



Background Analysis of Traffic Law Discipline Construction

ZHANG Zhiwen^{[a],*}

^[a] Shandong Jiaotong University, Jinan, Shandong, China.

* Corresponding author.

Supported by the Research Fund of Shandong Jiaotong University under Grant No.R201118, and Research Fund under Grant No.JY2011010.

Received 3 August 2012; accepted 28 October 2012

Abstract

The construction of traffic law disciplines can not go beyond the actual conditions of the current economic and social development. It has become the No.1 problem to be solved that what development path on earth the analysis and exploration of this kind of reality can provide the development of traffic law disciplines with, when it comes to the construction of the subject. It should be mentioned that the fast developing transportation industry offers soil to the rise of traffic law disciplines; multiple traffic rules engender the sparkles of the rise of traffic law disciplines; universities with apparent transportation industry backgrounds boosted the fusion of traffic and law.

Key words: Traffic law disciplines; Discipline construction; Background analysis

ZHANG Zhiwen (2012). Background Analysis of Traffic Law Discipline Construction. *Canadian Social Science*, 8(6), 160-164. Available from: <http://www.cscanada.net/index.php/css/article/view/j.css.1923669720120806.3011> DOI: <http://dx.doi.org/10.3968/j.css.1923669720120806.3011>.

1. THE FAST DEVELOPING TRANSPORTATION INDUSTRY OFFERS SOIL TO THE RISE OF TRAFFIC LAW DISCIPLINES

Traffic is an important means of human beings' production and living activities, and simultaneously it is an essential

premise of the communication between culture and substance. Marx once classified transportation industry into one of the four departments of the social material development (the other three ones are respectively mining industry, agriculture and industry). The development of productivity provides the improvement of transportation industry's quality and quantity with material basis. Different modes of production determine and engender corresponding modes of transportation, and at the same time determine traffic laborers' social status in politics and economic life conditions. (1) It should be mentioned that the emergence of hunting activities started purposeful transportation and message passing; the separation of agriculture and animal husbandry made it possible the partial transportation; commodity exchange as a result of the invention of currency promoted the normalization and facilitation of transportation industry. Restricted by the theme of the passage, I will just elaborate on the developing conditions of our nation' transportation industry since China' reform and opening-up.

China' reform and opening-up which started from the end of 1970s becomes the key points of scholars' comments on the current world's numerous social phenomena. The development of transportation industry has to be included. It is estimated that, by the end of 1987, although the average expenditure of urban citizens on transportation and communication is 8.6 RMB, it is 1.2 times more than 1978. The most obvious change in this period is the popularity and promotion of the most fashionable transportation means at that time – bicycle. The number of bicycles of every 100 people increases to 215 from 153, increasing by 40.5%. The public transportation at that time just distributes on cities' main lines. It becomes the true description of rural areas' traffic condition that "there is dust in sunny days; there is mud in rainy days". In the second of China' reform and opening-up, the improvement of cities' infrastructure and the implementation of "Unblocked Traffic Project" promotes

the development of public traffic and taxi industry, thus making the transformation of ways to travel from riding a bicycle to taking a taxi. Highway traffic at this time is just limited to the design and construction of main traffic lines, such as national and provincial highways, etc.. It should be mentioned that, 1998 becomes the turning point of transportation industry. The enforcement of our nation's positive financial policies eliminates the hard refinancing problems caused in the process of transportation industry's development, influenced by which, the flooding in of civil society's large amount of capital provides transportation industry's follow-on development with money assurance and power support. The construction of infrastructures including highways, railways and ports develops with great rapidity. The mileages of highways increase by a geometric rate and ports that are capable of carrying 100,000,000 tons of goods come into existence rapidly. In the meantime, people's ways of travelling have also been innovated, and private cars gradually go into ordinary families and become the main tools of transportation. It develops from 1 car in every 100 families in 1998 to 4 four cars in 2007.

The transportation industry drives onto the track of development in the first decade of the new century as a result of boosting domestic demand and investment. A series of vivid figures is the best proof of its achievement. By the end of 2010, our nation's railway operating mileage reaches 91,000 kilometers, ranking number 2 in the world. The whole mileage of our nation's highway net reaches 3,984,000 kilometers. The number of ports whose scales are beyond the nation is 96; the number of dock berths used for production is 32148, among which, 1659 berths are of 10,000-ton grade or larger. The number of transportation airfields reaches 175, which accounts for 91% of our nation's economic amount, 76% of our population and 70% of units of county level. The length of civil aviation routes reaches 2,765,000 kilometers. As for pipeline transportation, we have basically accomplished the construction of pipeline trunk network with the length of 78,000 kilometers that goes across from the east to the west, from the north to the south, and covers the whole nation, and links the over sides. It's thus clear that we have got some achievements in both the whole number and scale of traffic facilities and the supplies of transportation ability and the promotion of transportation quality. However, it astounds us desperately the frequencies and casualties of traffic accidents associated with the fast-developing transportation industry when we are praising our achievements. Just take road traffic as an example. In around 3-decade years from 1951 with the emergence of records of traffic accidents to 1984, the changes of various indicators of traffic accidents are basically in straight lines. From the mid of the 1980s to now, with the flourishing of traffic demand and the frequency of communication between urban and rural areas, especially the enormous increase of the number of

motor vehicles, and the poor safety awareness of drivers and passengers, the absolute value of traffic accidents takes on an increasing tendency. It is estimated that, in the 5 years from 1998 to 2002, the absolute value of our whole nation's traffic accidents has an increasing trend. The number of accidents, death toll, and the number of the injured have respectively increased by 32.5%, 8.8% and 42.7%. These significant achievements have witnessed how our nation's transportation industry comes into existence from nothing and then develops into a bigger one. How we fully take advantage of the existing traffic preponderance to further develop it into a stronger one has become the key point that can determine whether it will sustainably and healthily develop. Some depressing figures also indicate that it has become another focus of attention to bring into the largest play the service function of the transportation industry so as to reduce or limit its harm to people and properties.

2. MULTIPLE TRAFFIC RULES ENGENDER THE SPARKLES OF THE RISE OF TRAFFIC LAW DISCIPLINES

As described in the above, the prosperously developed transportation industry and the frequently happened highway traffic accidents associated with it call for legal regulations. After all it is a tool used for coping with and coordinate disputes in social lives, not only can law deal with conflicts that have broken out but also it can shield many events that have not happened. If we regard the founding of new China in 1949 as a starting point, China's socialism legal construction can basically be divided into 4 periods that are respectively the hard starting period between 1949 and 1957, the period of tortuous development between 1958 and 1966, the period of damaged law between 1966 and 1976, and the period of current law's recovery, development and integration with international standards that starts with "the debate on the criterion for truth" in 1978.

The main task of a new-born country at the beginning of its establishment is "to build new democracy and social relations and social orders transformed from new democracy to socialism so as to create conditions for the stability and development of the new-born authority and the new social system and to create a favorable environment for the creation and development of various social affairs." (2) It has become the predominant task at the beginning of new China's law development to abolish "the Six Laws Book", eliminate the remnants of feudalism, rationalize social relations and promulgate fundamental legal systems. Therefore, there is no archetype of laws and regulations connected with transportation industry. But, in this period, the issue of the 1954 Constitution whose influence is ever-lasting frames modern society's law and makes better preparations

for making special laws afterwards. Although we have experienced “the great leap forward movement”, the construction of China’s law searches for its road in a zigzagging process. The frameworks of elementary laws including civil, criminal laws and administration, etc. are formed. So is it with the special laws: education, military, agriculture, science and traffic etc. included. In 1960, authorized by the State Council, Department of Transportation issued some special laws including “Measures for the Administration of Motor Vehicles” and “Highway Traffic Rules” to regulate transportation industry. The ten-year-long Cultural Revolution similarly hampers the development of traffic laws makes the enforcement invalid. Owing to the reflection upon history and the estimate of humanity, law regains its deserved respect and status basking in the spring breeze of revolution. The making and issue of traffic laws and regulations including Highway Law, Maritime Law, and Road Traffic Safety Law, etc. basically forms the four-in-one traffic law system with highway laws as its head, road transportation, waterway transportation, air transportation and pipeline transportation as its branches, channel management, port management, ship management and crew management as its focus, and traffic safety laws as its safeguard. It covers various fields of transportation industry, and builds a three-dimensional and hierarchical “big traffic pattern”. The transportation industry enters the era of “solving problems according to laws”. By the end of 2011, there are 5 traffic laws in total currently including “Road Traffic Safety Law”, “Maritime Traffic Safety Law”, “Highway Law”, “Railway Law”, and “Civil Aviation Law In addition, there are around 1000 administrative regulations and rules.

After the pioneering days and the cultivating era, the current traffic laws are comparatively mature. The operability and definiteness of traffic laws has got improved with the refinement and aid of administrative regulations and local laws. We have made some progress on the practice of governing traffic according to laws, thus making the goal of governing traffic according to laws nearer. Besides delight, there are still plenty of problems to be solved in the process of the construction of traffic law system. First, the transportation legislation system has not yet been formed; laws in some important fields are still blank. Second, the contents of some traffic laws and administrative regulations are old and lay much emphasis on principles with less strong operability. Third, the existing transportation regulations are mainly departmental rules, whose legislative level is low and law effect is limited. Fourth, the quality of legislation is not high; there is not enough coordination between some laws, regulations and rules. Fifth, there is a big between our nation’s traffic legislation and some other domestic industries and foreign developed countries as well as international conventions. Therefore, we still have a long way to go to achieve the goal of traffic law system

possessing “distinct hierarchies, integrated systems, reasonable structures and specification and coordination”.

(3) Especially the proposal of ruling the country by law, government by law becomes the standard and the highest goal of our nation, society and citizens’ harmonious co-existence. According to the ancient Greek sage Aristotle, “the government by law should contain two meanings: the established laws can gain pervasive obedience. The laws everyone obeys should itself be well-made ones.”

(4) To look at the practice of traffic law construction, we find that the present laws of transportation industry just stay in the phase of “system”. In other words that is the elementary phase of the “system”. Therefore, we can comb the achievements in the legislation of traffic law, the situations of obeying laws, the reality of law informant and judicatory practice, use for reference and contrast these experience and methods of a mature nation of laws in the field of transportation, analyze the existing shortcomings and disadvantages of our nation’s traffic law system and scheme a project that is close to or even achieve traffic law system so as to solve the traffic problems that are the most pressing and baffling for the longest time. Moreover, with the expansion of opening and the deepening of reform, the slightly tender traffic law system has to face competition and challenges from foreign countries when it is immature. For this reason, the traffic law system with problems both at home and abroad expects the construction of traffic law discipline system that can serve transportation industry. “In any society, once the utterance is formed, it will immediately be controlled, selected, organized and redistributed by enormous programs. A discipline constitutes the control system of the production of utterance, which sets its boundaries by homoousia”. “Under the guidance of disciplinary institutions, a discipline possesses dynamic structures, which can gather, guide and duplicate social and technological practice, so its impacts on thee function of politics and economy and the power system that can realize this function have essential meanings”.

3. UNIVERSITIES WITH APPARENT TRANSPORTATION INDUSTRY BACKGROUNDS BOOSTED THE FUSION OF TRAFFIC AND LAW

The expansion policy of university enrollment dating from the end of 1990s is doomed to become an event of nodal significance. Taking the tailwind bus and ignoring the lining, there have been changes of expansion, transforming and building from viewing angles. Technical secondary schools and technical colleges which have lower education levels collaborate and restructure themselves so as to develop into vocational colleges or ordinary colleges; colleges that higher education levels and experience

compete to expand and change names; top universities of higher levels annex other colleges in order to become carriers that possess complete and large numbers of subjects affected by the spring breeze of expansion. With the pressure of fierce competition, higher education begins to learn from the painful experience, and chooses the path of connotative development that coordinates scales, benefits, qualities and structures after it goes through such rapid development that values expansion. As pointed in "National Education Reform and Development of Long-term Planning Programs (2010-2020)", "we should establish classification systems of universities and colleges and carry out the policy of classification management; we should bring into play the function of policy guidance and resource allocation, and guide universities and colleges to locate properly, avoid the tendency of homogenization, so as to form their own educational philosophies and styles and have characteristics in different levels and fields, racing to the top".

Therefore, implementing the strategy of running characteristic schools and taking the characteristic development becomes colleges and universities', especially local ones' only way to seek survival and development. The running characteristics of a university are formed by accumulation in the long process of running. They are based on compact educational philosophies and have distinct features of times and societies. Besides, they are intensively embodied in discipline construction and need realizing by the contribution of superior disciplines to the society. Also, they are formed by relying on teachers and graduates' academic achievements and contribution to society for support in the process of interacting with society. "They are lasting and stable development models that are shaped in the process of a university's development and unique and excellent educational features recognized by the society." (5) As one of the few universities that are subordinate to Department of Transportation, Shandong Jiao tong University also has the blood limeade of subordinate colleges and praiseworthy transportation industry backgrounds. Apparently, traffic characteristics are core elements that not only reflect our university's social values and but also sustain its development.

At the beginning when the university was upgraded to be an undergraduate university, it regarded "Based on the traffic, outstanding characteristics, strengthening the element" as its guiding principle for running a university. It advocated cross and concatenation between liberal-arts majors including jurisprudence, management etc. and major professions with the basis of mainly developing and cultivating the cluster of major traffic professions, such as automobile and engineering. It should be mentioned that Shandong Jiao tong University that has semi centennial running experience and accumulation has achievements in the field of transportation industry and has the discourse

power of some key technologies. Take the construction of hardwires as an example. It accomplished building the first automobile museum in our nation; the experimental testing center of vehicles is accrediting Ted by our nation and simultaneously it is a laboratory accredits Ted by national measurement, and so on. One after another, these characteristic professions with superstores in transportation industry were set up and developed. For instance, the profession of automobile application technology is a characteristic and key profession built together by the province. Highway engineering and railway engineering are key subjects on the provincial level, and so on. So many achievements in the field of transportation industry make it possible the intermarriage of traffic and jurisprudence. But look at the profession jurisprudence in turn. If we view employment rate as a criterion to measure whether its prospect is good or not, apparently jurisprudence whose stable unemployment rate has always been in the top few ones does not have superiorities in the slightest compared with professions that have been a hit for a short period like computer, finance and accounting. Perhaps this can account for why it has been difficult to bid for jurisprudence since around 2005. The low cost of running becomes one of the reasons why some undergraduate schools are racing to bid for jurisprudence after the expansion policy. The cultivation of enormous jurisprudence graduates met the demand of our society for talents of jurisprudence, but it also caused the consequences of low-quality graduates and low employment rate indirectly. The burgeoning society has gone through the phase of demanding for pure law talents, instead, it has entered the phase that demands for complex law talents. Traffic law discipline is a product of such backgrounds. In this way, on the one hand, it continues and brings into play the traditional running superiorities of Shandong Jiao tong University, and mingles with some key disciplines concerned with traffic. On the other hand, it hews up living space and developing paths for jurisprudence that is in a puzzling state.

4. POSTSCRIPT

Presently, academia's study on traffic laws is either associated with collecting and compiling law and regulation files, which lays emphasis on disseminating and notifying the content of traffic laws and regulations or about simply quoting and commenting on the content, which shows how traffic laws and regulations regulate and demarcate specific case facts. In short, the study on traffic laws is still in a low-level and perceptual phase. Researchers who just describe but not remark and just research but not investigate conspicuously account for a large percentage. The lack of subject consciousness of disciplines and Systmgedanken makes the structure levels of disciplines low, theories and methods barren.

They just care about traffic laws and regulations without leaving any space worth considering. The unclear position of disciplines and the unclear guiding significance of discipline value to practice make the construction of traffic law disciplines stagger a bit in the initial stage.

The flourishing transportation industry and the more accurate and detailed traffic regulations provide the construction of traffic law disciplines with abundant nourishment. We should transform the present study strategies of traffic laws, use for reference the fruitful results of foreign traffic study and our nation's existing knowledge of traffic theories, initiatively strive for our

own position of disciplines and demonstrate and manifest the value of disciplines so as to construct systematic traffic law discipline theories.

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