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THE NOTIONS OF 'POWER' AND 'RIGHTS'  
IN CHINESE POLITICAL DISCOURSE

One of the questions we may wish to approach in the study of cross-cultural language contacts is the transfer of the terminology and concepts of a specific field of knowledge from one linguistic context into another. When doing so we may make the mistake of imposing the semantics and conceptual framework of a specific term in the donor language onto the translation of the term in the recipient language. One may easily assume that the Chinese are conceptualizing the Western notion of 'rights', for instance, when they are using the term *quanli* 權利 in a contemporary context. In fact, however, we can only determine whether there may possibly be parallel semantic fields for the terms 'rights' and *quanli* in the two languages by looking at the process of terminological transfer and the context in which the term is used in the Chinese discourse.

In the following, I shall attempt to show that caution is strongly advisable when making these assumptions. Finite conclusions regarding the relationship between a specific term in the donor and the recipient languages may be drawn only after the history and linguistic composition of a term has been thoroughly investigated. The relationship between 'rights' in a Western political context and the term *quanli* in Chinese may be more complex than one may first assume.

1. THE ETYMOLOGY OF 'POWER' AND 'RIGHTS'

A seminar on Chinese human rights in Oslo triggered my curiosity for the conceptual difference between 'authority' and 'rights' in Chinese. During a dialogue on the difference between the Western and the Chinese tradition of rights, the well-trained Chinese interpreter 'misunderstood' his fellow countryman when using the term *quanli* in the debate. It was clearly a response to a question on 'rights' in the Chinese social context but the interpreter apparently heard the homophone term *quanli* 權力 for 'authority' or 'power'. The fact that these two homophone words *quanli* 權利 and *quanli* 權力 may be confused by a trained interpreter seemed not to be a clear-cut case of linguistic

misunderstanding but rather a problem of two terms that may not be conceptually very different in Chinese, and certainly not as mutually incompatible as they are generally understood in Western languages. The apparent confusion of terms in modern spoken Chinese disappears of course in writing, as indicated above. The two *li* (利 and 力) were also distinguishable in ancient Chinese pronunciation, as the former *li* for ‘power’ was pronounced *lik* while the latter *li* for ‘profit’ was pronounced *li<sup>h</sup>*.<sup>1</sup> But the problem still seems to exist even in writing as the short form *quan* may be used for both notions. My suspicion about the blurred distinction between the two was confirmed by a short inquiry on the understanding of *quan* in different contexts, especially in the binomial *minquan*, among a number of Chinese informants. This important element in the Chinese concept of ‘rights’ is also pointed out by Wang Gungwu: “The power and authority it [rights] stands for has to be grasped; it is the handle or lever which, when used effectively, gives its user the right to act.”<sup>2</sup> Wang sees the traditional Chinese power-structure based upon the diffusion of power and rights: “... the total dependence on power for anyone to have rights at all...”<sup>3</sup> The following short exposition is thus an attempt to pry into the early origins of the introduction of the notion of ‘rights’ in the Chinese political discourse of the late imperial period in order to identify how these two concepts that people in the West regard as fundamentally different came to be articulated in the modern Chinese language.

Both binomials *quanli* are found in classical Chinese literature, where the *quanli* of ‘power’ carries connotations close to its present usage, while the *quanli* of ‘rights’ clearly must be interpreted differently in early texts. The *quanli* of ‘power’ consists of the two characters for ‘authority’ and ‘strength’. *Quan* for ‘authority’ is derived from the term for ‘a scale’ and thus the verbal notion of ‘to weigh’, ‘to deliberate’, meaning to balance different options, the light and the

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<sup>1</sup> Edwin G. Pulleyblank. 1991. *Lexicon of Reconstructed Pronunciation in Early Middle Chinese, Late Middle Chinese, and Early Mandarin*. Vancouver: University of British Columbia Press, pp. 188–9.

<sup>2</sup> Wang Gungwu. 1991. “Power, Rights, and Duties in Chinese History”, in: id. *The Chineseness of China. Selected Essays*. Hong Kong: Oxford University Press, pp. 165–186; 176. See also Marina Svensson. 1996. *The Chinese Conception of Human Rights: The Debate on Human Rights in China, 1898–1949*. Lund: Dept. of East Asian Languages, Lund University, p. 85.

<sup>3</sup> Wang 1991, p. 178.

heavy (*qingzhong* 輕重), in a political context. The authority to make these deliberations is connected to the authority of a ruler, thus *quanli* denoting the 'authority' of the ruler, as in a passage from the historiographical work *Hanshu* (Book of the Han):

況莫大諸侯，權力且十此者摩。<sup>4</sup>  
Comparably there is nothing greater than the [states of] dukes and their power (*quanli*) is ten-fold.

The notion *quanli* denoting the 'authority' of a ruler is ancient and the later general term *quanli* for general political 'authority' is directly derived from this. The homophone term *quanli* for 'rights', however, is quite another matter. This binomial term may also be found in early literary sources, such as in the philosophical text *Xunzi*:

是故權利不能傾也，群眾不能移也。天下不能蕩也。<sup>5</sup>  
Therefore, power (*quan*) and profit (*li*) may not be distorted. Commoners and ordinary people may not move [freely]. The empire may not be shaken.

Here, the binomial is simply a combination of the terms for 'power' and 'profit'. The binomial *quanli* denoting 'rights' is clearly a much later development of this combined notion of 'power' and 'profit', initially indicating 'power and profit' or 'giving consideration to what is profitable'.

## 2. THE FIRST TRANSLATION OF 'RIGHTS'

Ernest Richard Hughes sums up the effects of the Western 'invasion' of China as follows: "Western political thought is in some ways the most revolutionary of all the revolutionary influences which the white races have exercised in China."<sup>6</sup> Simple knowledge about the political systems in the West had been introduced to the Chinese readership through travelogues and diaries from trips abroad from the middle of the eighteenth century onwards.<sup>7</sup> It was, however, not until after the

<sup>4</sup> *Ban Gu* 班固. 1990 [1964]. *Hanshu* 漢書 (Book of the Han). Beijing: Zhonghua shuju, p. 2232.

<sup>5</sup> *Xunzi* 荀子. 1919–1936. *Sibu congkan* 四部叢刊 ed. Shanghai: Shangwu yinshuguan, 1.8.

<sup>6</sup> Ernest Richard Hughes. 1968. *The Invasion of China by the Western World*. London: Adam & Charles Black, p. 104.

<sup>7</sup> For instance Chen Lunjiong 陳倫炯. 1793 [1730]. *Haiguo wenjianlu* 海國聞見錄 (A record of the overseas nations). Yihai zhuchen 藝海珠塵 ed. n.p.

Opium War that Western political writings were introduced for the first time into China through translation. Lin Zexu 林則徐 (1785–1850), when taking upon himself the insurmountable task of curbing the British opium trade in Canton in 1839, saw the importance of acquiring a better understanding of Western learning and tradition in order to deal with the foreign barbarians and therefore started compiling and translating information on the West. A first partial translation of Murray's *Cyclopaedia of Geography* was enlarged by Wei Yuan 魏源 (1794–1856), a close friend and associate of Lin, and published under the title *Haiguo tuzhi* 海國圖志 (Illustrated treatise on the maritime countries) in 1844 in 50 chapters (*juan* 卷).<sup>8</sup> The compilation was enlarged to 60 chapters in 1847<sup>9</sup>, to 100 chapters in 1852<sup>10</sup>, and finally to 125 chapters in 1895.

*Haiguo tuzhi* discusses legal systems in an article from the magazine *Chinese Repository* (*Aomen yuebao* 澳門月報) 1839/40.<sup>11</sup> The author claims that the division of Europe into small nation-states is a result of an inadequate legal tradition in the West.<sup>12</sup> The text does not discuss or go into details of the actual inadequacies and content of that tradition, and thus it is not very informative for its Chinese readership with regard to knowledge about the West. These arguments and the fear of potential national disintegration are, however, well-known from the Chinese tradition and indicate what miserable scenarios Chinese intellectuals anticipated in view of Western influence and aggression. Intellectuals in 1840 did not see any flaws in the Chinese legal tradition that needed to be supplemented from the West. The reason why the *Haiguo tuzhi* contains a very short text on Western law,<sup>13</sup> a translation from Vattel's *The Law of Nations*<sup>14</sup> entitled *Geguo lilili* 各國律例 and ascribed to a certain Huadaer 滑達爾 (Vattel), is presuma-

<sup>8</sup> Wei Yuan 魏源 (ed.). 1844. *Haiguo tuzhi* 海國圖志 (Illustrated treatise on the maritime countries). 50 *juan*. Yangzhou: Guweitang.

<sup>9</sup> Wei Yuan 魏源 (ed.). 1847. *Haiguo tuzhi* 海國圖志 (Illustrated treatise on the maritime countries). 60 *juan*. Yangzhou: Guweitang.

<sup>10</sup> Wei Yuan 魏源 (ed.). 1852. *Haiguo tuzhi* 海國圖志 (Illustrated treatise on the maritime countries). 100 *juan*. Yangzhou: Guweitang.

<sup>11</sup> In *juan* 49 in the 1844 edition, in *juan* 51 in the 1847 edition, and in *juan* 81 in the 1852 and later editions.

<sup>12</sup> *Haiguo tuzhi* 1852, 81.1a–2a.

<sup>13</sup> In *juan* 52 in the 1847 edition and in *juan* 83 in the 1852 and later editions. This text was added to the *Haiguo tuzhi* for the first time in the 1847 edition, and thus not to be found in the 1844 edition.

<sup>14</sup> Emer de Vattel. 1863. *The Law of Nations*. Philadelphia: T. & J. W. Johnsen.

bly not that the compiler saw the need to supplement the Chinese legal system. The introduction of Western ideas on international law was only seen as a tool to obtain a better understanding of how to deal with international aggression and trade.

This translation is likely to be the earliest piece of Western political literature introduced into China.<sup>15</sup> A surprising feature of this relatively short text is that Wei Yuan has, in that very short chapter on international law, found place for basically the same text translated twice by two different translators, Peter Parker (1804–1888), the first medical missionary to China, and Yuan Dehui 袁德輝, imperial interpreter of Western languages at the Colonial Office (*Lifanyuan* 理藩院) in Beijing.<sup>16</sup> Their very different style of translation may have urged Wei to include both these early attempts at interpretations of Western legal language in his book. Chang Hsi-t'ung has shown that both Parker and Yuan have misunderstood technical features in the way Vattel's book is organized.<sup>17</sup> He has also pointed out that while Parker's translation is more "vitiating by foreign phraseology", Yuan's wording "fails in many places to reflect the lucid precision of the original", which is not surprising taking into account the different mother-tongues of the two. These features, however, do not seem to be a suitable characterization of their treatment of the notion of political and legal 'rights', a term appearing altogether nine times in the passages translated by Parker and twenty-two times in the paragraphs translated by Yuan. Parker seems to have been distressed by the lack of an adequate term for 'rights' in Chinese and has in most cases reformulated the respective passage using terms like 'in cases of' (*dang ... zhi li* 當... 之例) and 'wishing to' (*yu* 欲), for instance in the passages "... gives men a right to employ force ...", translated as "men all have a desire to fight" (*ren ren jie yu zhan* 人人皆欲戰), or "for the preservation of their rights", translated as "wish to secure themselves and pro-

<sup>15</sup> Cf. Chang Hsi-t'ung. 1950. "The Earliest Phase of the Introduction of Western Political Science into China", *Yenching Journal of Social Studies* 5, p. 1417–44; 1429; Cao Nianming 曹念明. 1992. "'Geguo lüli' shi Zhongguo zuizao fanyi de guojifa zhuzuo" 《各國律例》是中國最早翻譯的國際法著作 ('The law of Nations' is the earliest Chinese translation of a work on international law), *Lishi daguanyuan* 3, p. 51.

<sup>16</sup> Cf. Chang 1950, pp. 1427–31. See also Wang Weijian 王維儉. 1985. "Lin Zexu fanyi xifang guojifa zhuzuo kaolüe" 林則徐翻譯西方國際法著作考略 (Some remarks on Lin Zexu's translation of a work on international law), *Zhongshan daxue xuebao* 1, pp. 58–67.

<sup>17</sup> Chang 1950, p. 1429.

tect their property” (*yu zi bao qi shen zi hu qi di* 欲自保其身自護其地). Yuan has attempted to apply a specific term translating the notion of ‘rights’ and chosen to use *daoli* 道理, or the abbreviated form *li* 理, strictly throughout his text, altogether in twelve places, except for the last two paragraphs printed separately at the end of the text. The term *daoli* would not have been such an inappropriate choice, since the term was already known in the sense of ‘principle’ or ‘reason’, thus being close to the logical connotations of the term ‘rights’. Certainly, it is too general in semantic scope to be considered a good representation of the Western notion of political ‘rights’, but one may argue that it would potentially have been better than the present confusion with ‘power’. Parker has, however, certainly not solved the problem by simply avoiding the term. Two passages which are integrated as parts of the original English text are printed separately towards the end of Yuan’s Chinese text. Added to the fact that the strict system of translating ‘rights’ as *daoli* is broken in these passages, it may be an indication that these are appended to Yuan’s translation from another source or translator before printing. Regardless of the source for these two passages, however, they bear witness of possibly the earliest translation of ‘rights’ as *quan* which is used twice in one of these sentences:

Thus the sovereign power alone possesses authority to make war. ... [I]t is from the particular constitution of each state, ... that is authorized to make war in the name of society at large. The Kings of England, whose power is in other respects so limited, have the right of making war and peace. Those of Sweden have lost it.<sup>18</sup>  
如此惟國王有興兵的權。但各國例制不同。英吉利王有興兵講和的權。綏領王無有此權。<sup>19</sup>

One may argue that the use of *quan* in these passages could as well be translated back into English by using ‘power’ or ‘authority’, and the translator may have understood the passage in that way because of the correlation between the sovereign power authorized to make war and the King of England possessing the right of making war and peace. The translator’s intentions may naturally not be assumed. Still, the graphic features of these passages printed separately from the rest of the text and the inconsistency in the way the term ‘rights’ is being

<sup>18</sup> Vattel 1863, p. 292. The ordering of the Chinese and English text in quotations indicates which text is translated from which. In this instance the *Haiguo tuzhi* passage is a translation from Vattel, hence the English text preceding the Chinese.

<sup>19</sup> *Haiguo tuzhi* 1852, 83.21b.

translated may indicate the earliest translation of 'rights' into the Chinese term *quan*.

### 3. THE SYSTEMATIC INTRODUCTION OF 'RIGHTS'

It is generally acknowledged that W. A. P. Martin's (Ding Weiliang 丁韞良, 1827–1910) translation of Wheaton's *International Law*, published in 1864 under the title *Wanguo gongfa* 萬國公法, represents the first systematic attempt to explain Western political thinking to a Chinese readership.<sup>20</sup> It has also been claimed that Martin was the first to translate the notion of political 'rights' into Chinese,<sup>21</sup> which is clearly not the case as we have seen above. These and later translations of Western political literature introduced a wide variety of Western political terms and concepts into the Chinese language; terms that later became an integral part of the modern political discourse. These texts and translations also instigated a political debate heavily influenced by Western political thinking, a debate that has affinity with the ongoing debate on jurisprudence and rights in contemporary China.

W. A. P. Martin of the American Presbyterian Mission is attributed with the translation of the *Wanguo gongfa* into Chinese, in spite of the fact that a group of Chinese associates assisted him in his work with this text, which was first published by the Chongshiguan 崇實館 with imperial support in 1864. The term 'rights' is consistently translated into *quanli*, or short *quan*, throughout Martin's rendering, for instance where Wheaton discusses the 'absolute international rights of states' (*zhuguo ziran zhi quan* 諸國自然之權):

The rights, which sovereign States enjoy with regard to one another, may be divided into rights of two sorts: *primitive*, or *absolute* rights; *conditional*, or *hypothetical* rights.<sup>22</sup>

凡自主之國相待，操權有二，曰自有之原權，曰偶有之特權。<sup>23</sup>

<sup>20</sup> See Chang 1950; Federico Masini. 1993. *The Formation of Modern Chinese Lexicon and Its Evolution Toward a National Language: The Period from 1840 to 1898*. Berkeley: Journal of Chinese Linguistics (Monograph Series, no. 6), p. 47; Lydia H. Liu. 1995. *Translingual Practice. Literature, National Culture, and Translated Modernity—China, 1900–1937*. Stanford: Stanford University Press, pp. 279–80.

<sup>21</sup> Svensson 1996, p. 84.

<sup>22</sup> Henry Wheaton. 1866. *Elements of International Law*. Boston: Little, Brown, and Company, p. 75.

<sup>23</sup> W. A. P. Martin et al. (trs.). 1864. *Wanguo gongfa* 萬國公法 (International Law). Beijing: Chongshiguan, 2.1a.

The sources and inspirations for Martin's coinage of terms during his service at the Tongwenguan are not known. With regard to the new term *quanli* that he introduces to translate 'rights' we can only speculate that he may have been influenced by Yuan Dehui's translation in *Haiguo tuzhi*. There are, however, no other indications that he was influenced in any way by the *Haiguo tuzhi* translations of Vattel.<sup>24</sup> Already at this stage we can perceive the possible confusion between 'power' and 'rights' in Chinese, a diffusion of terms that was upheld for a long time and which was possibly utilized by Chinese authorities to curb demands for extended political rights in modern times; no rights (*quan*) without power (*quan*)!

The translation of Wheaton's work also introduced the distinction between absolute and conditional rights, a philosophical debate whether rights can be understood as inherent in man or only exist as political options under certain social conditions. The early translated texts from the Tongwenguan were probably not widely read among Chinese intellectuals. Only towards the end of the nineteenth century were these texts reprinted and distributed in large numbers in China. The dissemination of Western knowledge accelerated faster in Japan.

#### 4. 'RIGHTS' INTRODUCED IN JAPAN

Japanese students had been sent to the West to study as early as 1862, but the first introduction of Western international law terms was a Japanese translation of *Wanguo gongfa* by Nishi Amane 西周 (1829–1897) published in 1868. Thus the term for 'rights' was introduced in Japan via China in 1868, and *kenri* ( 權利 ) is still the current Japanese term for political 'rights'. The translation of Wheaton's text did not, however, put a premature end to the debate on the nature and meaning of the Western notions of political and legal 'rights' in Japan. In his book *Conditions in the West* (*Seiyō jijō* 西洋事情), published in 1870, Fukuzawa Yukichi 福澤諭吉 (1834–1901) debated the many aspects of the notion of 'rights' in Western languages, discussing both ethical correctness as well as political 'rights' such as freedom and independence, inherent in man by birth. However, he does not apply the Japa-

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<sup>24</sup> See Chiu Huangdah. 1967. "The Development of Chinese International Law Terms and the Problem of Their Translation into English", *Journal of Asian Studies* 27, pp. 485–501; 486–7.

nese term *kenri* in this publication. Similarly, James Hepburn's *A Japanese and English Dictionary*, published in 1867, does not include the term *kenri* for 'rights'. The Japanese words corresponding to the Chinese *daoli* and *li* (*dori, ri*) for 'rights', parallel to Yuan Dehui's translations in *Haiguo tuzhi*, are present in all these contexts. The term *kenri* for 'rights' was included only in the third edition of Hepburn's dictionary published in 1886.<sup>25</sup> The Japanese term *kenri* was rendered by two different Chinese characters for *ri*, 利 and 理, in early Meiji texts. The second alternative was presumably introduced to cope with the negative connotation given to the term by the Confucian disapproval of seeking *li* 利 'profit'.<sup>26</sup> Finally, however, Martin's originally Chinese term *quanli* 權利 or *kenri* also became the standard Japanese term for political and legal 'rights'.

When Komuro Nobuo 小室信夫 and other Japanese intellectuals wrote a petition in 1875 suggesting that Japan should establish a parliament and introduce elections for its members, they argued that the ordinary people had 'rights' which should be made effective through education and changes in the political system. In October 1882, Katō Hiroyuki's 加藤弘之 (1836–1916) work *Jinken shinsetsu* 人權新説 (A new interpretation of natural rights) instigated a heated debate on natural rights in Japan when he turned against his earlier arguments for natural rights and claimed that man could only acquire rights through struggle. In this, Katō was influenced by Bluntschli's statism, whose work had been translated into Chinese two years earlier. The translations of Western texts in China did not have any major effect on the political debate in China herself, whereas in Japan the Meiji-reforms after 1868 were clearly influenced by Western legal and political philosophy initially introduced to Japan via China. It was not until later that returning Japanese students began introducing Western learning directly into Japan. During the first two decades of the twentieth century, law terms not previously or only inadequately translated were rendered into Chinese via Japanese.<sup>27</sup> It also seems that the Chinese term for 'rights' was brought back into the Chinese political debate via discussions in Japan.

<sup>25</sup> According to Yanabu Akira 柳父章. 1996. "The Concept of 'Right'". Translated by Joshua Fogel (unpublished manuscript), pp. 3–8.

<sup>26</sup> Suzuki Shūji 鈴木修次. 1996. "Terminology Surrounding the 'Tripartite Separation of Powers'". Translated by Joshua Fogel (unpublished manuscript), pp. 47–9.

<sup>27</sup> See Chiu 1967, pp. 489–90; Svensson 1996, pp. 96–104.

## 5. AMBIGUOUS ‘RIGHTS’ IN CHINA

It seems that our Western distress regarding the blurred distinction of *quan* as ‘rights’ or ‘power’ was not that apparent to late Qing intellectuals, precisely because the term *quan* retained its early meaning of ‘power’ while gaining the meaning of ‘rights’ from the 1860s onwards. One may suppose that after the notion of ‘rights’ had been introduced by Martin in 1864, it would come into general usage as it did rather soon in Japan. In fact, however, it took several decades before the notion of political and legal ‘rights’ became an integrated part of the Chinese political discourse, and then only inspired by the ongoing debate in Japan. *Quanli* was only applied to translate the foreign concept of ‘rights’ in translations of works on international law in the decades following Martin’s translation. Martin was also responsible for the Chinese translation of Theodore Dwight Woolsey’s (1801–1889) *Introduction to the Study of International Law: Designed as an Aid in Teaching, and in Historical Studies* under the Chinese title *Gongfa bianlan* 公法便覽, published by the Tongwenguan in 1877. In the introduction to the Chinese version, the Chinese translators expressed their distress with the strangeness of the language being created for the purpose of introducing international law into China. They are specifically uncomfortable with the notion of ‘rights’:

公法既別為一科則應有專用之字樣。故原文內偶有漢文所難達之意。因之用字往往似覺勉強。即如一權字。書內不獨指有司所操之權。亦指凡人理所應得之分。有時增一利字如謂庶人本有之權利云云。此等字句初見多不入目。屢見方知為不得已而用之也。<sup>28</sup>

Public law is a separate field of study and thus a specific vocabulary should be devised for this purpose. Therefore, when there are occasional passages in the original text which are difficult to render comprehensively in Chinese, then the translation may sometimes seem strained. Take for instance the character *quan*. In this book it carries not only the meaning of someone being in power but also the meaning of the share ordinary people ought to obtain (‘rights’). Sometimes a character *li* 利 is added to this meaning, such as in the passage ‘the rights enjoyed by the common people’, etc. Passages and terms like this may seem awkward at first but when one has encountered them several times one comes to realize that there is no other way than to use such an expression.

<sup>28</sup> W. A. P. Martin et al. (trs.). 1878. *Gongfa bianlan* 公法便覽 (A practical introduction to public law). Beijing: Tongwenguan, “Fanli” 凡例, pp. 2b–3a.

The same explanation is repeated in the introduction to the 1880 Tongwenguan edition of Johann Kaspar Bluntschli's (1808–1881) *Geschichte des allgemeinen Staatsrechts und der Politik*, translated into Chinese under the title *Gongfa huitong* 公法會通.<sup>29</sup> It is thus clear that *quan* is consciously used in both these two meanings, and that the term *quanli* is eventually introduced in the early Chinese vocabulary on international law, at least by the Tongwenguan translators. When, however, the Jiangnan Arsenal under the supervision of John Fryer (Fu Lanya 傅蘭雅, 1839–1928) published Chinese editions of William Chambers' *Homely Words to Aid the Government* (*Zuozhi chuyan* 佐治芻言) in 1885<sup>30</sup> and Robert Phillimore's *Commentaries upon International Law* (*Geguo jiaoshe gongfalun* 各國交涉公法論) in 1894<sup>31</sup>, *quan* and *quanli* were not applied in the meaning of 'rights'. On the contrary, the Jiangnan Arsenal translators used the inverse binomial *liquan* 利權 for 'rights'. In most cases, however, they reformulated the terms 'rights' (*fensuoyingde* 分所應得, 'the share one should obtain') and 'duties' (*fensuoyingwei* 分所應為, 'the share one should contribute') into explanations rather than translated terms. These explanations were included in some dictionaries as translations of 'rights' and 'duties' but were later discarded from the standard language, possibly because of their awkward and impractical format and certainly because of the later influence from Japan. An example of the use of these terms in Jiangnan Arsenal translations is found in a passage from the preface to the *Geguo jiaoshe gongfalun*:

The necessity of mutual intercourse lies in the nature of States, as it is of individuals, by God, who willed the State and created the Individual. The intercourse of Nations, therefore, gives rise to International Rights and Duties, and these require an International Law for their regulation and their enforcement.<sup>32</sup>

人不能獨立於世，則有交涉之事。人與人有交涉，國與國有交涉。交涉中有分所應為，與分所應得者，皆有公法以定之。公法非一人一國所能定，乃天所命之理。各國皆以為然，此即公法也。<sup>33</sup>

<sup>29</sup> W. A. P. Martin et al. (trs.). 1880. *Gongfa huitong* 公法會通 (An interpretation of public law). Beijing: Tongwenguan.

<sup>30</sup> John Fryer and Ying Zuxi 應祖錫 (trs.). 1885. *Zuozhi chuyan* 佐治芻言 (Homely words to aid the Government). Shanghai: Jiangnan zhizaoju.

<sup>31</sup> John Fryer et al. (trs.). 1894. *Geguo jiaoshe gongfalun* 各國交涉公法論 (A discussion of public international law). Shanghai: Jiangnan zhizaoju.

<sup>32</sup> Robert J. Phillimore. 1879. *Commentaries upon International Law*. London: Butterworths, "Preface", p. xv.

<sup>33</sup> John Fryer et al. 1894, "Yuanxu" 原序 (Original preface), p. 1a.

Yan Fu 嚴復 (1853–1921) attempted a different rendering of the notion of ‘rights’ when he translated the term into *zhi* 職, *zhi* 直 or *minzhi* 民直.<sup>34</sup> Yan Fu is known for his innovative renderings of Western terms in his translations. His desire was to keep the language of Western learning within the classical Chinese tradition with regard to terminology and literary style. His translations are explicitly not composed for the common Chinese readership but rather for the well educated intelligentsia of late Qing times, and are composed in a highly elegant style not overtly faithful to the original text, in spite of Yan’s own ideals of being ‘faithful to the text’ (*xin* 信), ‘comprehensive’ (*da* 達) and ‘eloquent in style’ (*ya* 雅). Precisely because of his literary conservatism in times of great change, with strong influences both from the West and Japan streaming into China, his translations of terms rarely survived and were not accepted in the political language and discourse of his time.<sup>35</sup> That was also the fate of his renderings of the notion of ‘rights’.

#### 6. THE REINTRODUCTION OF JAPANESE ‘RIGHTS’ IN CHINA

Following the Meiji reforms in Japan after 1868, the fight for *jūrun minken* 自由民權 came to be a central part of the political demands raised by Japanese intellectuals. The notion of *minken* (or Chinese *minquan* 民權) is a Japanese innovation, drawing on the already imported Chinese term for ‘rights’, *ken/quan*, in order to create this new notion of ‘people’s rights’. By the time the notion of ‘rights’ and the debate on natural and political rights was introduced into China through translations from Western texts, the debate in Japan focused on the more political notion of people’s rights, heavily influenced by ideas on civil and democratic rights from the West.

Guo Songtao 郭嵩燾 (1818–1891) was the first Chinese diplomat to live in Europe for an extensive period of time, serving as the Chinese ambassador to England from 1876 to 1879 and to France from 1878 to 1879. His *Lundun yu Bali riji* 倫敦與巴黎日記 (London and Paris diaries), published in 1879, had a lasting impact on the political

<sup>34</sup> Cf. Svensson 1996, p. 85.

<sup>35</sup> Cf. He Lin 賀麟. 1925. “Yan Fu de fanyi” 嚴復的翻譯 (Yan Fu’s translations), *Dongfang zazhi* (*The Eastern Miscellany*) 22.20 (25 November 1925). Reprinted Taipei 1971, pp. 75–87; 79.

debate among Chinese intellectuals. Guo described the democratic systems of government and the various forms of elections in the West, using the term *minzhu* 民主 'democracy'<sup>36</sup> in opposition to *junzhu* 君主 'autocracy' or 'monarchy'. The term *minquan* appears in a passage in his diary from 1878: *minquan chang zhong yu jun* 民權常重於君.<sup>37</sup> This passage, however, is not an early Chinese example for the use of the later notion of 'people's rights', as suggested by Xiong Yuezhi.<sup>38</sup> Rather, *minquan* is here simply a binomial describing the power of the people as compared to the power of the emperor and has thus nothing to do with the Japanese notion of *minken/minquan*. Once again, one may observe the possible confusion of terminology created by the ambiguous semantics of *quan*.

The notion of *minquan* became the key term for the introduction of democratic rights in China under the rulership of an enlightened emperor, as advocated by Huang Zunxian 黃遵憲 (1848–1905), Xue Fucheng 薛福成 (1838–1894) as well as Kang Youwei 康有為 (1858–1927), Yan Fu and Liang Qichao 梁啟超 (1873–1929), as I will discuss below. In contrast, the notion of *minzhu* was despised by all these intellectuals. The contempt for *minzhu* is less probably a misinterpretation of the Western concept of democracy, as suggested by Xiong.<sup>39</sup> *Minzhu*, or *min wei zhu* 民為主 as it may be interpreted, contrasts with *junzhu*, or *jun wei zhu* 君為主, and is thus inherently in opposition to the rulership of an emperor. This was simply no viable political position in China prior to the 1911 revolution. I agree with Liang Qichao in his interpretation of the two terms in late Qing scholarship:

夫民權與民主二者。其訓詁絕異。<sup>40</sup>

The connotations of the two terms *minquan* and *minzhu* are fundamentally different.

<sup>36</sup> This term was also introduced in Chinese in Martin's *Wanguo gongfa* of 1864. Cf. Xiong Yuezhi 熊月之 . 1986. *Zhongguo jindai minzhu sixiangshi* 中國近代民主思想史 (A history of democratic thinking in modern China). Shanghai: Shanghai renmin chubanshe, p. 10.

<sup>37</sup> Guo Songtao 郭嵩燾 . 1984. *Lundun yu Bali riji* 倫敦與巴黎日記 (London and Paris diary). Changsha: Yuelu shushe (*Zou xiang shijie congshu* 走向世界叢書 . *From East to West—Chinese Travellers Before 1911*), p. 76.

<sup>38</sup> Cf. Xiong 1986, p. 11.

<sup>39</sup> *Ibid.*, pp. 13–4.

<sup>40</sup> Liang Qichao 梁啟超 . 1899. "Aiguolun san: lun minquan" 愛國論三：論民權 (Third discussion on patriotism: a discussion of 'minquan'), *Qingyibao* (*The China Discussion*) 22, p. 3a. Reprinted in *Zhongguo jindai qikan huikan* 中國近代期刊匯刊 (Early modern Chinese journal series). 1991. Beijing: Zhonghua shuju.

*Minzhu*, as ‘rulership of the people’, was not a political issue among Chinese intellectuals in the late nineteenth century and was thus only used to describe the democratic, or rather republican, systems of Western nations.

Huang Zunxian, who served as attaché at the Chinese embassy in Japan from 1877 to 1882, wrote the first comprehensive Chinese survey on Japan, the *Riben guozhi* 日本國志 (Treatise on Japan), published in 1890, in which he advocated *minquan* for China. Xue Fucheng, who wrote the preface to Huang’s work, also favoured the introduction of *minquan* in China. *Minquan* was primarily seen as the rights and power that the common people had to fight to obtain, and were not interpreted as part of natural human rights. Only later, at the beginning of the twentieth century, did some Chinese interpret *minquan* in terms of natural rights, then influenced by the debate on natural and political rights in Japan. Most famous for advocating the concept of *minquan* in China is of course Sun Yat-sen (Sun Zhongshan 孫中山, 1866–1925) who included *minquan* among his ‘Three Principles of the People’ (*sanminzhuyi* 三民主義).

Initially the term *minquan* was used in China to indicate political rights, the right of political participation. However, the term has been used with different connotations by different authors at different times as a translation of the Western terms ‘civil rights’ or even ‘democratic rights’ and ‘democracy’. While the term *minquan* was employed in its early political sense denoting ‘rights’, one may also find instances in which the earlier connotation of ‘power’ is strongly present, for example, when *minquan* is opposed to *junquan* 君權 or less apparently when it is used in opposition to *guoquan* 國權 ‘national rights’. Liang Qichao’s use of *minquan* in opposition to *guoquan* in an article from 1899 may carry both these connotations:

國者何。積民而成也。國政者何。民自治其事也。愛國者何。民自愛其身也。故民權興則國權立。民權減則國權亡。<sup>41</sup>

What is a nation? It is formed by the congregation of people. What is the government of a nation? It is that its people manage their own matters. What is patriotism? It is that its people take care of themselves. Therefore, when people’s rights/power (*minquan*) prosper, then national rights/power (*guoquan*) are confirmed. And when people’s rights/power (*minquan*) deteriorate, then national rights/power (*guoquan*) disintegrate.

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<sup>41</sup> Ibid., p. 1a.

Later in the same text, however, Liang clearly refers to the Western concept of political rights when discussing the people's obligation to strive for their rights:

政府厭制民權。政府之罪也。民不求自伸其權。亦民之罪也。西儒之言曰。侵犯人自由權利者。為萬惡之罪。而自棄自由權利者。惡亦如之。蓋其損害天賦之人道一也。<sup>42</sup>

When the government suppresses the people's rights (*minquan*), this is a transgression on the part of the government. When the people do not strive for their rights, then it is a transgression on the part of the people. Western philosophers say that to violate the freedom and rights of people is the greatest of all transgressions. But for a person to discard his freedom and rights is an equally grave transgression. These are all cases of eradicating the Ways of Heaven.

Kang Youwei, in his exposition of the *Datong shu* (Book of Great Unity), applies *minquan* juxtaposing *junquan* with clear 'power' connotations:

民權自下而上為大同之先驅。民權進化自下而上，理之自然也。故美國既立，法之大革命繼起而各國隨之；於是立憲遍行，共和大盛，均產誕出，工黨日興。夫國有君權，自各私而難合；若但為民權，則聯合亦易。蓋民但自求利益，則仁人倡大同之樂利，自能合乎人心；大勢既倡，人望趨之如流水之就下。故民權之起，憲法之興，合群均產之說，皆為大同之先聲也。若立憲，君主既已無權，亦與民主等耳；他日君銜亦必徐徐盡廢而歸於大同耳。<sup>43</sup>

The power of the people (*minquan*) from bottom and up is the forerunner of the principle of Great Unity (*datong*). When the power of the people develops, it comes from below and moves upwards. That is the natural law. Therefore, after America was established and the French revolution had taken place, every nation followed this pattern. Thereupon, constitutions were established everywhere, republics flourished, the theory of the equal distribution of property was suggested and labour parties became more powerful day by day. If a nation is ruled by a monarch (*junquan*), then everybody becomes selfish and the nation is difficult to unite. But if a nation is ruled by the people (*minquan*), then it is easy to unite. The common people strive for profit, but when the benevolent man advocates the joy and benefits of Great Unity, this naturally reflects the mind of the people. When the main tendency is set, then the common people will follow it like water running downstream. Therefore, the instigation of the power of the people (*minquan*), the establishment of constitutions, the union of the people and the principle

<sup>42</sup> *ibid.*

<sup>43</sup> Kang Youwei 康有為. 1956. *Datong shu* 大同書 (Book of Great Unity). Beijing: Guji chubanshe, 2.70.

of the equal distribution of property are all heralds of the Great Unity. Once a constitution is established, the monarch will have lost his power (*quan*), and this nothing else than the rulership of the people (*minzhu*). Some day the monarchy will inevitably crumble and all will settle in Great Unity.

When discussing the notion of *minquan*, Chinese scholars have a tendency to emphasize its ‘power’ aspects by claiming that the *quan* in *minquan* means ‘power’; thus *minquan* is taken to mean ‘people’s power in politics’ (*zhengzhi shang renmin de quanli* 政治上人民的權力) and equals the two terms *minquan* and *minzhu* 民主 combined.<sup>44</sup> Moreover, many Chinese dictionaries will explain *minquan* in terms of ‘power’ 權力, while others will again apply the notion of ‘rights’ 權利. Western scholars, on the other hand, emphasize the ‘rights’ aspect of *quan* by interpreting *junquan*, as opposed to *minquan*, as the ‘right of the ruler’.<sup>45</sup> In fact, the term *minquan* entails ideas from Western ‘civil rights’ or ‘democratic rights’ discourse but gives the notion of ‘people’s rights’ specific Japanese and/or Chinese connotations, embracing all of these interpretations depending on the context.

## 7. NATURAL VERSUS POLITICAL RIGHTS

The distinction between natural and political rights emerged in Japan when Katō argued against the application and suitability of natural rights within the Eastern traditions. Liang Qichao, who had been arguing for the value of absolute rights, was influenced by Katō and his Social-Darwinist ideas when propagating the rights of the strongest (*qiangquan* 強權) in an article of 1899. During the first two decades of the twentieth century the debate on ‘rights’ flourished in China. *Minquan* was advocated by most Chinese scholars (and criticized by Zhang Zhidong), but the debate on the value and existence of natural rights and their relationship to the right of political participation was hotly debated. Liang Qichao declared the debate to be a controversy between two antagonistic groups: one advocating the ‘rights of equality’ and the other advocating the ‘rights of the strongest’. The former was influenced by Rousseau, regarding the state as based upon a social contract between the ruler and the ruled, while the latter was

<sup>44</sup> For instance Xiong 1986, pp. 11–3.

<sup>45</sup> Svensson 1996, p. 87.

under strong Social-Darwinist influence and Yan Fu's translations of Herbert Spencer. Liang himself supported the views held by the latter group. Extensive quantities of Western philosophy were translated, mostly via Japanese, and led to a debate on rights that was gradually more and more strongly influenced by the European debate on natural and political rights. Both the "French Declaration on the Rights of Man" and the "American Declaration of Independence" were translated into Chinese soon after the turn of the century. During the first decade of the twentieth century, William Edward Hall's *International Law* (*Gongfa xinbian* 公法新編, 1903)<sup>46</sup>, Montesquieu's *De l'esprit des lois* (*Wanfa jingli* 萬法精理, 1905)<sup>47</sup>, the American and the Japanese constitutions (*Meiguo xianfa* 美國憲法, 1902<sup>48</sup>, and *Riben xianfa yijie* 日本憲法義解, 1905<sup>49</sup>), and many more Western and Japanese works were translated into Chinese. Three works by the German professor of law and legal positivist Georg Jellinek entitled *Geguo xianfa yuanquan sanzong hebian* 各國憲法源泉三種合編, translated via Japanese and published in Shanghai in 1908<sup>50</sup>, introduced his negative views on natural law and his emphasis on the law. Through the translation of Jellinek's work *Das Recht der Minoritäten*, the notion of 'minority rights', *shaoshuzhe zhi quanli* 少數者之權利, was introduced to the Chinese readership.

The integration of terms on 'rights' into Chinese political discourse was a gradual process. When a version of the Japanese constitution annotated by Itō Hakubun 伊藤博文 was translated into Chinese with explanations of central terms in 1905, 'rights' seemed to have become an integral part of the Japanese political vocabulary, whereas in China *quanli* still had to be explained in terms of its etymology. Duties were seen as a necessary complement to rights in China by the turn of the century, as duties without rights make man a slave:

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<sup>46</sup> W. A. P. Martin et al. (trs.). 1903. *Gongfa xinbian* 公法新編 (A new compendium on international law). Shanghai: Guangxuehui.

<sup>47</sup> Zhang Xiangwen 張相文 et al. (trs.). 1905. *Wanfa jingli* 萬法精理 (Essential principles of law). Shanghai: Wenming shuju.

<sup>48</sup> Wu Chengzhang 烏程章 et al. (trs.). 1902. *Meiguo xianfa* 美國憲法 (The American constitution). Shanghai: Wenming shuju.

<sup>49</sup> Itō Hakubun 伊藤博文. 1905. *Riben xianfa yijie* 日本憲法義解 (An exposition of the Japanese constitution). Shanghai: Shangwu yinshuguan.

<sup>50</sup> Lin Wanli 林萬里 et al. (trs.). 1908. *Geguo xianfa yuanquan sanzong hebian* 各國憲法源泉三種合編 (A collection of three works on the origins of constitutions in different countries). Shanghai: Zhongguo tushu gongsi.

人人當行之理曰權，人人應盡之理曰義。有權則有利，故曰權利。有義則有務，故曰義務。<sup>51</sup>

The principle that everybody should follow is called *quan* (rights/power), and the principle that everybody should fulfil is called *yi* (duty/fulness). When one has *quan*, then one obtains *li* (profit), and that is why we speak of *quanli* (rights). When one has *yi*, then one obtains *wu* (tasks), and that is why we say *yiwu* (duties).

One may also follow the introduction of ‘rights’ in the general Chinese written language by probing into dictionaries of the Chinese language from this period. In general, only a few dictionaries published before 1903 include entries on ‘rights’/*quanli*, while all dictionaries published after 1908 include the ‘rights’ lexicon. One exception is the *Vocabulary and Handbook of the Chinese Language*, edited by Justus Doolittle and published in two volumes in 1872–1873. Doolittle had the translator W. A. P. Martin write a section on political and legal terms in Chinese, and Martin naturally included his own terminological innovations on ‘rights’ which were apparently still not current in the Chinese common language.

The term ‘human rights’ only came into frequent use in the West after the Second World War. The term usually considered as the Chinese translation of human rights, *renquan* 人權, however, was used in China much earlier. Many different terms were used in the Chinese language around the turn of the century to denote what we may simply call natural rights or naturally endowed rights, in contrast to political or given rights. These were *tianfu zhi quanli* 天賦之權利, *tianran zhi quanli* 天然之權利, *ziran zhi quanli* 自然之權利, *guyou zhi quanli* 固有之權利, *yuanguan* 原權 and other variants, but in addition also combinations with *renquan*, such as *tianfu renquan* 天賦人權. The term *renquan* must thus be understood in the broad sense of natural rights rather than as an equivalent of the post-war usage of the term in the West. We may, however, conclude that the Chinese vocabulary applied in the translation of the Western philosophical debate on natural and political rights was formed during the first two decades of the twentieth century and provided Chinese scholars the lexical tools to translate, debate and create notions of Western political and social theory.

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<sup>51</sup> Itō Hakubun 伊藤博文. “Xianfa mingyi” 憲法名義 (Constitutional terms), in: id. 1905, pp. 1b–2a.

## CONCLUSION

This short exposition on the introduction of political 'rights' in Chinese political discourse has shown that the terms translated from the Western notion of 'rights' appeared in China shortly after the Opium War. But the Chinese debate on 'rights' did not immediately follow the introduction of this notion. The Chinese discourse in the late nineteenth and early twentieth centuries cannot be said to have conceptualized 'rights' parallel to contemporary debates in the West. The debate in China was heavily influenced by the Japanese debate during the Meiji reform movement. Only in late imperial and early Republican times did the Western debate find a more direct parallel in Chinese discourse. The terms introduced in the Chinese debate were coined both in China and Japan and retained strong Chinese/Japanese conceptual connotations. These connotations, in which the notion of 'rights' is etymologically and politically closely connected to the notion of 'power', are still prevalent in the political and social reality of China.

