

Nanking Rotarian Jurist Attilio Lavagna

Italian Legal Advisor to the Judicial Yuan of the Republic of China

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Jurist Attilio Lavagna (羅萬雅法學家) (13 November 1872 – 8 November 1938), Italian, was an Active Member of the Rotary Club of Nanking (南京扶輪社), holding the Classification “Law – Judiciary”, when he was appointed Legal Advisor to the Judicial Yuan of the Republic of China (中華民國司法院) from 1933 to 1935, contributing to the revision of its Penal Code 《中華民國刑法典》 and the drafting of a new constitution under the Nationalist government of Chiang Kai-Shek (蔣中正).

Lavagna initially studied economic disciplines under Professor Cognetti de Martiis at the University of Turin before pursuing a judicial career, authoring works on savings and legislation that advanced his academic standing.

Lavagna’s Italian career spanned magistrate roles in locations such as Bricherasio, Ceva, and Orbassano, culminating in his appointment as President of the Turin Court of Appeal in 1921 and counselor to Italy’s Supreme Court of Cassation by 1926. He also advised the Giovanni Giolitti government (1920–1921) and received honors including France’s Légion d’honneur in 1920 and Romania’s Grand Officer of the Crown in 1921.

Invited to the Republic of China in late 1932 via Italian diplomatic channels amid growing Sino-Italian cooperation, he focused on technical reforms to the penal code draft, including punishment options for judges, while supervising the translation of Italy’s Rocco Penal Code---the only foreign code rendered into Chinese at the time---and lecturing on Roman law, ancient Chinese law, and legal principles emphasizing power, order, and fairness. His two-year tenure in Nanking (*Nanjing*) (南京), conducted alongside Chinese jurist Tung K’ang (董康) and involving reorganization of the Justice Ministry, ended in 1935 due to health issues contracted there, including dysentery and infections, leading to his retirement and death in Turin. The resulting Penal Code of 1935, incorporating his observations on general provisions, took effect that year and persists in Taiwan (臺灣) today, though scholarly analysis attributes its core features more to global 1930s trends than direct fascist doctrinal import.

The Story of Professor Attilio Lavagna

Early Life and Education

Birth and Family Background

Attilio Lavagna was born on 13 November 1872 in Cagliari, Sardinia, Kingdom of Italy, to parents Carlo Lavagna and Virginia Thorosano.

Limited details survive regarding his family's socioeconomic status or professional pursuits, though Carlo Lavagna and Virginia Thorosano appear to have resided primarily in Sardinia at the time of his birth. Lavagna spent the majority of his life in the Piedmont region of northern Italy, suggesting a possible relocation of the family or his own migration in early adulthood to pursue education and career opportunities in Turin and surrounding areas. No records indicate siblings or extended family influences that notably shaped his formative years.

Academic Training and Early Influences

Attilio Lavagna relocated early to Piedmont, where he conducted most of his professional life. He received his academic training primarily at the University of Turin, specializing in jurisprudence. Complementing his legal studies, he engaged deeply with economic disciplines as a student of Professor Augusto Cognetti De Martiis, a key figure in political economy at the same institution, whose teachings emphasized empirical analysis of economic laws and institutions.

This interdisciplinary exposure is reflected in Lavagna's early scholarly output, including his 1895 manuscript 《Il risparmio nelle sue leggi economiche e nella legislazione positiva di Europa ed America》, which examined savings through economic principles and comparative positive legislation across continents. Cognetti De Martiis's influence likely oriented Lavagna toward integrating economic realism with legal frameworks, fostering a pragmatic lens on penal and judicial matters amid Italy's late-19th-century positivist currents in social sciences.

Upon completing his studies, Lavagna transitioned into judicial practice, beginning as a magistrate in Piedmontese prefecture such as Bricherasio, Ceva, and Orbassano, advancing to Turin by 1909. These formative roles reinforced his academic grounding by applying doctrinal knowledge to real-world adjudication.

Legal and Academic Career in Italy

Judicial Appointments and Practice

Lavagna entered the Italian judiciary after initial studies in economics at the University of Turin, where he published a work on economic savings in 1895, but shifted focus to legal practice through scholarly publications that facilitated his magistrate appointments. He served as a magistrate in smaller Piedmontese locales, including Bricherasio, Ceva, and Orbassano, handling routine civil and criminal matters typical of entry-level judicial roles.

In 1909, Lavagna was transferred to Turin, where he soon advanced to President of the Corte d'Assise, presiding over trials for grave offenses punishable by 24 years' imprisonment or more, emphasizing rigorous evidentiary standards under Italy's pre-fascist codes. His tenure there reflected a commitment to procedural fairness amid rising social tensions in industrial Piedmont. By 1921, he was appointed President of the Turin Court of Appeal, overseeing appellate reviews of lower court decisions in a region marked by labor disputes and political upheaval.

Lavagna briefly interrupted judicial duties in 1920–1921 to advise the Giovanni Giolitti government on legal policy, earning the French Légion d'honneur for diplomatic contributions. He resumed court practice in 1921 after receiving the Grand Officer of the Romanian Crown. By 1926, he attained the rank of counselor in the Corte di Cassazione, Italy's Supreme Court, where he reviewed cassation appeals on points of law, influencing precedents in penal and civil jurisprudence without notable partisan affiliations in available records. His career trajectory underscored steady promotion through merit-based publications and judicial efficiency rather than political favoritism.

Teaching and Scholarly Contributions

Lavagna delivered lectures at Italy's academy for magistrates, training aspiring judicial officials in core principles of criminal law and procedure during the interwar period. This role underscored his expertise as a jurist and magistrate, bridging theoretical penal doctrine with practical application in the judiciary. Scholarly output from Lavagna's Italian career primarily manifested through advisory roles and interpretive contributions to domestic penal reforms, though few standalone monographs are attributed to him prior to his overseas mission. These efforts informed the pedagogical framework for magistrates.

Mission to China (1933–1935)

Invitation by Nationalist Government

In 1931, the Nationalist Government of the Republic of China, seeking to modernize its legal framework amid efforts to unify and strengthen state authority under Chiang Kai-Shek, established the Drafting Committee for the Penal Code to revise outdated imperial laws and incorporate contemporary Western influences. As part of this initiative, Chinese authorities identified Italian jurisprudence---particularly the 1930 Rocco Penal Code enacted under Benito Mussolini's Fascist regime---as a model for balancing authoritarian control with codified penalties, prompting outreach to Fascist Italy for expertise.

The formal invitation to Attilio Lavagna originated through diplomatic channels in late 1932. On 30 November 1932, Galeazzo Ciano, then serving as Italy's Consul General in Shanghai (上海) and son-in-law to Mussolini, relayed a request from the Nationalist Government to the Italian Foreign Ministry, proposing the dispatch of legal specialists to assist in penal code reform. Lavagna, a judge at the Turin Court of Appeal and counselor to Italy's Court of Cassation with expertise in criminal law, was selected due to his scholarly

reputation and alignment with Fascist legal principles emphasizing state sovereignty and punitive deterrence. This selection reflected broader Sino-Italian cooperation in the early 1930s, including aviation training and infrastructure projects, as both regimes pursued nationalist modernization against perceived internal and external threats.

Lavagna accepted the invitation and departed Italy in September 1933, arriving in Nanking, the capital, by early October to join the drafting efforts as a legal advisor to the Drafting Committee. His two-year contract, compensated by the Chinese Government at a rate equivalent to high-level advisory roles, underscored the Nationalists' urgency to enact a penal code that could support military unification campaigns against warlords and communists while drawing on foreign models without full colonial imposition. Italian diplomatic records indicate no direct ideological imposition was demanded, but Lavagna's mission aligned with Mussolini's export of Fascist expertise to foster goodwill and counterbalance Anglo-French influence in Asia.

Role in Drafting Chinese Penal Code

In 1933, Attilio Lavagna's primary role involved reviewing and proposing revisions to draft versions of the Penal Code, focusing on technical elements such as the range of punishment options available to judges and general provisions of the code. On 23 June 1934, Lavagna submitted a formal report titled 《Observations et Propositions sur les Dispositions Generales du Projet Revise》, offering detailed commentary on the revised draft's structure and content.

Lavagna also supervised the translation of Italy's 1930 Rocco Penal Code into Chinese 《義大利刑法典》(羅可法典), the only foreign penal code translated into the language at the time, which facilitated comparative analysis and influenced discussions within the drafting committee. He delivered lectures to Chinese legislators, judges, and scholars on penal theory, emphasizing principles of power, order, and fairness drawn from Fascist legal doctrine, and collaborated with jurists like Tung K'ang on topics including ancient Chinese and Roman law at the Academy of Magistrates. These activities aimed to align the Chinese Penal Code 《中華民國刑法典》 with contemporary European models while adapting to Nationalist priorities, culminating in the Code's passage by the Legislative Yuan in 1934 and its entry into force on 1 July 1935. While Italian contemporaries like Enrico Altavilla claimed significant influence from the Rocco Code---evident in provisions on territoriality, prohibition of analogy, security measures, and positive criminology---scholarly analysis indicates these elements appeared in pre-Lavagna drafts and reflected broader global trends in 1930s criminal law rather than uniquely Fascist impositions. Lavagna's contributions were thus more advisory and technical than transformative, with limited direct authorship of specific articles, though his work supported the Nationalist effort to establish a codified penal system amid political instability. He departed China on 9 October 1935, after which the Code remained in effect in Taiwan post-1949.

Personal Experiences in Nanking

Lavagna arrived in Nanking in 1933 accompanied by his daughter, marking a personal dimension to his two-year mission as legal advisor to China's Judicial Yuan. This family accompaniment underscored the extended nature of his stay, during which he navigated the challenges of expatriate life in the Nationalist capital amid humid subtropical conditions and ongoing political instability.

His time in Nanking was marred by severe health deteriorations, including recurrent high fevers, dysentery, and ophthalmic infections, which he linked directly to prolonged exposure in the city's unhealthy summer environment. Despite these afflictions, Lavagna persisted with his commitments, as detailed in his correspondence with Italian diplomats, reflecting a stoic resolve amid physical toll that foreshadowed his later incapacity.

In a report dated 23 June 1934 to the Italian delegation in Shanghai, Lavagna conveyed personal gratification from the venture, noting, "I am glad to continue my work, rewarded by much benevolence and gratitude." This sentiment highlighted his adaptation to local interactions, though the cumulative strain from illness contributed to his mission's end on 9 October 1935 and eventual health decline upon return to Italy.

Return to Italy and Final Years

Resumption of Italian Duties

Upon returning to Italy in 1935 after two years advising the Nationalist Chinese government on penal code reforms, Attilio Lavagna's health had deteriorated, leading to his gradual retirement from his position as counselor at the Corte di Cassazione, Italy's Supreme Court, to which he had been appointed in 1926, after earlier service as president of the Turin Court of Appeal.

Lavagna's expertise, augmented by comparative insights from East Asia, related to his prior role in adapting elements of the 1930 Rocco Code for China.

Death and Immediate Aftermath

Lavagna's health declined significantly following his return from China, compelling him to gradually withdraw from his judicial duties as a magistrate. He passed away in Turin on 8 November 1938.

Contemporary records indicate scant public notice or formal tributes immediately after his death, reflecting his low-profile final years amid personal health struggles. No major obituaries or institutional memorials appear in accessible Italian press or archival sources from the period.

Legacy and Historical Assessment

Impact on Chinese Legal System

Lavagna's advisory role in China from 1933 to 1935 centered on providing technical expertise to the Nationalist government's Drafting Committee of the Penal Code, established in 1931, where he offered comments on draft provisions and emphasized practical aspects

such as the range of sentencing options available to judges. His contributions facilitated the finalization of the Penal Code, which was passed by the Legislative Yuan on 7 December 1934, and promulgated on 3 January 1935, marking a shift toward a more codified, Western-influenced criminal framework amid the Republic of China's modernization efforts.

While some contemporary Italian observers, such as jurist Enrico Altavilla in 1938, attributed elements like territoriality of offenses, prohibition of analogical interpretation, security measures, and incorporation of positive criminology to influences from Fascist Italy's 1930 Penal Code via Lavagna, archival analysis indicates these features largely predated his involvement and aligned with broader 1930s global trends in criminal legislation rather than distinct Fascist ideology. Lavagna's lectures to Chinese legislators, judges, and scholars in Nanking further disseminated Italian technical approaches, but his reports to Italian authorities noted receptive audiences without evidence of wholesale adoption of authoritarian principles into the code's structure.

The 1935 Penal Code's enduring application in the Republic of China---retained and amended in Taiwan post-1949---represents Lavagna's primary lasting impact, providing a foundational framework for criminal justice that emphasized codified penalties over traditional discretionary practices. In contrast, the People's Republic of China (中華人民共和國), established in 1949, developed its own Criminal Law in 1979 under socialist principles, diverging significantly from the 1935 model and showing no direct traceable influence from Lavagna's inputs. Modern assessments, including those revisiting Sino-Italian legal exchanges, credit Lavagna with aiding codification efficiency but downplay transformative ideological shifts, attributing the Code's viability to its synthesis of international norms rather than singular foreign advisory roles.

Evaluations of Fascist-Nationalist Collaboration

Historians have evaluated the collaboration between Fascist Italy and Nationalist China in the 1930s as a pragmatic exchange driven by mutual interests in modernization and anti-communist authoritarianism, rather than ideological alignment with fascism per Lavagna's advisory role exemplified this, as he provided technical expertise informed by the 1930 Rocco Penal Code, though archival evidence indicates his role was limited to procedural details without significant ideological import. Scholars note that Nationalist leaders, seeking to centralize power amid civil war and Japanese aggression, drew on multiple international legal models, with Lavagna's inputs aligning with broader efforts to codify penalties.

Positive assessments highlight the technical benefits, portraying Lavagna's input as aiding professionalization of China's judiciary through lectures on continental European methods, which contributed to training magistrates despite later ideological repudiations. This collaboration, peaking from 1928 to 1937, extended beyond law to military and economic aid, with Italy providing arms and advisors until geopolitical shifts---Italy's 1937 recognition of Manchukuo (滿洲國) and 1938 Axis alignment with Japan---severed ties.

Critics, particularly in post-Cold War scholarship, caution against overstating fascist ideological penetration, arguing that Nationalist China borrowed opportunistically from multiple sources (e.g. German and Japanese codes) without embracing corporatism or totalitarianism wholesale. A 2022 analysis revisits claims of “fascist origins” in Chinese criminal law, attributing apparent similarities to broader 1930s global trends rather than direct importation via Lavagna. Such evaluations underscore source biases in Nationalist-era documents, which glorified foreign aid to legitimize the regime, while Italian fascist propaganda exaggerated influence for domestic prestige. Empirical data from code comparisons reveal only partial adoption---e.g. China’s retention of capital punishment for treason mirroring Italy’s, but rejecting fascist innovations like political crime tribunals.

Modern debates frame the partnership as a fleeting anti-imperialist front against Japan and Bolshevism, with Lavagna’s tenure (October 1933–October 1935) symbolizing Italy’s brief role as a non-colonial power broker in Asia. Quantitative assessments of legal transplants show the 1935 Code’s retention and amendment in Taiwan post-1949, suggesting enduring utility over ideological taint. However, leftist-leaning academics in Western institutions have retroactively critiqued it as enabling authoritarianism, though primary evidence indicates Chinese agency in adaptations, prioritizing national sovereignty over fascist emulation.

Modern Scholarly Debates

Modern scholarship on Attilio Lavagna centers on the extent of his influence on the 1935 Chinese Penal Code and the validity of claims that it incorporated principles from Fascist Italy’s 1930 Rocco Code. Italian jurists, including Enrico Altavilla in a 1938 analysis, asserted significant modeling, pointing to parallels in provisions on territoriality of offenses, prohibition of analogical interpretation, security measures alongside penalties, subjective imputation principles, and adoption of positive criminology theories---elements purportedly reflecting Fascist emphases on state authority and social defense. These interpretations have been echoed in studies of Sino-Italian relations, which credit Lavagna’s advisory role, lectures, and draft comments with disseminating Fascist legal ideas to Chinese legislators, judges, and academics during his 1933–1935 tenure in Nanking.

Archival examinations, however, challenge the depth of this influence, revealing Lavagna’s contributions as predominantly technical rather than ideologically transformative. A 2022 study by Chu Ming-Hsi (朱明希), drawing on Chinese and Italian foreign ministry records, demonstrates that many cited provisions predated Lavagna’s arrival, appearing in drafts from the Nationalist government’s 1931 Penal Code Committee, which operated before his invitation. Lavagna’s documented inputs focused on procedural details, such as expanding judges’ sentencing options, while his lectures---promoting Fascist tenets of power, order, and fairness---generated reported interest among Chinese audiences but yielded no structural adoption in the final code, enacted in 1934 and effective from 1935. Chu

attributes apparent similarities to broader 1930s global trends in criminal law reform, influenced by Italian positivism but not uniquely Fascist, rather than direct importation via Lavagna.

This revisionist perspective underscores methodological issues in earlier assessments, such as reliance on anecdotal reports from Italian advisors without cross-verification against Chinese drafting records. While Lavagna's publications in Chinese journals and advisory reports to Italy highlighted perceived receptivity to Fascism, empirical evidence from primary sources indicates his role amplified cultural exchanges but did not causally reshape the Code's core framework, which retained eclectic borrowings from German, Japanese, and earlier Chinese prototypes. Ongoing debates thus pivot on interpreting these interactions within the context of Nationalist China's pragmatic legal modernization, wary of over-attributing ideological transfer amid limited verifiable textual impacts.

Lavagna is often cited in publications and studies regarding the relations between Italy and China in the interwar period. No author has published a biography about his personal and professional life so far. A testimony of his work is available at the archive of the Italian Ministry of Justice (file 65388).

