

Travelling Concepts: Harold Laski's Disciples and The Evolution of the Human Rights Idea in Republican China (1919-49)

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Abstract

This article examines the idea of human rights as a “travelling concept” through a case study of Harold Laski’s long neglected but very significant influence on the evolution of human rights, one of the key concepts that has emerged in China’s search for modernity and democracy. This study draws on biographies and publications of the Chinese intellectuals who were highly influenced by Laski. In so doing, this article explores the ways in which Laski’s conception of rights was translated and recast by his disciples as a human rights idea in Republican China (1911-49). The findings of this study shed new light on our understanding of the ways in which legal concepts may “travel” across different contexts.

Keywords: travelling concept; human rights; biographical approaches; Harold Laski’s disciples; Republican China

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Introduction

This article examines the ways in which Harold Laski's (1893-1950) conception of rights helped his Chinese disciples situate the concept of rights outside the power of the state. Laski's works therefore enabled his Chinese disciples to recast the concept of rights as a conditional authority of the state through which the concept of human rights and their proposed constitutionalism were able to evolve. Borrowing the metaphor of "travelling concepts"¹ and drawing upon materials from biographies, this article uncovers the significance of Laski's influence on the evolution of the human rights idea in China; reviews the theoretical foundations of the Chinese conception of human rights from historical and comparative perspectives; and broadens the methodology landscape in studying the transfer of legal ideas across different contexts.

In legal studies, especially in the study of comparative law, it is generally agreed that "all legal systems have managed to incorporate ideas from various parts of the world".² A variety of metaphors, including "transplants", "borrowing", "circulation", "cross-fertilisation", "migration" and "reception", have been utilised to describe and analyse the transfer of concepts and ideas across different contexts.³ This article, however, is not intended to canvass the rich literature on this subject or to examine the choice of metaphors.⁴ It is concerned with the lack of effective narrative vehicles and methodological approaches to analysing when, how and why legal ideas are circulated. There still exists a naïve model, identified by William Twining, which contains "a *bipolar*

¹ See e.g., W. Twining, "Have Concepts, Will Travel: Analytical Jurisprudence in a Global Context" (2005) 1(1) *International Journal of Law in Context* 5; S. Baer, "Traveling Concepts: Substantive Equality on the Road" (2010) 46 (1) *Tulsa Law Review* 59.

² M. Siems, *Comparative Law* (Cambridge: Cambridge University Press, 2014), p.197.

³ For a detailed study of the "battle of metaphors", see V. Perju, "Constitutional Transplants, Borrowing and Migrations" in M. Rosenfeld and A. Sajo (eds) *Oxford Handbook of Comparative Constitutional Law* (Oxford: Oxford University Press, 2012), pp.1304–1327.

⁴ See e.g., O. Kahn-Freund, "On Uses and Misuses of Comparative Law" (1974) 37(1) *M.L.R.* 1; G. Teubner, "Legal Irritants: Good Faith in British Law or How Unifying Law Ends up in New Divergences" (1998) 61 *M.L.R.* 11; Perju, "Constitutional Transplants, Borrowing and Migrations".

relationship between *two countries* involving a *direct one-way* transfer of *legal rules or institutions* through the agency of *governments* involving *formal enactment or adoption* at a particular moment of time (*a reception date*) *without major change*.”⁵ The major obstacle to a broader methodology landscape is a huge gap between legal and sociological studies of diffusion: the leading studies of the “diffusion” or “transplantation”⁶ of law make scarce reference to sociological literature, and vice versa.⁷

In order to address the gap in the existing literature, this article builds on a metaphor of “travelling concepts”, which gives more attention to the individual’s contribution to the transfer of legal ideas on the globe and opens up a particular realm of comparative inquiry on the transfer of legal ideas. One of the candidates for such an inquiry is the concept of human rights, in particular, the development of the idea of human rights in China. China has always been subject to criticism for its human rights condition—from its human rights record in Tiananmen Square protests in 1989 to the recent Hong Kong protests. Commentators East and West tend to argue that human rights is a Western concept that has only become relevant to the Chinese political and legal context since 1989.⁸ They seem to have overlooked the earlier development of the human rights idea in China.⁹

⁵ W. Twining, “Diffusion of Law: A Global Perspective” (2004) 49 *Journal of Legal Pluralism and Unofficial Law* 1, 15, italics original; see also Twining, “Have Concepts, Will Travel”.

⁶ The term “legal transplants” was coined in the 1970s by Alan Watson. See e.g., A. Watson, *Legal Transplants: An Approach to Comparative Law* (Edinburgh: Scottish Academic Press, 1974). See also an overview of the use of legal transplants in comparative law in Siems, *Comparative Law*, pp.191-221.

⁷ Twining, “Have Concepts, Will Travel”, 239.

⁸ A. Nathan’s forward to M. Svensson, *Debating Human Rights in China: A Conceptual and Political History* (Lanham, Md.; Oxford: Rowman & Littlefield Publishers, 2002), p.2.

⁹ For useful sources about the earlier adoption of the human rights idea in China see e.g., E. S. K. Fung, “The Human Rights Issue in China, 1929-1931” (1998) 32 (2) *Modern Asian Studies* 431; Xu Xiaqun, “Human Rights and the Discourse on Universality: A Chinese Historical Perspective” in L. S. Bell, A. J. Nathan, and L. Peleg (eds) *Negotiating Culture and Human Rights* (New York: Columbia University Press, 2001).

The shortcomings in the literature have been remedied by historical studies on human rights in China.¹⁰ These studies asked questions including: “When was the concept introduced in China, why, and by whom?”¹¹ How did Chinese intellectuals develop this concept? And how did the Chinese human rights discourse transform?¹² They have shown that China has had intense and continuous debate on human rights since the late Qing dynasty (1644-1911) and lasted for decades in Republican China (1912-49).¹³ The concept of human rights was not simply borrowed from the West; rather it evolved in the Chinese people’s active search for “solutions” for their own political and legal problems.

Yet existing studies on the “travel” of the human rights idea in China has focused on the “harbour” rather than “voyage”. Little research has explored the questions: What happens when the human rights idea is on the road? What happens to “travellers” when they move between different contexts? What is the traveller’s contribution to the evolution of the human rights idea? The gap in the existing research has raised not only interpretative but also methodological issues. The use of materials from biographies offers remedies to the limits of current methods, which will be discussed in the second section of this article.

The second section of this article outlines the rationale for using the metaphor of “travelling concepts” and for drawing upon materials from biographies. The third section of this article examines Laski’s conception of rights and outlines Laski’s influence in Republican China. In this article, Laski’s disciples refer to those intellectuals who played an active role in introducing and disseminating Laski’s works, including those directly

¹⁰ R. Weatherley, *The Discourse of Human Rights in China: Historical and Ideological Perspectives* (Basingstoke and London: Palgrave Macmillan UK, 1999); S. C. Angle, *Human Rights and Chinese Thought: A Cross-Cultural Inquiry* (Cambridge: Cambridge University Press, 2002); Svensson, *Debating Human Rights in China*.

¹¹ Svensson, *Debating Human Rights in China*, p.2.

¹² Svensson, *Debating Human Rights in China*, p.2.

¹³ Svensson, *Debating Human Rights in China*, p.2; see also Weatherley, *The Discourse of Human Rights in China*, p.3.

supervised by him and indirectly influenced by his teaching. The fourth section examines the ways in which Laski's conception of rights was translated and recast by his Chinese disciples, leading to the evolution of the human rights idea in Republican China. It should be noted that "translation" discussed in this article includes not only the process of translating the works of Laski from English into Chinese but also the dissemination of these works through various friendship networks, professional relationships and political groups in Republican China.¹⁴ The discussion in the fourth section focuses on three of Laski's disciples¹⁵ who played important roles in the translation process.

Travelling Concepts and Intellectual Biography

How does an idea travel? In his 1983 essay in *The World, the Text, and the Critic*, the renowned cultural critic Edward Said explored the idea of "travelling theory" (Said's primary concern was literary theory).¹⁶ He argued that the transfer of ideas and theories across time, geography and people is much influenced by "conditions of acceptance" and "resistance". Said's study of the travel of ideas also embodies a second, less explicit aspect: ideas travel through the movement of people. On their journeys, travellers encounter people, places, ideas, cultures and institutions. When they are back home, they may bring back some of the ideas, cultures and institutions.

Studies of "travel" encompass various kinds of movement, including scientific exploration, colonisation, commercial expansion, immigration, labour movement and

¹⁴ I am aware of the works of Michel Callon, Bruno Latour and John Law on the sociology of translation. See e.g., M. Callon, "Some Elements of a Sociology of Translation: Domestication of the Scallops and the Fishermen of St Brieuc Bay" (1984) 32 *The Sociological Review* 196; B. Latour, "The Powers of Association" in J. Law (ed) *Power, Action and Belief: A New Sociology of Knowledge?* (London: Routledge and Kegan Paul, 1986), pp. 264-280. Due to limited space, however, this article does not cover the relevant literature on the sociology of translation.

¹⁵ Zhang Junmai (1887-1969), Luo Longji (1898-1965) and Wang Zaoshi (1903-1971)

¹⁶ E. W. Said, "Travelling Theory" in *The World, the Text, and the Critic* (Cambridge Massachusetts: Harvard University Press, 1983), pp.226-247.

tourism.¹⁷ Since the publication of Said's essay, there has been an interdisciplinary reception of using the metaphor of "travel" to discuss the circulation of ideas and theories in humanities and social sciences, albeit being selective.¹⁸ Much research has focussed on the circulation of a particular idea/theory as it "travels" between different contexts, geographical, historical or cultural. Less research, however, has attended to the fact that an idea is also a product of the journey of a "traveller" between those different contexts.

In his discussion of the idea of travelling theory, Said argued that "[l]ike people...ideas and theories travel—from person to person, from situation to situation, from one period to another" through "the circulation of ideas", which takes different forms, including "acknowledged or unconscious influence, creative borrowing, or wholesale appropriation".¹⁹ Said delineated four "stages" of travel, including an origin, a distance traversed, a set of conditions for acceptance or rejection, and finally a transformed (incorporated) idea occupying "a new position in a new time and place".²⁰ He further argued that "the movement of ideas and theories from one place to another is both a fact of life and a usefully enabling condition of intellectual activity".²¹

Beyond literary theory, the metaphor of "travel" was taken up and critically discussed by the anthropologist James Clifford in his contribution to the 1989 *Inscriptions* volume on *Traveling Theories, Traveling Theorists*.²² Clifford pointed out that the voyage described by Said was linear and needed to be expanded to grapple with "non-linear"

¹⁷ J. Clifford, "Travelling Cultures" in *Routes: Travel and Translation in the Late Twentieth Century* (Cambridge, MA and London: Harvard University Press, 1997), pp.17–46.

¹⁸ M. C. Frank, "Imaginative Geography as A Travelling Concept: Foucault, Said and the Spatial Turn" (2009) 13 (1) *European Journal of English Studies* 61, 62.

¹⁹ Said, "Travelling Theory", p.226.

²⁰ Said, "Travelling Theory", p.227.

²¹ Said, "Travelling Theory", p.226.

²² J. Clifford and V. Dhareshwar (eds), "Traveling Theories, Traveling Theorists", *Inscriptions* 5 (Center for Cultural Studies, University of California Santa Cruz, 1989), <https://culturalstudies.ucsc.edu/inscriptions/volume-5/>.

complexities.²³ Clifford argued: “[The linear path discussed by Said] cannot do justice to the feedback loops, the ambivalent appropriations and resistances that characterize the travels of theories, and theorists, between places in the ‘First’ and ‘Third’ worlds.”²⁴ Clifford also noted the limits of the “travel” metaphor with “connotations of middle class ‘literary,’ or recreational, journeying, spatial practices long associated with male experiences and virtues”.²⁵ Indeed, “travel” as a metaphor is by no means neutral.²⁶ Yet, he decided to hold on to the metaphor as it conveys a “sense of worldly, ‘mapped’ movement” which is absent in alternatives.²⁷ Clifford later used and adapted the metaphor in his essay on “Traveling Cultures”.²⁸ The cultural theorist Mieke Bal used the metaphor of “travelling concepts” by engaging with “theories in miniature”,²⁹ that is, individual concepts rather than macro-theories.³⁰ Studying a concept offers “a higher degree of flexibility, since each individual concept may become part of more than one theory” and have a greater “power of transcending boundaries”.³¹ For these reasons, this article adopts the metaphor of “travelling concepts”.

To engage with the micro level studies of the travel of legal concepts, biography not only provides rich historical-empirical materials for studying an individual life, but also embeds the account of an individual life in larger networks. The use of biographical

²³ Clifford and Dhareshwar, “Traveling Theories, Traveling Theorists”, unpaginated.

²⁴ Clifford and Dhareshwar, “Traveling Theories, Traveling Theorists”, unpaginated.

²⁵ Clifford and Dhareshwar, “Traveling Theories, Traveling Theorists”, unpaginated.

²⁶ Clifford, “Travelling Cultures”, p.39.

²⁷ Clifford and Dhareshwar, “Traveling Theories, Traveling Theorists”, unpaginated.

²⁸ Clifford, “Travelling Cultures”.

²⁹ M. Bal, “Scared to Death” in *A Mieke Bal Reader* (Chicago and London: University of Chicago Press, 2006), pp.149–168, p.157.

³⁰ M. Bal, *Travelling Concepts in the Humanities: A Rough Guide* (Toronto: University of Toronto Press, 2002).

³¹ Frank, “Imaginative Geography as A Travelling Concept”, 62.

analysis as a method derived from and developed through and across different disciplines including sociology, psychology and history.³²

Biography provides a rich and important source of materials for socio-legal studies and the study of legal history.³³ As a methodological strategy, it remedies the shortcomings of the dominant approach to studying law that overlooks individual stories and contributions in favour of an examination of big systems and events. It also helps deepen our understanding of legal concepts and phenomena.³⁴ For example, the LSE Legal Biography Project draws upon legal biographies and autobiographies to study the legal system and culture and the evolution of case law and statute. Other initiatives include Duxbury on Pollock, Lacey on Hart, Dukes on Kahn-Freund, and Mulcahy and Sugarman on legal biography and legal life writing.³⁵ Very few of these studies, however, have a strong comparative focus.³⁶

This article develops a comparative biographical approach to studying the ways in which the concept of rights developed by Laski travelled in China, transcending jurisdictional

³² J. Apitzsch and I. Siouti, "Biographical Analysis as an Interdisciplinary Research Perspective in the Field of Migration Studies" (Frankfurt am Main: Johann Wolfgang Goethe Universität, University of York, April 2007), https://www.york.ac.uk/res/researchintegration/Integrative_Research_Methods/Apitzsch%20Biographical%20Analysis%20April%202007.pdf.

³³ D. Sugarman, "Alternative Visions of Legal Biography: An Abstract" (2014) 14 *Legal Information Management* 16.

³⁴ R.G. Parry, "Is Legal Biography Really Legal Scholarship?" (2010) 30 (2) *Legal Studies* 208.

³⁵ N. Duxbury, *Frederick Pollock and the English Juristic Tradition* (Oxford: Oxford University Press, 2004); N. Lacey, *A Life of HLA Hart, the Nightmare and the Noble Dream* (Oxford: Oxford University Press, 2004); R. Dukes, "Constitutionalizing Employment Relations; Sinzheimer, Kahn-Freund, and the Role of Labour Law" (2008) 35 (3) *Journal of Law and Society* 341; R. Dukes, "Otto Kahn-Freund and Collective Laissez-Faire: An Edifice without a Keystone?" (2009) 72 (2) *M. L. R.* 220; L. Mulcahy and D. Sugarman (eds), "Legal Life Writing and Marginalized Subjects and Sources" (2015) 42 (1) *Journal of Law and Society*, special issue.

³⁶ There are a few works that engage with the comparative perspective, see e.g. J. Kroncke, "An Early Tragedy of Comparative Constitutionalism: Frank Goodnow and the Chinese Republic" (2012) 21(3) *Pacific Rim Law & Policy Journal* 533; J. Kroncke, "Roscoe Pound in China: A Lost Precedent for the Liabilities of American Legal Exceptionalism" (2012) 38 *Brooklyn Journal of International Law* 1.

and disciplinary boundaries. It does so by examining a series of biographical studies of the Chinese intellectuals who were highly influenced by Laski's discussion on rights and their relationships with individuals, groups and the state. Analysis of individual biographies is located in the cultural, political and social context in which Laski and these Chinese intellectuals lived. This comparative biographical approach falls into the genre of "intellectual biography" through which we can examine "wider movements, ideas, and processes" through the medium of the individual.³⁷ The combination of Said's travelling theory and biographical methods enables the examination of individual contributions to the emergence of the human rights idea and the ways in which the human rights idea travelled through the individual's interaction with their friends, mentors, networks, institutions and social movements, as well as their translation and dissemination of Laski's works. The human rights idea was further developed in a larger debate on human rights among Chinese intellectuals and embedded in the draft of a new constitution.

Travelling Theorists

Harold Laski was one of the most important twentieth century public intellectuals. He was Professor of Political Science at the London School of Economics, a centre for socialist thinking founded by the Fabians, from 1926 to 1950. He was one of the major theorists of democratic socialism. While Laski's impact on the English-speaking world has been well studied,³⁸ his equally profound influence on intellectual thinking and institution building in Republican China (1911-49) and its contemporary implications have been overlooked by both academics and lay audiences for decades.

China's search for modernity and democracy has been heavily indebted to Laski, even though Laski never set foot in China and China never occupied a place in his writing and

³⁷ Parry, "Is Legal Biography Really Legal Scholarship?", 217.

³⁸ For this, see biographies of Laski e.g., K. Martin, *Harold Laski, 1893-1950* (London: Gollancz, 1953); M. Newman, *Harold Laski: A Political Biography* (London: Macmillan, 1993); I. Kramnick and B. Sheerman, *Harold Laski: A Life on the Left* (London: Hamish Hamilton, 1993).

thinking.³⁹ The discussion and dissemination of Laski's work was driven by Chinese intellectuals' search for solutions to what were seen as "indigenous" problems standing in the ways of the attempt to build a modern and democratic China. Laski's idea of rights was particularly attractive to many Chinese intellectuals in Republican China. For Laski, rights are not created by the state; the state only recognises and realises rights. The development of the human rights idea in Republican China was highly influenced by Laski's work, although Laski's work was mainly concerned with the conception of rights in general not the conception of human rights in particular.

Laski and his conception of rights

Laski favoured pluralism during the period between 1914-1920,⁴⁰ and, to some extent, he "remained a political pluralist all his life".⁴¹ It should be noted that "pluralism" has different meanings. In the context of Laski's writings in the early twentieth century, pluralism is known as "associationalism" which refers to "the plurality of effective associations".⁴² From the early 1920s till 1931, the Webbs and their Fabian socialism exerted more influence on Laski.⁴³ Under the Fabian influence, Laski sought more statist

³⁹ Laski's student, Hang Liwu (1903-1991), the then Professor of Political Science at the National Central University, invited Laski to give lectures in China in 1929. The president of the National Central University, Professor Zhu Jiahua (1893-1963) also agreed to provide funding for Laski's visit. Laski accepted the invitation and planned to visit China in 1931. However, due to the Manchurian Incident on 18 September 1931 whereby Japanese invaded and occupied three provinces in Northeast China, Laski postponed his visit to China and never resumed his travel plan. See Chen Huifen, *Zhishi chuanbo yu guojia xiangxiang: Ershi shiji Lasiji zhengzhi duoyuan lun zai zhongguo (Knowledge Dissemination and National Imagination: Laski's Political Pluralism in China in the Early 20th Century)* (Taipei: Wunan tushu chubun, 2016), p.164. For Chinese names, this article uses the now standard pinyin system and follows the convention: first the surname and then the first name. It also includes their Wade-Giles versions if they are widely recognised.

⁴⁰ Kramnick and Sheerman, *Harold Laski*, p.3.

⁴¹ R. Miliband, "Harold Laski's Socialism" (1995) *The Socialist Register* 239, 241. For the process of continuity and discontinuity in Laski's work, see also P. Lamb, "Laski's Ideological Metamorphosis" (1999) 4(2) *Journal of Political Ideologies* 239.

⁴² P. Lamb, *Socialism* (Cambridge: Polity Press, 2019), p.65 and p.69.

⁴³ Kramnick and Sheerman, *Harold Laski*, p.3.

solutions to social problems.⁴⁴ After 1930, Laski's thinking underwent major transformations largely due to a series of significant events, domestic and international, which led him to become a Marxist.⁴⁵ These events include the Labour Party's collapse in Great Britain, unemployment, the worldwide economic depression, and the rise of fascism in Spain and Germany.⁴⁶ Laski's support for Marxism, however, "always had to accommodate his liberal commitment to civil liberties".⁴⁷ Laski became "the principal theorist of a democratic socialism indelibly identified with the British Labour Party, the London School of Economics and Laski".⁴⁸

Laski was a prolific writer, and throughout his life he maintained a close and substantial link with legal scholarship. For example, in his early years of studying at Oxford, Laski was highly influenced by the work of Otto von Gierke (1841-1921) and Frederic William Maitland (1850-1906) and their writing about associations.⁴⁹ Laski served as book review editor of the *Harvard Law Review* in the period between November 1917 and June 1919.⁵⁰ His publications on the personality of associations, the state and the history of the corporation in the *Harvard Law Review* also reflected the influence of Gierke and Maitland.⁵¹ In October 1926, he was appointed to the Civil Service Arbitration Tribunal of the Industrial Court.⁵² During the 1920s Laski provided the intellectual framework for

⁴⁴ M. Loughlin, "The Functionalist Style in Public Law" (2005) 55 *The University of Toronto Law Journal* 361, 396.

⁴⁵ A. A. Ekirch, "Harold J. Laski: The Liberal Manque or Lost Libertarian?" (1980) IV (2) *The Journal of Libertarian Studies* 139, 144; R. Miliband, "Harold Laski: An Exemplary Public Intellectual" (1993) 200 *New Left Review* 175; Kramnick and Sheerman, *Harold Laski*, p.3.

⁴⁶ Ekirch, "Harold J. Laski", 144; Kramnick and Sheerman, *Harold Laski*, p.3.

⁴⁷ Kramnick and Sheerman, *Harold Laski*, p.3.

⁴⁸ Kramnick and Sheerman, *Harold Laski*, p. 2.

⁴⁹ Kramnick and Sheerman, *Harold Laski*, p.59.

⁵⁰ Kramnick and Sheerman, *Harold Laski*, p.100.

⁵¹ H. Laski, "The Personality of Associations" (1916) 29(4) *Harvard Law Review* 404; H. Laski, "A Note on M. Duguit" (1917) 31(1) *Harvard Law Review* 186; H. Laski, "The Early History of the Corporation in England" (1917) 30 (6) *Harvard Law Review* 561.

⁵² Kramnick and Sheerman, *Harold Laski*, p.100 and p.258.

“a modern approach to public law”.⁵³ It is not the purpose of this article, however, to discuss Laski’s personal, academic or public life. The focus of this article is on the ways in which Laski’s conception of rights had been brought home by his Chinese disciples, had fallen on fertile soil in Republican China, and was subsequently debated and disseminated by his Chinese disciples.

The writings of Laski’s Fabian period, culminating in the publication of *A Grammar of Politics*, as well as Laski’s discussion of democratic socialism, most influenced Laski’s Chinese disciples.⁵⁴ First, although *A Grammar of Politics* marked a major shift towards statist solutions to social problems, Laski’s pluralism and his defence of the rights of individuals persisted.⁵⁵ Second, the continuity of Laski’s defence for individual liberty was exemplified in his challenge to “the monism (or absolutism) underpinning the concept of state sovereignty”.⁵⁶ Third, Laski differentiated sovereignty from authority. The authority of a government, namely, “the right to be obeyed”, derives not from sovereignty (power) “but from its constitution”.⁵⁷ Both the state and groups/associations hold authority. Individual liberty is strengthened by individuals’ affiliation to various associations.⁵⁸ Fourth, through making the shift from sovereignty to authority, Laski was able to draw a reciprocal relationship between rights and authority.⁵⁹ Authority is legitimate when recognising and operating rights.⁶⁰ Fifth, the reciprocal relationship

⁵³ M. Loughlin, “The Political Constitution Revisited” (2019) 30 (1) *King’s Law Journal* 5, 9.

⁵⁴ Laski’s more Marxist writings did not have a profound impact on Chinese intellectuals, most of whom were very critical of communism. See Svensson, *Debating Human Rights in China*, p.162.

⁵⁵ Newman, *Harold Laski*, p.232; Kramnick and Sheerman, *Harold Laski*, p.227 and p.235.

⁵⁶ Loughlin, “The Functionalist Style in Public Law”, 392.

⁵⁷ M. Loughlin, “Constitutional Pluralism: An Oxymoron” (2014) 3(1) *Global Constitutionalism* 9, 12.

⁵⁸ Loughlin, “The Functionalist Style in Public Law”, 392.

⁵⁹ M. Loughlin, “The Political Jurisprudence of Harold J. Laski” (2021) 50 *Quaderni fiorentini* 251.

⁶⁰ H. Laski, *A Grammar of Politics*, 4th Impression 1930 (London: George Allen & Unwin LTD, first published 1925), p.245.

between rights and authority leads to a rethinking of the nature of law and its relationship with rights.

Law is “not the will of the State, but that from which the will of the State derives whatever moral authority it may possess”.⁶¹ Rights are therefore not created by law; rather they are the conditions of law.⁶² Laski defined rights as “conditions of social life without which no man can seek, in general, to be himself at his best”.⁶³ For Laski, rights do not come from nature;⁶⁴ rights are essentially a social concept and embedded in a social milieu, and individual rights are closely related to social life. Rights are not therefore separate from duties.

Harold Laski and his Chinese disciples

China in the twentieth century was marked by many political upheavals including three “revolutions”: the Republican Revolution of 1911, the Nationalist Revolution of 1927, and the Communist Revolution of 1949.⁶⁵ The Nationalist Party came to national power in 1927-28, and its rule in the decade prior to the war with Japan brought significant changes to China. It virtually put the Warlord Era (1916-28) to an end, and brought aspirations for national unity, political stability and thriving economy.⁶⁶ The Nationalist regime, however, also faced many challenges in its governance of China, including corruption and ineffective administration.⁶⁷ Censorship of the press became prevalent during the decade of the Nationalist rule.⁶⁸

⁶¹ Laski, *A Grammar of Politics*, p.289.

⁶² M. Loughlin, workshop presentation at the virtual workshop on “Harold Laski and His Chinese Disciples: A Seminal Workshop on the Legacy of Laski’s Legal Philosophy”, 2 July 2020. See also Loughlin, “The Political Jurisprudence of Harold J. Laski”, 266.

⁶³ Laski, *A Grammar of Politics*, p.91.

⁶⁴ Loughlin, “The Political Jurisprudence of Harold J. Laski”, 267.

⁶⁵ L. E. Eastman, *The Abortive Revolution: China under Nationalist Rule, 1927-1937* (Cambridge, Mass: Harvard University Press, 1974), preface, p.vii.

⁶⁶ Eastman, *The Abortive Revolution*, pp. xii-xiii.

⁶⁷ Eastman, *The Abortive Revolution*, p.9.

⁶⁸ Eastman, *The Abortive Revolution*, p.24.

To seek solutions to China's problems, an increasing number of intellectuals began to look into the West for models and lessons in the early twentieth century.⁶⁹ In seeking new thoughts, institutions and technologies to build a modern and democratic China, a large number of students went abroad to study.⁷⁰

As pointed out by Lord Wedderburn, "few scholars had the lasting effect that Harold Laski had on his students".⁷¹ Laski started to influence Chinese students when he taught in the United States in 1916-20, and his major influence on Chinese students lasted for about two decades from the 1920s to the 1940s. Those students influenced by Laski's teaching in the United States include Zhang Xiruo (1889-1973)⁷² and Lu Xirong (1895-1958)⁷³. Zhang Xiruo wrote *Zhuquan lun* (On Sovereignty) in 1925, one of the earliest introductions to Laski's political thought in China. Zhang Xiruo also published a book review on Laski's *Communism* in *Xiandai Pinglun* (Modern Review) in 1927, which was probably the earliest Chinese-language review of Laski's work. Lu Xirong published a

⁶⁹ E. Lubot, *Liberalism in an Illiberal Age: New Culture Liberals in Republican China, 1919-1937* (Westport, Conn.: Greenwood Press, 1982), p.9.

⁷⁰ Eastman, *The Abortive Revolution*, p.xii.

⁷¹ Lord Wedderburn, "Laski's Law Behind the Law: 1906 to European Labour Law" in R. Rawlings (ed) *Law, Society and Economy: Centenary Essays for the London School of Economics and Political Science* (Oxford: Oxford University Press, 1995), pp.25-61, p.25. There are some detailed studies of Laski's Indian students. See e.g., B. Moscovitch, "Harold Laski's Indian Students and the Power of Education, 1920-1950" (2012) 20(1) *Contemporary South Asia* 33; B. Moscovitch, "A Liberal Ghost? The Left, Liberal Democracy and the Legacy of Harold Laski's Teaching" (2018) 46(5) *The Journal of Imperial and Commonwealth History* 935. For studies of Laski's Chinese students, see e.g., Hao Ying, "A Study of Chinese Liberalism and the Journal Observer in the Late 1940's: 1946-1948" (M.Phil.Thesis, Hong Kong University of Science and Technology, 2001); Xu Xi, *British Left-Wing Writers and China: Harold Laski, W. H. Auden and Joseph Needham* (PhD Thesis, The University of Hong Kong, 2013).

⁷² master's Degree from Columbia University 1919; Professor of Political Science at Tsinghua University and Secretary of Education 1952-58. See Sun Qiang, 'Zhang Xiruo', <https://www.tsinghua.edu.cn/info/1661/56233.htm>.

⁷³ PhD from Columbia University 1919; Head of the School of Law at the National Central University and one of the founders of the Chinese Association of Political Science. See Qujing Local Chronicle Compilation Committee, *Qujing defang zhi (Qujing Local Chronicle)*, Vol.5 (Kuiming, Yunnan renmin chubanshe, 1995), p.563.

book discussing Laski's political thought (Lasiji de zhengzhi sixiang) on sovereignty and political pluralism in 1934.⁷⁴

Laski also influenced Chinese intellectuals who did not study in the United States but travelled to Europe to pursue further study, for example Zhang Junmai⁷⁵ (Chang Chun-mai, also known as Carsun Chang, 1887-1969), who translated Laski's *Grammar of Politics* into Chinese in 1926-28. For many of those students, Britain was one of the popular destinations. The British parliamentary system and cultural and philosophical tradition attracted many Chinese students to study in the United Kingdom. After Laski returned to England and started teaching at the LSE in 1920, he supervised a number of Chinese students, including Qian Changzhao (1899-1988),⁷⁶ Chen Yuan (also known as Chen Xiyong, 1896-1970)⁷⁷, Hang Liwu (Han Lih-wu, 1903-1991)⁷⁸ and Wang Zaoshi (1903-1971).⁷⁹ There were also students who may not have been directly supervised by Laski but considered themselves as Laski's students, for example Luo Longji (Lo Lung-

⁷⁴ Chen, *Zhishi chuanbo yu guojia xiangxiang*, p.167.

⁷⁵ Postgraduate study in Germany 1920-21; a social democratic politician, theorist of human rights, and drafter of the Constitution of Republican China. See R. B. Jeans, *Democracy and Socialism in Republican China: The Politics of Zhang Junmai (Carsun Chang), 1906-1941* (Lanham, Md.: Rowman & Littlefield Publishers, 1997).

⁷⁶ studied at the London School of Economics 1919 -1922; Secretary of the Ministry of Foreign Affairs 1928-1929 and Senior Vice-Minister of Education 1930-32. See Qian Changzhao, *Qian Changzhao huiyi lu (Memoirs of Qian Changzhao)* (Beijing: Dongfang chubanshe, 2011).

⁷⁷ Studied at the University of Glasgow, the University of Edinburgh and the London School of Economics from 1913 to 1922 (PhD under Laski); Dean of the Faculty of Arts at Wuhan University. See Chen Yuan's biography at the University of Glasgow's website:

<https://universitystory.gla.ac.uk/biography/?id=WH25286&type=P>; see also Zhang Yanlin, *Xianhua dashi Chen Xiyong (Chen Xiyong: The Master of Causeseries)* (Zhengzhou: Henan renmin chubanshe, 2014).

⁷⁸ PhD from the London School of Economics 1929; Professor of Political Science at the National Central University, founder of the British-Chinese Educational Association, and Deputy Minister of Education 1944. See Wang Ping and Guan Manli, *Hang Liwu xiansheng fangwen jilu (Record of Interviews with Mr Hang Liwu)* (Taipei: Institute of Modern History, Academia Sinica, 1990).

⁷⁹ PhD from University of Wisconsin 1929; post-doctoral research at the London School of Economics; lawyer and advocate for human rights and Head of the Department of Political Science at Guanghua University. See Jiang Ping, *Jindai minzhu xianqu Wang Zaoshi (Wang Zaoshi: The Pioneer of Modern Democracy)* (Beijing: Qunyan chubanshe, 2014).

chi, 1898-1965).⁸⁰ In the 1920s, these Chinese elite students returned to China and became academics, government officials and journalists. They occupied positions of great influence before the Communist Party took power in 1949.

Laski's Chinese disciples shared the same concern as Laski in their thoughts on the tensions between liberty and equality and between individualism and collectivism. They subsequently translated Laski's works into Chinese and introduced them to China. Many of those students, for example, Luo Longji and Wang Zaoshi opposed the Nationalist authoritarian rule.⁸¹ They also took an issue with the notion of the state as the source of rights, contributing to a fundamental rethinking of the nature of human rights.

Human Rights as a Travelling Concept

Seeking liberty and rights in China before Laski's influence

In classical Chinese there is no equivalent word to "rights" in English. The term "rights" was first translated into *quanli*, denoting power and benefit, in the Chinese translation of Henry Wheaton's *Elements of International Law* (1836) published in China in 1864, a project funded by the imperial government and coordinated by American Protestant William Alexander Parsons Martin (also known in Chinese as Ding Weiliang, 1827-1916) working in China at that time.⁸² The concept of "human rights" was also introduced to China by Japanese scholars in the same period and translated into *renquan*, which has

⁸⁰ PhD from Columbia University 1928; founder of the China Democratic League and advocate for human rights. See Luo Longji, *Wo de beibu yu fangan (My Experience and Reactions to Having Been Arrested)*, Xie Yong (ed) (Beijing: Zhongguo qingnian chubanshe, 1999).

⁸¹ G. Benton and E. T. Gomez, *The Chinese in Britain, 1800-Present: Economy, Transnationalism, Identity* (Basingstoke: Palgrave Macmillan, 2008), pp.222-223.

⁸² L. H. Liu, "Legislating the Universal: The Circulation of International Law in the Nineteenth Century", in *Tokens of Exchange: The Problem of Translation in Global Circulations* (Durham and London: Duke University Press, 1999), p.127. Lin Laifan, "Quanli gainian de yizhi jiaoliu shi (The History of the Transplant and Exchange of the Concept of Rights)" (2020) 32 (2) *Zhongwai faxue* (Peking University Law Journal) 402, 404. See also Jin Guantao and Liu Qingfeng, *Guannian shi yanjiu: Zhongguo xiandai zhongyao zhengzhi shuyi de xingcheng (A Study of the History of Ideas: The Formation of Important Political Concepts in Modern China)* (Beijing: Falu chubanshe, 2010), p.112.

multiple conceptions, and, in many occasions, was used interchangeably with the term *quanli*.⁸³ Up until 1900, the use of the term “rights” in China was strictly limited to foreign affairs related issues such as international law, and the state was primarily regarded as the rights-holder.⁸⁴ From 1900 to the mid-1910s, the term “rights” became one of the most used political terms. The subject of rights was no longer limited to the state or groups but referred to individuals.⁸⁵

The Chinese conception of rights continued to evolve in the early twentieth century and intertwined with related key concepts such as liberalism, socialism, democracy and the rule of law, reflecting the changing understanding of the relationship between the individual, society and the state. One of the leading intellectuals who provoked a rethinking of these concepts is Hu Shi (1891-1962), a prominent scholar and diplomat in Republican China. Although Hu Shi did not study in the United Kingdom nor was directly influenced by Laski, between the late 1920s and early 1930s, Hu Shi and Luo Longji were important members of the Crescent Society and the Discussion Society, promoting the dissemination of Laski’s works. Both led the human rights debate. In his essay entitled “Fifty Years of World Philosophy” published on 5 September 1922, Hu Shi shared his reflection on Laski’s works for the first time: “Duguit in France and Laski in England are the leading advocates for the pluralist theory of sovereignty. They do not recognise the state as the supreme organisation in society, above all other organisations.”⁸⁶

Hu Shi was born in Shanghai. In 1910, he went to the United States to study agriculture at Cornell University. In 1912, he changed his major to Philosophy, English Literature and Political Science. In 1915, after receiving his undergraduate degree, he entered

⁸³ Lin, “Quanli gainian de yizhi jiaoliu shi”, 406.

⁸⁴ Jin and Liu, *Guannian shi yanjiu*, p.116.

⁸⁵ Jin and Liu, *Guannian shi yanjiu*, p.124.

⁸⁶ Hu Shi, *Hu Shi wenji (Collective Works of Hu Shi)*, 12 Vols., Vol. 3, Ouyang Zhesheng (ed) (Beijing: Beijing daxue chubanshe, 1998), pp.306-307.

Columbia University to study philosophy under the supervision of John Dewey (1859-1952), whose works had a great impact on Hu Shi's belief in an evolutionary approach to social change. Hu Shi returned to China in 1917 and became a professor at Peking University. He acted as a leading figure during the May Fourth Movement in 1919 and the subsequent New Culture Movement of the 1920s which promoted western ideas such as democracy and science.⁸⁷

Hu Shi was a firm believer of constitutional democracy, and became highly critical of the Nationalist Party establishing a political system, which was rule by party only.⁸⁸ Sun Yat-sen (1866-1925), the founder of the Republic of China, envisioned a three-stage progression "from military reunification through an ill-defined period of 'political tutelage' to the ultimate condition of democracy".⁸⁹ Sun Yat-sen's plan was that when the people had achieved a higher level of education and sufficient political experience to acquire proper understanding of the functioning of democracy, his party would eventually implement constitutional democracy.⁹⁰ Yet, using political tutelage as its justification, the Nationalist government remained hostile to any progression towards establishing constitutional democracy, leading to no restraints on the party's power and violation of human rights. Hu Shi was very dissatisfied with the situation.

Hu Shi argued that there had been two ways of achieving progress. In a letter to Xu Zhimo (Hsu Chih-mo, 1897-1931) in 1926, Hu Shi wrote:

"Simply put, there have been two different ways [of achieving progress] in recent history. One is today's Soviet way, featuring the proletarian dictatorship that does not allow the existence of the property class; the other, avoidance of class struggle,

⁸⁷ J. B. Grieder, "Hu Shih: An Appreciation" (1962) 12 *The China Quarterly* 92.

⁸⁸ Jiang Ping, "Hu Shi and Wang Zaoshi: Mutual Support in the Struggle for Democracy and the Constitution" (2008) 41(4) *Chinese Studies in History* 57, 64.

⁸⁹ Grieder, "Hu Shih", 96.

⁹⁰ Grieder, "Hu Shih", 96.

using the tendency toward socialization over the past three hundred years to expand gradually the liberty and happiness enjoyed in society. I call the latter ‘new liberalism,’ or ‘liberal socialism.’”⁹¹

Hu Shi supported the second way as it provided possibilities that liberalism and socialism could co-exist with each other. In relation to seeking a “third way” between liberalism and socialism, Hu Shi also prompted a rethinking of the relationship between the individual and society. He argued that “the individual—the ‘lesser self’ (*xiaowo*)—cannot exist in society independently; the individual and the social mutually influence each other”.⁹² When extending this thinking of the relationship between the individual and society to an evaluation of the nature of rights, Hu Shi supported the view that protection of the rights of the individual and those of the wider society are mutually beneficial.⁹³ His view resonates with Laski’s view of the relationship between the individual and society and definition of rights discussed above.

A Grammar of Politics, literary societies and intellectual forums

Laski’s *A Grammar of Politics* published in 1925 provides answers for Chinese intellectuals in their endeavours to reframe the relationship between the state and rights. In the opening sentence of the preface, Laski acknowledged that “this volume completes an effort, begun in 1915, to construct a theory of the place of the State in the great society.”⁹⁴ The first part of the volume contains an analysis of the purpose of the state and society, sovereignty, rights, liberty, equality, property and authority. The second part of the volume examines their realisation through various institutions. For Laski, “the

⁹¹ Hu Shi, *Hu Shi wenji (Collective Works of Hu Shi), 12 Vols., Vol. 4*, Ouyang Zhesheng (ed) (Beijing: Beijing daxue chubanshe, 1998), p.47; translated in E. S. K. Fung, “State Building, Capitalist Development, and Social Justice: Social Democracy in China’s Modern Transformation, 1921-1949” (2005) 31(3) *Modern China* 318, 333.

⁹² Hu, *Hu Shi wenji, Vol.2*, pp.529-530.

⁹³ Fung, “State Building, Capitalist Development, and Social Justice”, 333.

⁹⁴ Laski, *A Grammar of Politics*, preface.

character of a state is revealed by the rights it acknowledges. Rights recognition is a basic criterion of the state's authority."⁹⁵ In 1926, Zhang Junmai started translating Laski's *A Grammar of Politics* into Chinese with a lengthy introduction to Laski's political thought.

Zhang Junmai was born in Boshan, Jiangsu province. His early education was "a blend of the old (Chinese traditional learning) and the new (Western learning)".⁹⁶ The year 1906 marked the end of the imperial examinations which had been in place for over a thousand years in China, and studying abroad created a new pathway to success for Chinese students.⁹⁷ Zhang joined the large group of students to pursue studies in Japan in 1906 and studied law and political science at Waseda University.⁹⁸ In Japan, Zhang worked closely with Liang Qichao (Liang Chi-chao, 1873-1929), a prominent philosopher, historian and political reformer whose advocacy for political reform and constitutional monarchy led to his exile in Japan in 1898. Liang Qichao was also one of the earliest scholars who introduced the Western ideas of rights to China.⁹⁹ Zhang Junmai contributed articles to Liang's biweekly, *New Citizen (Xinmin congbao)*, a constitutionalist journal. He also translated several chapters of John Stuart Mill's *Considerations on Representative Government* (1861) and read many books on Western political thought and constitutions, including John Locke's *Two Treatises of Government* (1690) and John W. Burgess's *Political Science and Comparative Constitutional Law* (1890).¹⁰⁰

With the help of Liang Qichao, Zhang went to Germany in 1913 and registered at the University of Berlin for a preparatory course that would lead to studying in the University's PhD programme in law and political science. The start of the First World

⁹⁵ Loughlin, "The Political Jurisprudence of Harold J. Laski", 266.

⁹⁶ Jeans, *Democracy and Socialism in Republican China*, p.74.

⁹⁷ Jeans, *Democracy and Socialism in Republican China*, p.12.

⁹⁸ Jeans, *Democracy and Socialism in Republican China*, p.13.

⁹⁹ Lin, "Quanli gainian de yizhi jiaoliu shi", 412.

¹⁰⁰ Jeans, *Democracy and Socialism in Republican China*, p.13.

War, however, disrupted his further studies in Germany.¹⁰¹ In 1915, Zhang Junmai travelled and stayed in England for a year. He visited the British Parliament to “watch democracy in action in its homeland”.¹⁰² Like many other Chinese intellectuals who studied in the UK, Zhang Junmai found the British Labour movement and the Fabian Society appealing. After his visit in England, Zhang Junmai returned to China and took over the editorship of the newspaper *New Current Affairs* (*Shishi xinbao*) and taught law at Peking University.¹⁰³

In 1918, Zhang Junmai was invited by Liang Qichao to accompany him to the Paris Peace Conference at Versailles, and in 1919 Zhang Junmai set foot in Europe for the second time.¹⁰⁴ From 1920 to 1921, Zhang Junmai stayed in Jena, Germany and studied philosophy under the supervision of Rudolf Eucken (1846-1926).¹⁰⁵ He also met social democrats including Karl Kautsky (1854-1938) and Rudolf Hilferding (1877-1941), as well as the drafter of the Weimar Constitution of 1919, Hugo Preuss (1860-1925).¹⁰⁶ Zhang Junmai found flaws in both Western liberalism and Soviet socialism¹⁰⁷ and regarded the Weimar Republic and the Weimar Constitution as a model for China in his search for “a third way”.¹⁰⁸ The Weimar model also fitted Zhang Junmai’s belief in the Confucian idea of “middle way” (*zhongyong*).¹⁰⁹ The Weimar influence on Zhang from 1919 to 1921 “made him a social democrat for the rest of his life”.¹¹⁰ In his later years,

¹⁰¹ Jeans, *Democracy and Socialism in Republican China*, p. 13.

¹⁰² Jeans, *Democracy and Socialism in Republican China*, p.225.

¹⁰³ Jeans, *Democracy and Socialism in Republican China*, p.32.

¹⁰⁴ Jeans, *Democracy and Socialism in Republican China*, p.75.

¹⁰⁵ Jeans, *Democracy and Socialism in Republican China*, p.109.

¹⁰⁶ Jeans, *Democracy and Socialism in Republican China*, pp.39-40.

¹⁰⁷ Zhang Junmai and Zhang Dongsun, “Zhongguo zhi qiantu: Deguo hu, Eguo hu? (China’s Future: German or Russia?)”, (1920) 14 *Jiefang yu gaizo* (Liberation and Transformation), in Wong Hekai (ed) *Zhang Junmai juan* (*Collected Works of Zhang Junmai*) (Beijing: Zhongguo renmin daxue chubanshe, 2014), pp.57-70.

¹⁰⁸ Fung, “State Building, Capitalist Development, and Social Justice”, 326.

¹⁰⁹ Jeans, *Democracy and Socialism in Republican China*, p.43.

¹¹⁰ Fung, “State Building, Capitalist Development, and Social Justice”, 326.

Zhang Junmai reflected on his democratic socialist thought as “a blend of German philosophy, English politics, and Confucianism”.¹¹¹

In 1932, Zhang Junmai organised the Chinese Nationalist Socialist Party (*guojia shehuizhuyi dang*)¹¹² with Luo Longji, a party providing a third way between the Nationalists and the Communists and advocated separation of powers and protection of human rights. In 1941, the Chinese Nationalist Socialist Party formed a coalition with two minor parties and three political groups, which was named in 1944 as the China Democratic League (*zhongguo minzhu tongmeng*).¹¹³ Continuing to advocate democracy and socialism, the League “constituted a civil opposition movement in the midst of the dominant main political culture” represented by the Nationalist Party and the Communist Party.¹¹⁴ As a result of Zhang Junmai’s political views and activities, from the late 1920s to the early 1940s, he was removed from the editorship of the journal he operated, discharged from lecturing, and was placed under house arrest in 1929.¹¹⁵

Zhang Junmai’s long-term training in law and politics, research into western institutions and political theory, as well as reflection on western learning in the context of China’s special problems, laid a solid foundation for his translation of *A Grammar of Politics*.¹¹⁶ Albeit facing difficulties in translating the English terms and sentences literally into Chinese like many other translators, Zhang tried his best to convey the original text in Chinese.¹¹⁷ That said, Zhang’s introduction to the key components of *A Grammar of*

¹¹¹ Zhang Junmai, *Shehui zhuyi sixiang yundong gaiguan (An Outline of Socialist Thought and Movements)* (Taipei: Daoxiang chubanshe, published posthumously, 1988); cited in Fung, “State Building, Capitalist Development, and Social Justice”, 327.

¹¹² This party is not in any association with the Nazis.

¹¹³ Fung, “State Building, Capitalist Development, and Social Justice”, 339. Laski was in close touch with leaders of the Democratic League in China. See Martin, *Harold Laski*, p.243.

¹¹⁴ Fung, “State Building, Capitalist Development, and Social Justice”, 339-340.

¹¹⁵ Zhang Rulun, “The Third Way” (2000) 31(4) *Contemporary Chinese Thought* 32, 36.

¹¹⁶ Chen, *Zhishi chuanbo yu guojia xiangxiang*, pp.153-154.

¹¹⁷ Chen, *Zhishi chuanbo yu guojia xiangxiang*, p.156.

Politics resonates with his own understanding of the transformation of the British political systems and his plans for China's legal and political reforms. In his introduction to his translation of the book, Zhang emphasised that Laski's discussion of rights, in particular, his conception of rights as the conditions for the individual to develop their best self, is one of the key components of the book.¹¹⁸

The translation and publication of *A Grammar of Politics* by Zhang Junmai prompted more Chinese intellectuals to discuss, translate and publish Laski's works.¹¹⁹ For example, Xiao Gongquan (Hsiao Kung-chuan, 1897-1981)¹²⁰ extensively discussed Laski's pluralist thought in his book *Political Pluralism: A Study in Contemporary Political Theory*.¹²¹ In 1930 Xiao Gongquan wrote a review of Zhang Junmai's translation of *A Grammar of Politics*, and commented on both literary and theoretical issues raised in the translation. He endorsed Zhang Junmai's translation of Laski's definition of rights and commented that Laski's thought marked a "third way" between classic individualism and radical socialism.¹²² In 1932, Xiao Gongquan published an article introducing the context of Laski's political thought.¹²³ Systematic studies and reviews of Laski's *A Grammar of Politics* and other works were subsequently published in Chinese by Laski's Chinese disciples. For example, Hang Liwu published *Zhengzhi dianfan yaoyi (The Essentials of A Grammar of Politics)* in 1933,¹²⁴ and Lu Xirong published *Lasiji de zhengzhi sixiang*

¹¹⁸ Chen, *Zhishi chuanbo yu guojia xiangxiang*, p.157.

¹¹⁹ Zhang was not able to publish the book under his own name due to the Nationalist Party's suppression on his scholarly and political activities.

¹²⁰ PhD from Cornell University 1926; Professor of political science at Yenching University and advocate for human rights and constitutional order. See Xiao Gongquan, *Xiao Gongquan Wenji (The Collected Works of Xiao Gongquan)*, vol. 1 (Beijing: Zhongguo renmin daxue chubanshe, 2014).

¹²¹ Xiao Gongquan, *Political Pluralism: A Study in Contemporary Political Theory* (London and New York: Kegan Paul, Trench, Trubner & Co Ltd, 1927).

¹²² Chen, *Zhishi chuanbo yu guojia xiangxiang*, p.109.

¹²³ Xiao Gongquan, "Lasiji zhengzhi sixiang zhi beijing (The Context of Laski's Political Thought)" (1932) 7(2) *Tsinghua xuebao (The Tsinghua Journal)* 10.

¹²⁴ Hang Liwu, *Zhengzhi dianfan yaoyi (Essentials of A Grammar of Politics)* (Shanghai: Liming Shuju, 1933); Wang and Guan, *Hang Liwu xiansheng fangwen jilu*; Chen, *Zhishi chuanbo yu guojia xiangxiang*, p.169.

(*Political Thought of Laski*) in 1934. Laski's works were also widely disseminated at the then newly founded departments of politics in the 1920s and 1930s in China, and *A Grammar of Politics* was taught as one of the key textbooks.¹²⁵

Beyond the translation of Laski's works, Laski's Chinese disciples formed literary societies and provided intellectual platforms for the dissemination of Laski's thought. In the 1920s, a group of intellectuals who had participated in the May Fourth movement and the New Culture Movement formed a small network.¹²⁶ They sought to influence the public by writing articles on political issues under the Nationalist rule and by publishing journals and books.¹²⁷ Much support for civil liberties and human rights and criticism of the Nationalist Party's dictatorship in the late 1920s came from the *Crescent (Xinyue)*, a monthly magazine, named after Tagore (1861-1941)'s 1913 collection of poetry.¹²⁸ The *Crescent* started as a purely literary magazine in March 1928 with prominent scholars as editors, including Hu Shi, Xu Zhimo, Wen Yiduo (Wen I-to, 1899-1946), Liang Shiqiu (Liang Shih-chiu, 1903-1987) and Luo Longji.¹²⁹ Most editors studied in England or America, and were eager to introduce works by English and American writers in the journal.¹³⁰ The magazine started to focus on publication on political issues, such as human rights and the rule of law, from its 10 April 1929 issue (volume 2, issue 2) highlighted by Hu Shi's article "Human Rights and the Provisional Constitution".¹³¹ Those who wrote for the magazine formed an intellectual network called the "Crescent Society" (*xinyue she*) and were representative of an intellectual shift in thinking.¹³²

¹²⁵ Chen, *Zhishi chuanbo yu guojia xiangxiang*, pp. 163-164.

¹²⁶ Wong Young-Tsu, "The Fate of Liberalism in Revolutionary China: Chu Anping and His Circle, 1946-1950" (1993) 19(4) *Modern China* 457, 458.

¹²⁷ Lubot, *Liberalism in an Illiberal Age*, p.81.

¹²⁸ Svensson, *Debating Human Rights in China*, p.160.

¹²⁹ Svensson, *Debating Human Rights in China*, p.160.

¹³⁰ Lubot, *Liberalism in an Illiberal Age*, p.82.

¹³¹ Lubot, *Liberalism in an Illiberal Age*, p.82.

¹³² Svensson, *Debating Human Rights in China*, p.160.

Chinese internal politics from 1927 to 1949 was overshadowed by the conflict between the Nationalist Party and the Communist Party.¹³³ While criticising the Nationalist Party's dictatorship, the *Crescent Society* also rejected the dogma of Communism.¹³⁴ In searching for a modern and democratic China, like many other Chinese intellectuals at that time, the editors and contributors to the journal found Laski's works appealing, which provoked a rethinking of possibilities to balance those tensions between individualism and social control and between liberty and equality.

In 1929, members of the Crescent Society formed a new society called the Discussion Society (*pingshe*), which was modelled on the Fabian Society and served as a forum for debating social and political issues.¹³⁵ Luo Longji introduced the history of the Fabians and the Fabian approach to politics to the Discussion Society.¹³⁶

Luo Longji was born in Anfu, Jiangxi province. In 1912 he left home to study at the Tsinghua College, which was founded as a preparatory school for Chinese students to study in the United States. Luo arrived in the United States in 1922 and received a master's degree at the University of Wisconsin in 1925.¹³⁷ He then came to England and studied at the London School of Economics for one year writing up his thesis.¹³⁸ He returned to the United States and completed a PhD at Columbia University in 1928. Both his master's and PhD thesis were about Parliamentary elections in England.¹³⁹ In the

¹³³ Feng Chongyi, "The Party-State, Liberalism and Social Democracy: The Debate on China's Future" in M. Goldman and E. Gu (eds) *Chinese Intellectuals between State and Market* (London: Routledge, 2004), p.236.

¹³⁴ Lubot, *Liberalism in an Illiberal Age*, p.116.

¹³⁵ Luo, *Wo de beibu yu fangan*, p.13.

¹³⁶ T. Narramore, "Luo Longji and Chinese Liberalism: 1928-32" (1985) 32 *Papers on Far Eastern History* 165, 185.

¹³⁷ See Luo, *Wo de beibu yu fangan*.

¹³⁸ Luo Longji, *The Conduct of Parliamentary Elections in England (PhD Thesis, Faculty of Political Science, Columbia University* (New York: Julius Lewin & Son, 1928) preface, p.1.

¹³⁹ Sun Hongyun, "Minzhu shehui zhuyi yu minguo zhengzhi: Lasiji zai zhongguo de yingxiang (Democratic Socialism and Politics in the Republic: Laski's Influence in China)" (2012) 3(1) *Zhengzhi sixiang shi* (Journal of the History of Political Thought) 97, 101.

preface to his PhD thesis, Luo thanked Laski for making “connections with different party organizations in England to conduct his personal investigations”.¹⁴⁰ Strictly speaking, Laski was not Luo’s supervisor; nevertheless, Luo regarded himself as Laski’s disciple mainly due to Laski’s profound influence on his thought.¹⁴¹ In the autumn of 1928, Luo returned to Shanghai and started teaching at the China Institute as the Dean and Professor in Political Economy. He actively participated in the human rights debate in 1929-30.¹⁴²

Laski’s work and Fabianism were disseminated through the *Crescent Magazine* and the Crescent bookshop. Publications of articles on human rights proliferated in the Crescent magazine in 1928-29, culminating in the publication of a collection of essays on human rights (*Essays on Human Rights, Renquan lunji*) edited by Hu Shi and Luo Longji in 1930.¹⁴³ The Crescent Society was thus also referred as “the human rights group” (*renquan pai*) because of their publication and debate on human rights issues.¹⁴⁴ The *Crescent* magazine reverted to its literary focus from volume four, issue 2 (September 1932), and its final issue was dated 1 June 1933.¹⁴⁵

The human rights debate 1929-30

The year 1929 is regarded as a “Human Rights Year” in twentieth century China.¹⁴⁶ The human rights debate 1929-30 was led by Hu Shi and Luo Longji, among others, who studied in the United Kingdom and the United States, aiming to establish

¹⁴⁰ Luo, *The Conduct of Parliamentary Elections in England*, p.1.

¹⁴¹ Gong Xiangrui, *Mangren aoliwong (Orion the Blind: The Autobiography of Gong Xiangrui)* (Taipei: Yuanzhao, 2011), p.88.

¹⁴² Luo, *Wo de beibu yu fangan*, p.3.

¹⁴³ Hu Shi and Luo Longji (eds), *Renquan lunji (Essays on Human Rights)* (Shanghai: Xinyue shudian, 1930).

¹⁴⁴ Svensson, *Debating Human Rights in China*, p.160.

¹⁴⁵ Lubot, *Liberalism in an Illiberal Age*, p.84.

¹⁴⁶ Shao Jian, *Ershi shiji de liangge zhishi fenzi: Hu Shi Yu Lu Xun (Two Intellectuals in the Twentieth Century: Hu Shi and Lu Xun)* (Guangming ribao chubanshe, Xiuwei Zixun, 2008), p.230.

constitutionalism, democracy and the rule of law, as well as protesting against the Nationalist Party's dictatorship.

Enraged by an order for the protection of human rights issued by the Nationalist government on 20 April 1929, Hu Shi published "Human Rights and Constitutional Law" (*renquan yu yuefa*) in Volume 2, Number 5 of *the Crescent* (1929), criticising the order as a mere formality.¹⁴⁷ In his article, he cited the order, which said:

"Human rights in all countries are protected by law. When this period of political tutelage begins, we desperately need to establish the foundation for the rule of law. Within the jurisdiction of the Republic of China, no individual or group may violate the body, freedom and property of anyone else. Those who violate this order shall be severely punished by law."¹⁴⁸

Hu Shi raised three major challenges to the nature of the order: first, this order recognised "human rights" as "body, freedom and property", but it did not specify the rules regarding how to protect these human rights.¹⁴⁹ Second, this order only prohibited violation of human rights by "individuals or groups" but did not mention violation by government organisations.¹⁵⁰ Finally, the order stated: "Those who violate the order shall be severely punished by law". Yet there were no laws that can protect the human rights of the people.¹⁵¹ As a result of the order being vacuous, anyone who has been labelled as "anti-revolutionaries" will have no protection of their human rights. "Their bodies can be

¹⁴⁷ Hu Shi, "(Human Rights and Provisional Constitution (1929))" in *Hu Shi wenji (Collective Works of Hu Shi)*, 12 Vols., Vol. 5, Ouyang Zhesheng (ed) (Beijing: Beijing daxue chubanshe, 1998), pp.524-529.

¹⁴⁸ Hu, *Renquan yu yuefa*, p.523.

¹⁴⁹ Hu, *Renquan yu yuefa*, p.523.

¹⁵⁰ Hu, *Renquan yu yuefa*, p.523.

¹⁵¹ Hu, *Renquan yu yuefa*, p.523.

humiliated, their freedom can be taken away, and their property can be arbitrarily confiscated. But none of these actions is considered as ‘illegal behaviour’.”¹⁵²

Hu Shi further elaborated the meaning of the rule of law in his essay:

“The ‘rule of law’ means that all acts of all government officials must be within the limit of the law. The rule of law only recognises the law, not personal authority. ... However, the reality is that there are no limits prescribed by law on political actions, and the rights and freedoms of the people have been not protected by the law. Under such circumstances, how could we protect human rights? How would we establish the foundation of the rule of law?”¹⁵³

Hu Shi argued:

“If we really want to protect human rights and to establish a foundation for the rule of law, the first thing we must do is to draft a constitution for the Republic of China, or at least a provisional constitution for the so-called period of political tutelage.”¹⁵⁴

Hu Shi’s essay on “Human Rights and the Provisional Constitution” had strong repercussions in Chinese society. The *Crescent* magazine opened a column for discussing Hu Shi’s essay, published all the letters it received from the public, and continued publishing essays on human rights written by Hu Shi, Luo Longji and Liang Shiqiu, among others.¹⁵⁵ Hu Shi’s essay marked the beginning of the human rights debate and the subsequent human rights movement.¹⁵⁶

¹⁵² Hu, *Renquan yu yuefa*, p.524.

¹⁵³ Hu, *Renquan yu yuefa*, p.527.

¹⁵⁴ Hu, *Renquan yu yuefa*, p.527.

¹⁵⁵ Jiang, “Hu Shi and Wang Zaoshi”, 67-68.

¹⁵⁶ Jiang, “Hu Shi and Wang Zaoshi”, 67.

Following Hu Shi's "Human Rights and the Provisional Constitution", Luo Longji published a series of articles criticising the vacuous order on the protection of human rights issued by the Nationalist party and its actual violation of human rights in the *Crescent Magazine* between 1929 and 1930. In Volume 2, Number 5 of the *Crescent Magazine* (1929), Luo Longji published an essay "On Human Rights" (*Lun renquan*), which stood out as the most theoretically sophisticated discussion of the meaning and nature of human rights among the numerous articles on human rights published in the magazine.

In his article "On Human Rights", Luo Longji defended and defined human rights against both the Nationalist Party and the Communist Party who saw the concept of human rights as an abstract idea. Arguing that "the bankruptcy of human rights is a fact in China that cannot be hidden", he examined two fundamental questions: "What are human rights? What are the human rights that we currently desire?"¹⁵⁷ In seeking answers to these questions, Luo Longji often quoted Laski's *A Grammar of Politics*. Luo Longji argued: "Human rights, simply put, are the rights that [are needed] to be a person (*zuo ren*). Human rights are those conditions necessary for one to be a person."¹⁵⁸ Those conditions necessary for one to be a person include "the rights of clothing, food and shelter, as well as the protection of bodily safety".¹⁵⁹ Yet, conditions necessary for one to be a person are not limited to those mentioned above. They also include conditions for developing one's nature and personality and for becoming the best possible person one can be.¹⁶⁰ Further, as an individual is also a member of society, an individual has an obligation to allow "the

¹⁵⁷ Luo Longji, "Lun renquan (On Human Rights)", in *Wo de beibu yu fangan (My Experience and Reactions to Having Been Arrested)*, Xie Yong (ed) (Beijing: Zhongguo qingnian chubanshe, 1999), p.60.

¹⁵⁸ Luo, "Lun renquan", p.61; English translation in Longji Luo, "On Human Rights (Lun Renquan)", trans. S. C. Angle (1999) 31 (1) *Contemporary Chinese Thought* 78, 80.

¹⁵⁹ Luo, "Lun renquan", p.62; English translation in Luo, "On Human Rights", 81.

¹⁶⁰ Luo, "Lun renquan", p.62; English translation in Luo, "On Human Rights", 81.

great majority to enjoy the greatest possible well-being”.¹⁶¹ Luo’s view on the relationship between an individual and society is clearly influenced by Laski: “I have, as a citizen, a claim upon society to realise my best self in common with others”.¹⁶²

For Luo Longji, “function” is essential in defining human rights. His argument echoed Laski’s comment on the nature of rights that “rights...are correlative with functions, I have them that I may make my contribution to the social end...Function is thus implicit in right.”¹⁶³ Luo Longji argued that anything that is necessary for performing the following three functions is a necessary condition for one to be a person, and therefore constitutes a human right: “first, preserving life; second, developing individual nature and nurturing personality; and third, attaining the goal of the greatest well-being for the vast majority of humanity.”¹⁶⁴ Luo Longji took freedom of speech to elaborate on this point. Freedom of speech is a human right. This is not because it satisfies people’s desires, nor because it is endowed in people by nature, nor because it is permitted by law. “The fundamental reason is its function—it is a necessary condition for being a person.”¹⁶⁵

Luo Longji’s conception of human rights indicates that for a person to enjoy individual well-being, an individual also needs to contribute to the social good as a member of society. In the conclusion of the article, Luo Longji put forward the thirty-five articles of human rights that the Chinese had to strive for, including “the rights of clothing, food and shelter, the right to private property, the right to work, freedom of thought, belief, speech, publication and assembly”.¹⁶⁶ The state does not create human rights, but recognises human rights.¹⁶⁷ Luo’s view was highly influenced by Laski’s argument that “rights...

¹⁶¹ Luo, “Lun renquan”, p.62; English translation in Luo, “On Human Rights”, 82.

¹⁶² Laski, *A Grammar of Politics*, p.39.

¹⁶³ Laski, *A Grammar of Politics*, p.94.

¹⁶⁴ Luo, “Lun renquan”, pp.63-64; English translation in Luo, “On Human Rights”, 82.

¹⁶⁵ Luo, “Lun renquan”, p.64; English translation in Luo, “On Human Rights”, 82.

¹⁶⁶ Luo, “Lun renquan”, pp.73-78.

¹⁶⁷ Luo, “Lun renquan”, p.67.

are prior to the State” and that “[t]he State, briefly, does not create, but recognises, rights...”¹⁶⁸ For Luo, the state’s function was to protect human rights, that is, the conditions necessary to be human.¹⁶⁹ Likewise, human rights were not necessarily dependent on law: “above the law there are human rights, and law does not necessarily completely exhaust human rights”.¹⁷⁰ The law’s function is to protect human rights, and the law derives from human rights.¹⁷¹ For members of a society to enjoy their human rights, the society needs the rule of law; to establish the rule of law, we first need a constitution.¹⁷² The Constitution is the law through which the government is subjected to majority rule by the people.¹⁷³

Human rights and the constitutionalist movement

Luo Longji’s fierce criticism of the Nationalist Party led to the confiscation of several issues of the *Crescent Magazine*, a ban on the *Collected Essays on Human Rights* (*renquan lunji*) published by the Crescent bookshop, and his arrest by the police department of Shanghai on 4 November 1930.¹⁷⁴ Upon learning the news of the arrest of Luo Longji, Hu Shi immediately contacted his circle of friends in the Nationalist Party for help, and Luo Longji was soon released.¹⁷⁵ Luo Longji argued later that his experience evidenced the fact that the power of the party was stronger than the law; there existed the rule of the party rather than the rule of law.¹⁷⁶ Since the release of Luo Longji, more and more pressure had been put on Hu Shi and editors of the *Crescent Magazine*, leading to the withdrawal of Hu Shi and many editors from the battle.¹⁷⁷ Luo Longji continued as

¹⁶⁸ Laski, *A Grammar of Politics*, p.89 and p.91.

¹⁶⁹ Luo, “Lun renquan”, p.65.

¹⁷⁰ Luo, “Lun renquan”, p.63; English translation in Luo, “On Human Rights”, 82.

¹⁷¹ Luo, “Lun renquan”, p.67.

¹⁷² Luo, “Lun renquan”, p.68.

¹⁷³ Luo, “Lun renquan”, p.68.

¹⁷⁴ Jiang, “Hu Shi and Wang Zaoshi”, p.72.

¹⁷⁵ Jiang, “Hu Shi and Wang Zaoshi”, p.72.

¹⁷⁶ Luo, *Wo de beibu yu fangan*, p.17.

¹⁷⁷ Jiang, “Hu Shi and Wang Zaoshi”, p.72.

editor-in-chief of the *Crescent Magazine*, but struggled to secure sufficient contributions to the magazine.¹⁷⁸

At the time when the *Crescent Magazine* was in great danger, Wang Zaoshi returned to China from abroad, and immediately into the editorial work of the *Crescent Magazine*.¹⁷⁹ Like Luo Longji, Wang Zaoshi was born in Anfu county, Jiangxi province. In 1917, he entered the Tsinghua College. After graduation in 1925, he went to the United States for a PhD in Political Science at the University of Wisconsin. After obtaining his PhD in 1929, Wang went to the London School of Economics as a research student, studied Fabian socialism, and worked with Laski on political thought and comparative politics. Wang Zaoshi returned to China in 1930 and taught at Guanghua University in Shanghai as Head of the Department of Political Science.¹⁸⁰ He published translations of Laski's *Democracy in Crisis* (1933) and *The State in Theory and Practice* (1935) in 1937. During the 1930s and 1940s, Wang published many significant works opposing the Nationalist Party's dictatorship and criticising the non-resistance policy towards the Japanese invasion.¹⁸¹ He actively participated in the movement for National Salvation and the movement for a democratic constitution and remained a human rights advocate for the rest of his life. He was also active in the China Democratic League during and after the Second Sino-Japanese War (1937-1945). "He was a household name and a celebrated patriot and advocate of democracy in China."¹⁸²

From January to September 1931, Wang Zaoshi published a series of articles in the *Crescent Magazine* and *East Magazine* (*dongfang zazhi*), discussing problems and

¹⁷⁸ Jiang, "Hu Shi and Wang Zaoshi", p.72.

¹⁷⁹ Jiang, "Hu Shi and Wang Zaoshi", p.73.

¹⁸⁰ Tsinghua University School of Law website:

http://www.law.tsinghua.edu.cn/publish/law/6878/2011/20110323110030576778575/20110323110030576778575_.html.

¹⁸¹ Jiang, "Hu Shi and Wang Zaoshi", p.57.

¹⁸² Jiang, "Hu Shi and Wang Zaoshi", p.57.

transformations in China brought by its interaction with the West. Wang Zaoshi's essay "From Emperor with Mandate to Villain Emperor" (*You zhenming tianzi dao liumang huangdi*) marked another highlight of the *Crescent Magazine* (volume 3, number 11, 1931). In this essay, Wang Zaoshi listed serious violations of human rights by the autocratic rule of the Nationalist Party.¹⁸³

Laski's definition of rights was the major source of influence for Wang Zaoshi's conception of human rights. Like Luo Longji, Wang Zaoshi emphasised that human rights were important not only to develop an individual and protect individual rights but also to promote the progress of society.¹⁸⁴ On 18 September 1931, Japanese troops took the opportunity when the Chinese defence was very weak to invade and occupied three provinces in Northeast China. To save the country from this national crisis, Wang Zaoshi, working with other patriots, initiated the Democratic Constitutionalist movement in China. They demanded the Nationalist Party to put the period of political tutelage to an end and establish democratic constitutionalism.¹⁸⁵ Their initiative was widely reported by newspapers and supported by public opinion.¹⁸⁶

Wang Zaoshi's initiative gained support from Sun Ke (1891-1973), the then President of the Legislative Yuan of the Nationalist government. After the third plenary session of the Nationalist Party's fourth executive committee in December 1932, Sun Ke convened a committee which consisted of more than forty legislators and jurists for drafting a constitution.¹⁸⁷ The Democratic Constitutionalism movement led by Wang Zaoshi continued the Human Rights movement sponsored by Hu Shi and Luo Longji and started materialising Hu Shi and Luo Longji's advocate for formulating a constitution in order to

¹⁸³ Jiang, "Hu Shi and Wang Zaoshi", p.74.

¹⁸⁴ Svensson, *Debating Human Rights in China*, p.173.

¹⁸⁵ Svensson, *Debating Human Rights in China*, p.173.

¹⁸⁶ Jiang, "Hu Shi and Wang Zaoshi", p.76.

¹⁸⁷ Jiang, "Hu Shi and Wang Zaoshi", p.82.

protect human rights. In 1933, the Republic of China had a new draft of constitution, which went through several rounds of editing until 1937.¹⁸⁸

Further work on the constitution was halted during World War II. On 10 January 1946, the Political Consultative Conference was held in Chongqing. As one of the representatives of the Democratic League, Zhang Junmai attended the conference, and was placed in the draft constitution group of the Conference.¹⁸⁹ Luo Longji also attended the conference as another representative of the Democratic League.

Following the discussion and negotiation of different parties participated in the Conference, Zhang Junmai drafted a constitution which included 14 chapters and 149 articles. Zhang Junmai valued human rights and freedoms, as well as duties, in the draft. The articles listed the right to life, the right to property, the right to education, freedoms of the people, such as personal, residence, migration, speech, writing, publishing, communication, belief, assembly, association, etc., as well as production, work, litigation, and election. Laski's conception of rights was reflected in the draft constitution, as all the rights and freedoms shall not be detrimental to social order or public welfare. On 25 December 1946, the National Assembly adopted this Constitution of the Republic of China.¹⁹⁰ The 1946 constitution was adopted by the Nationalist government, which bore the imprint of Zhang Junmai's social democratic ideas and contained a chapter on rights and obligations tantamount to a bill of rights.¹⁹¹ The 1946 constitution was abolished in mainland China but remained in effect in Taiwan after 1949.

¹⁸⁸ Note, "Dr Wu's Constitution" (2019) 132(8) Harvard Law Review 2300, 2300, 2307.

¹⁸⁹ The 38 representatives present at the meeting were divided into five groups to discuss issues, including government organisations, governance programmes, military issues, the National Assembly and the draft constitution.

¹⁹⁰ The Constitution was promulgated by the National Government on 1 January 1947 and put into effect on 25 December of the same year. In addition to the preamble, the Constitution consists of 14 chapters and 175 articles.

¹⁹¹ Fung, "State Building, Capitalist Development, and Social Justice", p.345.

Conclusion

This article offers a new perspective for evaluating the evolution of the human rights idea in Republican China through embracing a wide range of methods, subjects and sources. It fulfils two primary objectives. First, to uncover Laski's influence on the evolution of the human rights idea in China. Second, to expand the methodology of studying the transfer of human rights ideas across different contexts. For methods, it identifies the limits of existing narrative vehicles for analysing the transfer of legal ideas. To tackle these limits, this article builds on the metaphor of "travelling concepts" and draws upon Said's travelling theory and materials from biographies. Said's travelling theory has limits, as it focuses on the transfer of ideas but does not go much further to study the institutionalisation of ideas. The combination of these methods and theories, however, enables us to draw links between the studies of ideas and institutions, as well as between macro level (eg, systems and institutions) and micro level studies (eg, people and ideas) of the travel of legal concepts. The combined theories and methods therefore help lay out a broader theoretical and analytical framework to situate the travel of Laski's idea of "rights" and the evolution of the human rights idea in Republican China within their intellectual, cultural and political contexts.

In terms of examining new subjects and sources, this article investigates a neglected aspect of Laski's life and work, that is, his influence on his Chinese disciples and the evolution of the human rights idea in Republican China. This new comparative biographical study directs our attention to the individual contribution to the travel of legal concepts that had previously been neglected in our field of enquiry. This kind of study also extends beyond the telling of an individual life to an examination of various friendship networks, professional relationships and political groups, as well as of the political and socio-economic contexts in which these individuals lived. Many of Laski's disciples, such as Luo Longji, Zhang Junmai and Wang Zaoshi, were liberal, socialist and

democratic. They shared the same concern with Laski in dealing with tensions (“a set of conditions for acceptance”¹⁹² in Said’s framework), such as those between the individual and society, between liberty and equality and between rights and duties, in the period they lived in. As a result, they were more influenced by Laski in the Fabian period. The circulation of Laski’s work was, however, interrupted by Communist rule in 1949. The development of rights in China was suppressed in the Cultural Revolution (1966-76). Laski’s significance was therefore neglected for decades in mainland China.

This article advances an important and inter-disciplinary perspective in the examination of human rights as a travelling concept. It demonstrates the value of engaging with history and intellectual biography in comprehending law and politics. Further, the travel of the human rights idea is through “translation”, contrary to the naïve model identified by William Twining, discussed in the Introduction. The travel of the human rights idea in Republican China is the result of interactions of networks of various actors each of whom “translates” (e.g., the translation of Laski’s *A Grammar of Politics*, the teaching of Laski’s works in the then newly founded departments of politics, the participation in the human rights debate, and the drafting of a new constitution) the concept of human rights according to their own experiences, interests, beliefs and concerns. As discussed above, Laski did not propose any universal concept of human rights. Yet, the relational concept of rights he promoted was translated and recast as a concept of human rights by his Chinese disciples in Republican China. The evolution of the human rights idea helped Laski’s Chinese disciples to situate the concept of rights outside the power of the state and to recast the concept of rights as a conditional authority of the state through which their proposed constitutionalism was able to evolve.

¹⁹² Said, “Travelling Theory”, p.227.