of each province would create their own provincial constitution... [and] from county magistrates to the provincial governor, [all officials] would be directly elected by the people” (Tang 1979, 605–606).

Huang, Zhang, and other Shanghai-based writers were the leading edge of a new mainstream consensus about elections. After 1920, intellectual and political elites of all stripes began to abandon the system of indirect, restricted elections. Complaints about corrupt elections—highlighted, no doubt, by Yang's spring 1921 lawsuit—combined with the manifest failure of elected leaders to manage the challenges that faced China, led to a crisis of confidence

in the institutions of the early republic. Theorists during this period looked to new political developments in post–World War I Europe for inspiration. Lawyer and journalist Wang Shijie (1891–1981) retrospectively summarized many of these trends in 1922, among them voting by occupational constituency, systems of proportional voting, female suffrage, and the increased use of plebiscites. Although Wang refrained from commenting on the current Chinese political system, his essay highlighted the congruence between the quest to revise China’s system of elections and mainstream global discourse (Wang 1922).

Proponents of provincial autonomy adopted this logic of redesigned election laws, although with surprisingly little detailed discussion. The comprehensiveness of this consensus was, however, evident in their election laws. Before 1920, no organ of Chinese government at any level had supported either direct or universal suffrage elections; in the years that followed, authorities in at least seven provinces—Jiangsu, Zhejiang, Hunan, Guangdong, Henan, Sichuan, and Fujian—circulated proposals for provincial constitutions that did so.<sup>3</sup> Each of these stipulated that legislatures should be elected through direct elections in which most adults could participate. Educational requirements (other than literacy) and property restrictions on suffrage were dropped. Even more strikingly, all proposed provincial constitutions extended the franchise to women. Some accomplished this by including clauses that specifically mentioned female voting rights, others by removing all gender references from the election law. Unlike the election law debates of 1912, these changes appear to have been uncontroversial in the early 1920s, signaling a fundamental shift in understanding of elections.

Provincial constitutions, though written separately in the various provinces, were not created independently of one another. All derived inspiration from a handful of thinkers, such as Zhang Taiyan, and journals, such as the *Taipingyang Yuekan* and the *Dongfang Zazhi*, located in Shanghai. Moreover, the constitutional drafting committees established in each province tended to draw, in part, from individuals affiliated with Shanghai-based networks.<sup>4</sup> The Hunan provincial constitution drafting committee, for instance, included the *Taipingyang*’s general editor Li Jiannong (1880–1963) and contributor Tang Dechang (dates unknown), both Hunanese natives living in Shanghai. The drafting commission also included Zhejiangese politician Wang Zhengting (1882–1961), who also served on Zhejiang’s own provincial constitution drafting committee. Similarly, in June 1920, Zhang Taiyan (originally from the Hangzhou, Zhejiang region) was invited to take part in the drafting of the Zhejiang provincial constitution, although

he declined. Ideas, plans, and policies circulated through these networks; this overlap accounts for the striking similarity of the provincial constitutions produced during this era. This was a national movement, centered in large measure in Shanghai, which embraced a particular rhetoric of local autonomy, rather than a series of local movements expressing local particularities.

This shared interest in new forms of elections was not necessarily directly linked to a desire for greater democratic accountability; instead, the goal was to reshape the connection between the state and the electorate. The goal of these new laws, which were intended to encourage mass participation in elections, was to mold citizens' attitudes and create a sense of belonging and identification with the newly reconstituted provincial governments. Although this particular vision of elections had also been inherent in Qing and early Republican elections, it now received a new emphasis and priority. Thus, these laws represented not only an interaction with a different aspect of a global discourse on elections but also a new appreciation for aspects of traditional Chinese political culture that emphasized the state's role in educating the people.

The indirect voting system was inadequate to this task. One Lou Mingyuan (dates unknown), writing in *Shenbao* in November 1920, claimed that indirect voting systems suffered from three major defects, one of which was that they allowed people to adopt a "lackluster sense of responsibility" toward elections. Although he did not advocate the immediate adoption of direct elections, the implication was clear (Lou 1920, 16). Later *Shenbao* editorialists embraced this change. In 1921, a year after these initial discussions, an editorialist going by the pen name Silan praised the provincial constitutionalist movement's adoption of direct elections, noting that they could "result in [popular] interest in political participation rights" (Silan 1921, 20). Taken together, this is an unusual series of justifications for direct elections. Direct elections were expected to inspire greater public interest in the political process and thus spread Republican political culture.

Translating these ideas into practice proved difficult. Although major provincial autonomy thinkers congregated in Shanghai, which was a part of Jiangsu Province until mid-1927, the attempts at implementing a provincial constitution in Jiangsu soon lagged behind those in Hunan, Guangdong, and Zhejiang. Two long-term members of the Jiangsu provincial legislature, Zhu Shaowen (dates unknown) and Chen Dayou (dates unknown), working at the behest of a loosely organized group in Shanghai, produced the first public proposal for an autonomous Jiangsu Province in late November 1920. This document was offered as a starting



point for a broader discussion; the authors specifically hoped that two recently founded provincial political groups, the Shanghai-based Jiangsu Society (Sushe) and the Nanjing-based Jiangsu Political Discussion Association (Su zheng shangquan hui), would engage with their outline. While the latter group soon disappeared, the former, organized by industrialist Zhang Jian (1853–1926) in April 1920, was active throughout the early and mid 1920s in promoting provincial autonomy for Jiangsu. Zhu and Chen were members of this group, as were Shen Enfu and Huang Yanpei.

Zhu and Chen’s draft highlighted a number of issues of significance and represented an early attempt to integrate changing ideas about elections into a concrete proposal for political change. New local political institutions, they claimed in their preface, should “adhere to global trends,” “reflect an understanding of the nation’s situation,” and “cultivate the people’s ability to be self-governing.” This final point reiterated the provincial autonomy movement’s commitment to an aggressive form of political education: the primary goal of its new institutions would be to mold popular attitudes rather than to reflect preexisting public opinion. In order to create the capacity for self-government, Zhu and Chen argued that “the common people [*shumin*] should be given an opportunity for equal political participation, [thus] allowing them to train [*xunlian*] and develop their abilities.” Although the authors suggested that county and subcounty institutions would play an important role in this, voting in provincial elections was the only form of potential popular participation mentioned in the text of their draft constitution. To this extent, then, it is significant that the proposal specifically called for direct election of legislators by a broad electorate, comprised of all taxpayers who had received schooling (neither of which was defined in the proposal) without reference to gender. Although not as radical as later provincial constitutions (none of which would impose a property qualification on voters) would be, this 1920 draft was the first to push away from the strictures of the late Qing and early Republican system of indirect elections and small electorates (*Shenbao* 1920b).

Yang Chunlü’s relationship with the loosely linked groups that advocated for provincial autonomy before he filed his lawsuit in March 1921 is unclear. His activities after his lawsuit wound down in June, however, reveal increasingly close ties with many of the leaders of that movement, especially Shen Enfu. In early 1922, Yang took part in the Shanghai-based National Affairs Conference (Guoshi huiyi) with Shen Enfu and Huang Yanpei, as well as other members of the Shanghai establishment (*Shenbao* 1922a). Yang’s role in this series of meetings, which

were intended to lay the foundations for a national reconciliation conference that would halt the slide toward increasingly intense civil war and devise a new organizational structure for the republic, involved drafting the conference's statement of purpose (*Shenbao* 1922b). Yang also took part in other, less prominent groups that pursued related goals. Many came to nothing, such as the "Association for Promoting Provincial Federalism" (Liansheng zizhi cujin hui), which was founded by Yang, Zhang Taiyan, and other activists in August 1922 and soon disbanded (*Shenbao* 1922c). Although such groups may have had other purposes that we can no longer discern, Yang himself appears to have been deeply committed to crafting the legal framework for a federalist China. In 1924, he participated in a second effort to create a Jiangsu provincial constitution and drafted the (never used) election law for the convention that would write it (*Shenbao* 1924a; 1924b; 1924c). He participated in a similar exercise eighteen months later, along with constitutional scholar Zhang Junmai (1887–1969) and Shanghai entrepreneur Li Pingshu (1854–1927) (*Shenbao* 1926a). Amid the accelerating domestic chaos of the late 1920s, Yang continued to advocate for provincial federalism; he signed Zhang Taiyan's 1926 public telegram, later to become infamous among Nationalist and Communist Party historians for its seeming acceptance of warlordism, which implored "all armies to remain in their own territories, without making any [military] moves, and [to] perfect the internal administration of the areas under their control and stop invading others" and to rebuild a functional central government only after "the self-governance of each province is accomplished" (*Shenbao* 1926b). This idea perished in the fires of the Nationalist Party's Northern Expedition, which would begin the task of reforging a centralized Chinese state.

Yet the desire to reform election laws had become a mainstream opinion before the rise of the Nationalist state. In May 1922, Beijing University professor and noted public intellectual Hu Shi (1891–1962) penned a manifesto entitled "Our Political Proposals," which was printed in several major periodicals, including his own *Nuli Zhoubao*. Hu organized fifteen other prominent figures, among them Communist Party founder Li Dazhao (1888–1927), Nationalist Party stalwart Wang Chonghui (1881–1958), and Confucian modernizer Liang Shuming (1893–1988), to endorse his statement. Given the diverse range of political views held by his cosigners, Hu phrased his six proposals at a broad level of generality, aiming to articulate areas of elite intellectual consensus about the nature of good governance. Among his proposals were the "urgent need for the reform of the current election system," which would require the

“abandonment of indirect elections and the adoption of direct elections,” as well as tough laws against election fraud (Hu 1922).

A more surprising signal that direct elections had suddenly become a commonly accepted ideal was the October 10, 1923, promulgation of a new national constitution in Beijing. Amid the turmoil of that era, few saw this charter—the so-called “Cao Kun Constitution”—as legitimate. Although it embraced many elements of earlier draft constitutions, it was finalized and approved by a reconvened rump of the “Old Parliament” that had been openly bribed by warlord Cao Kun (1862–1938), who had purchased the presidency for himself after the collapse of Xu Shichang’s administration. Despite this dubious background, the 1923 constitution embedded a key feature of the provincial autonomy movement’s electoral system: direct elections were mandated for provincial legislatures (*Zhonghua minguo xianfa* [Constitution of the Republic of China], in Xia 2004, 521–531). However, the national parliamentary elections authorized (but never held) under this constitution were intended to maintain the indirect voting system of the late Qing and early republic (*Zhengfu gongbao*, January 6, 1924, mingling 3–5). Cao himself served in office until October 1924, when he was ousted by rival military commanders, and his constitution disappeared with him. A final proposal for a national constitution before the advent of the Nationalist regime came in December 1925. This constitution authorized direct elections for the lower house of Parliament and restricted the electorate only on the basis of “education” (*Zhonghua minguo xianfa an* [Proposed constitution of the Republic of China], in Xia 2004, 534–547).

### **Direct, Universal Elections and the Nationalist Party, 1923–1949**

The Nationalist Party imbibed these intellectual trends, too. By the early 1920s, Sun Yat-sen (1866–1925) decided to push his Nationalist Party to thoroughly repudiate the 1912 constitutional system and its electoral laws. A January 1, 1923, party declaration claimed that “the present system of representative government has already weakened democracy and the [current] class-based system of elections is easily controlled by a minority.” To replace it, the Nationalists advocated universal adult suffrage, as well as the use of initiative, referendum, and recall, exercised either through plebiscites or mass meetings (*Zhongguo Guomindang xuanyan* [Proclamation of the Chinese Nationalist Party], in Xiao 1976, 67–71). These proposals echoed earlier ideas proposed by provincial autonomy movement activists; in other words, Sun was

following, rather than leading, elite opinion. Sun and his party envisioned direct, mass suffrage elections as a crucial aspect of their notion of a “tutelary” government that would train the people for democratic citizenship (*Jian guo dagang* [Fundamentals of national reconstruction], in Xia 2004, 598–600). The educational use of direct, universal elections likewise mirrored the intentions of provincial autonomy activists.

Political tutelage, though it never received formulation as a set of policies, remained a guiding ideal for the Nationalists during and after their 1927 establishment of a national government in Nanjing. Actual implementation of tutelary programs, particularly those based on elections, lagged. On May 5, 1936, the Nanjing government promulgated a draft constitution after years of negotiation, revision, and controversy. This constitution envisioned the election of a National Assembly selected through an election process that would be “universal, equal, direct, and based on a secret ballot,” with suffrage extended to all citizens over twenty years of age. A detailed election law was issued soon after and revised several times during the summer of 1936 (*Zhonghua minguo xianfa cao'an* [*Wu-wu xian cao*] [Draft constitution of the Republic of China (May 5, 1936, draft)], in Xia 2004, 982–992; “Guomin dahui daibiao xuanjufa” [National Assembly Election Law] and “Guomin dahui daibiao xuanjufa shixing xizi” [Detailed regulations for the National Assembly Election Law], in Xia 2004, 1001–1015). All voters were required to take an oath of citizenship when registering for the election, thus intertwining the voting process and loyalty to the Nationalist government. Oath takers faced the flag of the Republic of China, the flag of the Nationalist Party, and an image of Sun Yat-sen, and they pledged to “protect the Republic of China” and to support Nationalist Party ideologies, such as Sun’s “Three Principles of the People.”<sup>5</sup> The oath itself constituted a form of political education in the symbols, terminology, and ideology of the Nationalist government.

This round of Nationalist elections, originally scheduled for fall 1936, did not occur. Amid delays in the creation of voter lists and other preparatory work, the entire process was postponed. The general election was rescheduled for July 1937, and voting commenced in portions of the country during that month. By then, however, the window of opportunity had passed. A skirmish between Chinese and Japanese forces at the Marco Polo Bridge near Beijing on July 7 began a crisis that led to the two countries’ final slide into war. The elections were abandoned in the midst of a fight for national survival. Only after the Japanese surrender in

September 1945 did Chiang Kai-shek's government turn its attention back to the implementation of this electoral law.

The end of the war marked the beginning of renewed attention to questions of civil governance. Under pressure from both domestic and foreign forces, the Nationalists were compelled to devise a path to the regularization and democratization of their rule. Chiang's government, over the objections of the Communist Party, adopted a constitution on December 25, 1946. A year later, from late November 1947 to early January 1948, nationwide elections were held, and the government declared an official close to the period of tutelary rule. Whatever hopes Chiang Kai-shek had that the election might confer domestic and international legitimacy upon his government proved futile. Battlefield defeats soon forced Chiang to flee to Taiwan, where he would establish a regime in semi-exile. In this sense, as historian Chang Peng-yuan concluded, these elections were a "failure" (Chang 2007, 201–205). Yet they were also a culmination of a particular way of thinking about elections as an educational experience intended for all adult citizens. This Nationalist attempt to institutionalize ideas originating in the provincial autonomy movement failed, but its legacies would bear fruit after 1949 in Taiwan and, especially, on the mainland.

### **Conclusion: An Incomplete Legacy**

At first glance, Chinese elections may appear to be nothing more than a footnote in twentieth-century history; military coups and armed revolutionary politics, rather than voting, produced the nation's leadership class. However, election law was a vital area of intellectual debate in the Republican period. The consensus at the republic's birth, inherited from late Qing lawmakers, held that indirect elections with a restricted electorate could result in the selection of talented and moral people for office. Although critics savaged the actuality of Republican elections held under these laws, they focused their attention on the (flawed) moral character of candidates and voters, rather than on proposals for systemic change. By the early 1920s, catalyzed by the provincial autonomy movement, this consensus had disintegrated. In its place, elite intellectuals, urban professionals, and civic activists proposed a vision of direct elections coupled with universal adult suffrage. These elections, intended to engage the populace more directly in politics, were supposed to function as a form of ritualistic political education that would bring the average person into contact with the symbols and ideas of the new state. Before

1920, support for such elections was virtually nonexistent; after 1923, every major political actor endorsed the concept. This vision survived the transition to one-party rule in 1927.

This system of elections constituted the major legacy of the provincial autonomy movement for the legal structure of the Chinese party-states in the mid and late twentieth century. Mass suffrage elections and universal adult suffrage grew out of a political movement that was separate from, and independent of, the Nationalist and Communist parties. Scholars, particularly Jean Chesneaux and Prasenjit Duara, have pointed to the dual nature of the provincial autonomy movement as focused on both decentralization and democratic governance (Chesneaux 1969). The post-1927 Nationalist party-state rejected the first of these in principle and consigned the second to a distant future after an unspecified period of tutelage. Yet, without attribution, the new government also incorporated the legal structures of the provincial autonomy election laws into its own conception of a post-tutelary state.

This legacy, however, can be measured only in textual production, rather than in concrete political action. Despite all of the effort devoted to drafting provincial constitutions in multiple provinces, only Hunan's constitution was enacted. In March 1922, the government of that province held the lone pre-1927 election based on direct voting and universal adult suffrage—yet only scattered evidence from that election survives to the present day. In the absence of documented provincial autonomy elections against which the movement's electoral ideals could be tested, the surviving legal codes left behind a series of unresolved problems within their blueprints for reform. The most significant of these was encapsulated by Yang Chunlü's career. Though he came to be supportive of the new electoral system, he never addressed how it would solve the issues raised by his original lawsuit. His challenge to the 1921 elections focused on systemic corruption within the late Qing and early Republican electoral system. If those laws could be subverted, could the new ones proposed by provincial autonomy activists not also be? How, exactly, would participation in direct elections inspire the newly enfranchised populace to the level of civic virtue that Yang and others expected of it? How would the people be trained in the practice of their new voting rights?

The mass suffrage, direct elections held during the Nationalist era provided one possible solution to these questions. Voting was accompanied by an improvised civics curriculum in which voters were introduced (many, perhaps, for the first time) to the symbols and slogans of the Republican state. Casting ballots was part of a ceremony of citizenship, a ritual to bind the

people and the regime, rather than an exercise in determining leadership. Fraud was controlled by the elimination of competition. Before the voting began in 1947, the Nationalist Party had already selected winners for each district; party officials barely attempted to disguise this fact (although they were not always able to enforce their decisions). In the hands of the Nationalists, neither of these strategies proved successful at “repairing” the “indifference” toward elections that concerned Dewey’s interlocutor in 1921. If anything, the 1947 elections intensified these problems. Both of these strategies, however, would be enthusiastically adopted by the Chinese Communist Party, though pursued with a thoroughness that would have astounded both the provincial autonomy activists and the Nationalists, when the new People’s Republic of China organized its own direct, mass suffrage elections for local People’s congresses in the 1950s.

Elections were meaningful parts of Chinese political and intellectual history, even if none of China’s twentieth-century leaders could ever claim to rule by an electoral mandate. Debates over the proper structure for elections reflected evolving ideas about how the law and the institutions it created could be used to affect human behavior. This evolution crossed several standard chronological divisions in modern Chinese history; it blurred the difference between the late Qing and the early republic, as well as the provincial autonomy movement and the post-1927 Nationalist period. It provides one example of the unexpected borrowing of legislation and legal ideas across regimes that characterized the development of law in early twentieth-century China.

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### **Notes**

- 1 See “Ge sheng ziyiju zhangcheng” (Provincial assembly regulations) and “Ziyiju yiyuan xuanju zhangcheng” (Provincial assembly voting regulations), in Liu (1935, 11436–11442).
- 2 The parliamentary election law can be found in *Zhengfu gongbao*, August 11, 1912, falu 5–30; the provincial election law is available in *Zhengfu gongbao*, September 5, 1912, falu 7–12.

- 3 Copies of these constitutions can be found in Xia (2004, 741–747 [Jiangsu], 685–697 [Zhejiang], 657–670 [Hunan], 711–721 [Guangdong], 721–738 [Henan]) and Zhou and Jiang (2010, 381–394 [Sichuan], 424–445 [Fujian]).
- 4 The best introduction to the provincial autonomy movement in English remains Chesneaux (1969).
- 5 The text of the oath can be found in the Nationalist government’s 1930 Oath Regulations (Xuanshi tiaoli) (*Guomin zhengfu gongbao* 1930b) and Organic Law for Cities (Shi zuzhifa) (*Guomin zhengfu gongbao* 1930a), rather than in the election law itself.

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