

## Initial Stage of Codification Project (1870s)

- Meiji Government soon began its Codification Project.
- However, its target was not criminal code, but **civil code, especially Family and Succession.**
- At first, this project used ***the French Civil Code*** as its model.
- *Rinsho Minotsukuri* (1846 - 97) translated it into Japanese in 1871.
- Regarding this project, there were two groups in the government, *Liberalists* and *Conservatives*.
- Liberalists pursued to establish the modern liberalism and individualism in Japan. *Shinpei Eto* (1834 - 74) was their leader.
- Conservatives, however, aimed to restore the “***Traditional Family System***” (*Meiho*-Institute Project).
- Based on the *Meiho*-Institute Project, Conservatives gradually shaped up the concept of “**IE-System**”.
- However, the project members had no idea how to draft the law on properties and obligations. They had to adopt the Japanese translation of French Civil Code.

## Boissonade's Contribution (2<sup>nd</sup> Stage, 1880s)

- In 1880, Minister of Justice decided to abort the own codification project.
- He commissioned Prof. **Gustave Emile Boissonade** (1825 - 1910) from Paris to compile a new draft of civil code.
- [http://en.wikipedia.org/wiki/Gustave\\_Emile\\_Boissonade](http://en.wikipedia.org/wiki/Gustave_Emile_Boissonade)
- In 1873, Prof. *Boissonade* arrived in Japan. Since that time, he gave lecture on French law and “*Natural Law*” for students in *Meiho*-Institute.
- In 1876, Meiji Government at first commissioned Prof. Boissonade to compile drafts for ***criminal code*** and ***code of criminal procedure***.
- His drafts for these two codes were enacted in 1880. They were the first modern codification in Japan.
- He began to work on his tasks in the field of civil code. However, the political circumstances have changed. Meiji Government had begun to shift from French law to German law.

## Old Civil Code of Japan (1890)

- Prof. *Boissonade* developed his own system of civil law;
  1. Law on Persons (nationality, family, legal capacities etc.)
  2. Law on Properties (real rights, obligation, tort etc.)
  3. Law on Acquisition of Properties (contracts, succession)
  4. Law on Securities (real and personal securities)
  5. Law on Proof (or Evidence) (means of proof, prescription)
- His tasks were general principles, properties and obligation. Family law and law of succession should be drafted by Japanese officers. They all were students of Prof. *Boissonade*. So, their drafts were quite liberal and individualistic.
- In 1888, the first draft was accomplished. However, its family law and law of succession were too liberal for the government members. These parts had to be revised once again.
- In 1890, the old “***Civil Code of Japan***” (totally 1,762 articles) was promulgated.

### 3<sup>rd</sup> Stage of Codification of Civil Code (1890s)

- After the promulgation of the old “*Civil Code of Japan*”, certain groups hardly criticized it and objected to its implementation.
- Some legal academicians pointed out that the discrepancy between “Civil Code” drafted by Prof. *Boissonade* and “Commercial Code” drafted by a German advisor, *Herbert Roessler*, would cause troubles.
- Members of English law schools criticized the “Natural Law” concept.
- Nationalists and Conservatives condemned that this code would destroy the traditional moral and virtue of family.
- In 1892, the Imperial Diet decided to postpone the implementation of the both code and appointed a new commission for their revision.
- The leading persons of the commission were three Japanese professors who studied in England, France or Germany.
- They decided to base the revised civil code on the “latest achievement of legal science” in Europe, that is, the ***German Civil Code*** which was still in the drafting stage. They referred its first and second drafts.
- The Revised “Civil Code of Japan” (1896 and 98) was composed in accordance with “***Pandects System***”.

# About Historical Background of “Pandects System”

- [http://en.wikipedia.org/wiki/Roman\\_law](http://en.wikipedia.org/wiki/Roman_law)
- [http://en.wikipedia.org/wiki/Corpus\\_Iuris\\_Civilis](http://en.wikipedia.org/wiki/Corpus_Iuris_Civilis)
- <http://en.wikipedia.org/wiki/Pandects>
- [http://en.wikipedia.org/wiki/University\\_of\\_Bologna](http://en.wikipedia.org/wiki/University_of_Bologna)
  
- [http://en.wikipedia.org/wiki/Norman\\_conquest\\_of\\_England](http://en.wikipedia.org/wiki/Norman_conquest_of_England)
- [http://en.wikipedia.org/wiki/Equity\\_\(law\)](http://en.wikipedia.org/wiki/Equity_(law))
  
- [http://en.wikipedia.org/wiki/Anton\\_Friedrich\\_Justus\\_Thibaut](http://en.wikipedia.org/wiki/Anton_Friedrich_Justus_Thibaut)
- [http://en.wikipedia.org/wiki/Friedrich\\_Carl\\_von\\_Savigny](http://en.wikipedia.org/wiki/Friedrich_Carl_von_Savigny)