

# *An Examination of the Etymology of Chinese and Japanese Legal Homonyms: the Case of “Caipan”*

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**Abstract:** China and Japan have a long history of exchange, and at the same time there are many words borrowed from each other by the two languages as carriers of their culture. Through continuous development, these words have also changed in various ways, including semantic and lexical. The study of words over time is also an important part of language studies. The author therefore examines the etymology and meaning of “caipan” in Chinese and Japanese from the perspective of Sino-Japanese lexical exchange, mainly using dictionaries as a reference and a comparative study of the legal vocabulary of the two countries, in order to reveal the links that exist between them and further analyse the reasons for the formation of these links, in order to explore the actual situation of their changes and development.

## **1. Introduction**

This article focuses on a comparative study of the legal vocabulary of the two countries, using dictionaries as a reference point, to reveal the links that exist between them and to analyse the reasons for these links. Based on the similarities and differences between the Chinese and Japanese vocabularies, this article uses examples to remind us that we should not take the meaning of words for granted and that some homonyms are different from each other. It also provides insights into the future teaching of Chinese and Japanese legal vocabulary by learning the language with an open mind and an open attitude to relevant professional knowledge.

## **2. “Caipan” in Modern Chinese and Japanese**

There are a large number of homonyms in Chinese and Japanese legal terminology, most of which have the same form but different meanings. Before exploring the development of the meaning of the word “caipan” in Chinese and Japanese, a comparison of the meaning of “caipan” in modern Chinese and modern Japanese is first made. The Chinese word 'caipan' is the lexical equivalent of a referee in Japanese athletics, where the equivalent word for caipan is 'judge'. The Modern Chinese Dictionary has three levels of meaning for “caipan”. The first level is to judge the performance of the athletes and the problems that occur in the competition according to the rules of the sport, e.g. 'officiating'. The second level refers generally to judging the rights and wrongs of a matter. The third level is the court's ruling and judgement on a suit based on the facts and in

accordance with the law, used as a verb. Thus, in modern Chinese, the word “caipan” mainly means to adjudicate. Whether judging the results of athletes' competitions and issues arising from them in accordance with the rules of competition in sport or the courts dealing with cases in accordance with the law, there is an intention to regulate disputes and promote fairness and justice. Secondly, it is used in informal scenarios to analyse and rule on things in the table below, either as a noun or as a verb.

The Japanese dictionary has two explanations for the word “caipan”. The first level is to adjudicate, to judge, with the idea of making a judgment. For example, judging right from wrong. The second level means trial, hearing. For example, the trial of prisoners. In Japanese, the word “win adjudication” means to win a case; “in the process of caipan” means that the case is being heard; and “open caipan” means to hold a hearing or trial.

As can be seen from the above dictionary definitions of “caipan” in Chinese and Japanese, both mean “to rule, to judge”. At the same time, however, it can be concluded that there is a difference in the meaning of 'caipan' between the modern Chinese and Japanese languages. In Chinese, it is used mainly for the work or enforcement personnel who regulate sports competitions, while in Japanese it is used mainly in the sense of trial, hearing and is more of a legal term.

### 3. The Use of “Caipan” in Chinese and Its Semantic Changes

#### 3.1 “Caipan” in Ancient Literature

The word “caipan” is one of the classical Chinese words that have been examined. The word “caipan” was included in the Chinese Dictionary in the 19th century. When searching the electronic version of the Four Books, I found two examples of sentences containing the word “caipan”:

Therefore, the entries are summarized and the sequence is forced from behind. As for the caipan' style and elegance, the suzerainty code .....

---'Preface to Fanchuan's Collected Writings' [1]

Therefore, the entries are summarized and the sequence is forced from behind. As for the caipan' style and elegance, the suzerainty code .....

---'A Preface to the Essays on Tang History'[2]

A search of the database of Chinese books at the Academia Sinica in Taiwan for the Twenty-Five Histories, the Three Han and Jin Histories, the Thirteen Classics, and the Zhuzi Lexicon reveals a total of 14 sentences containing the word “caipan”, all of which are from the Newly Revised Qing History Manuscript. There are eight cases of “caipan”, including six cases of “consular jurisdiction”, one case of “magistracy” and one case of “administrative jurisdiction”. There is one case of “administrative tribunal”. The remaining “Judges” is used as a separate word.

as a means of recovering consular jurisdiction .....

---'Criminal Law I'[3]

The term 'caipan' appears in the Tang Dynasty (618-907) in the Tang Wencui and the Imperial Wenjian, but never again in the period from the Song to the end of the Qing dynasty.

In the light of the above, the word “caipan” at this point can be understood as meaning a judgment. The word 'caipan' had already developed in the Tang dynasty, as can be seen from the examples in the Qing Historical Manuscripts. However, it did not subsequently appear from the Song dynasty to the end of the Qing dynasty.

#### 3.2 “Caipan” in Modern Literature

After the Meiji Restoration, Japan's modernisation was remarkable to the world. An increasing number of Qing government officials and students who stayed in Japan travelled to Japan during

this period. The Qing government officials left behind a large number of diary-type articles during their travels, which not only introduced Japanese policies, laws, ideas and culture, but also introduced many exotic languages. The word “caipan” appears mainly in the form of “Magistrate's Office”. According to available information, the first use of the word “magistrate” as a separate word appears in “Journey to Japan” (Zheng Yuanrui, 1914):

If you want to follow the example of caipan, you must first educate the people so that they will know their shame and will no longer have a desire to win .....

---Zheng Yuanrui' Journey to the East of Japan' [4]

The civilised village of Kiri has never had a village head and so on, and those who commit crimes can be dealt with in private without a caipan.

---Jian Xian'ai' Water Burial' [5]

Subsequently, according to modern dictionaries, it was the Dictionary ‘Ciyuan’[6] that first included the word 'judge' as an entry. The description of the “caipan” is as follows:

Judgment: A decision by a judicial body to decide a dispute between two parties. In Japan, it is called an umpire. In our country, it is called a trial.

Although ‘Ciyuan’ includes “caipan” as an entry, However, from a linguistic point of view, after the statement that “the judiciary decides disputes between two parties”, it adds the statement that “Japan is called a judge. Our country is called a trial”, which is very meaningful. The difference between the Chinese and Japanese terms “caipan” can be seen in this description.

In the 1999 edition of ‘Ciyuan’, the term “caipan” was added not only to its legal meaning, but also to its athletic meaning. It is clear from the inclusion of words in the Dictionaries that the word “caipan” was not used too frequently in China at the beginning of the 20th century, but was probably influenced by Japan and was used in life or in some documents. For this reason, the 1915 edition of ‘Ciyuan’ would deliberately add the words “Japan is called a judge. Our country is called a trial”. However, as the times progressed, the term “caipan” became more frequently used in legal circles, so that the 1938 edition of ‘Ciyuan’ would include it as a legal term.

## 4. The Use of “Caipan” in Japanese and Its Semantic Changes

### 4.1 “Caipan” in Ancient Literature

The earliest appearance of the word “caipan” in Japan is in the third year of the Shogunate (1023). The Seoksimizu Documentary Record of the Monk-Kan Seisakusho (Heian Legacy II-492), dated 5 October in the 3rd year of the peace. The next example can be found in the 13th day of the 12th month of the 2nd year of Jeongho (1346), which was added to the collection of Cabinet documents in the 2nd year of Jeongho. The term “caipan” is also used in the Tamba Daisenshu Shinshu of the tenth day of the eleventh month of the eighth year of the Eihei era (1436) in the Tōji Yuriku Shu, in the Jiyōwashu (1676), and in the Seibara Kokusen Shōzoku (1530).

The following four meanings of “caipan” in Japanese are listed in the Japanese Dictionary of the National Language: ① Adjudication through trial; ② (also known as the Chancellor) has full authority over the affairs of the people; ③ (The area under the jurisdiction of a representative official in the Choshu clan); ④ Judgement. In the above examples from (1) to (5), the word “caipan” in the above examples from (1) to (5) all have the meaning of a class 1 word.

### 4.2 “Caipan” in Modern Literature

In more recent times, the word 'caipan' has appeared frequently in newspapers and in legal texts as a legal term. The term 'caipan' cannot be found in the Civilization Hon Jyutsuji, the Ijingji, the

Ming Yingwu Hon Jyutsuji, or the Kurobon Hon Jyutsuji, but there is the term 'zaipan'. If we look at the meaning of the phrase in the Japanese Dictionary, it means that it means ② “to take responsibility for, to take full charge of”.(In the second edition, the word “judgement” as it appears in the civilised version means ① “trial decision” and does not have the meaning of ②).

The word “caipan” does not appear in 'This section of Bun House uses the collection'. However, the word “zaipan” is listed, and for the first time the word “caipan” is also listed. The word “caipan” is included in the word “adjudication” and appears in the form “adjudication-judgement”. The semantic meaning is roughly the same as that of ① as recorded in the Dictionary of the Japanese Language.

An indispensable dictionary for modern lexical studies is 'The English Grove of the Day'(James Blackburn)[7], in the second edition of which the Japanese word “caipan” is used for the first time as a translation of the word “adjudication”. In the third edition, both the English-Japanese section and the Japanese-English section include the Japanese word “caipan” as an entry or as a translation of the word.

The Japanese and Chinese dictionaries compiled by the Japanese include Inoue Cui's Inoue Nihonshu New Dictionary (1931), which interprets the Japanese word “judge” as “caipan”. In addition, the term “caipan” appears in a subclause of the term. The Sino-Japanese Dictionary (1968) not only includes “caipan” as an entry, but also “zaipan” as a separate entry.

The use of the word “caipan” in both countries at the time can also be seen from the inclusion or exclusion of the word “caipan” in the Japanese-Chinese dictionary and the Chinese-Japanese dictionary. On the basis of this account, we get the impression that the modern semantics of the word 'caipan' are largely fixed.

## 5. Exchange and Development of Chinese and Japanese “Caipan”

The word 'caipan' was already used in China during the Tang dynasty, as shown by the appearance of the word in Pei Yanhan's 'Preface to the Fanchuan Wenji', which is included in the Tang Wenju, and in Sun Fu's 'Preface to the Tang Historic Commentary', which is included in the Royal Dynasty Wenjian. The term 'caipan' does not appear in Japan until the third year of the shogunate (1023), and is not recorded in documents from the 14th to the 17th centuries. It can be inferred that the term 'caipan' was used in China before it was used in Japan. It is likely that the term 'caipan' was introduced to Japan by the Tang envoys, who continued to use it in Japan, as there were frequent exchanges between China and Japan during the Tang dynasty.

Since then, although the term 'caipan' had already appeared in China during the Tang dynasty, it disappeared from post-Tang literature until 1912, when it reappeared in dictionaries. It was only in 1915 that the Dictionnaire included “caipan” as an entry. The reason for this may be that the word 'caipan' had already appeared in the Song dynasty, in the writings of Wang Anshi, and its semantics are similar to those of modern legal terms. From this it can be assumed that the term 'caipan', which had been used in the Tang dynasty, may have fallen into disuse and that this is why the term 'caipan' was introduced and is still used today.

The term 'caipan', which is now frequently used in China, was probably imported into Japan in the late nineteenth century by knowledgeable Chinese scholars. The reasons for the reverse input are threefold: firstly, the term 'caipan' is often found in the travel diaries and miscellany of Qing officials. The term 'caipan' is used in the books 'An Introduction to the East and Miscellaneous Chants' (He Ruzhang, 1877), 'Miscellaneous Poems on Japan' (Huang Zunxian, 1879) and 'Travels to Japan' (Zheng Yuanrui, 1914). It is possible that the officials who visited Japan in those days visited various institutions of the Meiji government; Secondly, the term 'caipan' can be found in the diary books of Huang Zunxian and others. At that time, the vast majority of Qing officials went to

Japan in search of a good formula to save the country and the people. They advocated saving China by introducing the Japanese system, including the Japanese trial system. They not only imported Japanese law, but also used Japanese legal terms that are also “kanji”, such as “caipan”. This means that the word used in China at the time was not “trial” but “judge” in Japanese; Finally, as exchanges between the Qing government and foreign countries increased, issues such as consular jurisdiction arose, and the term 'consular jurisdiction', newly coined by the Japanese, came into frequent use in the Qing era. This is probably the reason why the 1915 edition of 'Ciyuan' added the phrase “Japan is called caipan” to the word “caipan”. In conclusion, although the term 'caipan' does not appear very frequently in Chinese literature prior to the Westernization, it was first coined in China during the Tang Dynasty, then developed in Japan and introduced as a 'return word' in China.

## 6. Conclusions

Due to the frequent political, economic and cultural exchanges between China and Japan, there is a great affinity between the languages and scripts of the two countries, especially between scripts and vocabulary. Sino-Japanese homographs are the result of cultural exchanges between the two countries and are a linguistic phenomenon worth considering and studying by researchers from both countries. As mentioned above, the history of legal and cultural exchange between China and Japan is a typical example of this. A study of the 'caipan' reveals that Chinese legal culture spread to Japan during the Tang dynasty and Western legal culture was 'reimported' to China at the end of the Qing dynasty. The bidirectional and typical nature of this exchange provides excellent material for comparative research into Chinese and Japanese legal terminology today. Through comparative research, it was found that Chinese and Japanese legal terminology has great historical origins and influences each other, especially the legal terminology translated from the West by Japan in modern times, which has greatly influenced modern Chinese legal terminology. In today's globalised economy, the ties between China and Japan are becoming stronger and stronger, and in some areas a community of destiny is forming between China and Japan. In this context, there is a need for multifaceted cooperation between the two countries, while respecting each other's laws. Understanding the other side's laws has become a priority, and as these laws are based on the act of speaking and writing, Japanese language learners are required to learn not only the other side's laws, but also legal terms in a certain context. The successful use of the results of comparative research on Sino-Japanese legal terminology will help students to grasp the implications faster and better, and further promote the development of exchanges between the two countries.

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