

‘Renquan’ – Chinese Human Rights – an ‘Import’ from the West or a Chinese ‘Export’?

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I. Introduction

Human rights, ‘*renquan*’ did not exist in China indigenously.¹ In fact, *renquan* is a borrowed term from Japan that entered into China with Nationalist leaders bringing back new ideals after their return to China from exile in Japan. (Angle, 2002 and Svensson, 1996) *Renquan* does not originally exist in Chinese; it is a direct translation of the term Japanese word *jinken*, which is in turn direct translation of the English term ‘human rights’. The terms *ren/jin* translate the English term ‘human’, while *quan/ken* correspond to the term ‘right’. Scholars of Chinese history and philosophy have connected human rights with Confucian notions like *ren* and *li* trying to establish that some kind of notion of human rights existed in China prior to Western influence. (Peerenboom, 1993, 1995 and Angle 2002) However, these ideals are quite far from the human rights as embodied in the UN Universal Declaration of Human Rights (UNUDHR).

The origin of human rights discourse in the West is equally problematic.² However, there is agreement that human rights originated in the West with the concept of Natural Law, and developed during the age of Enlightenment. For the purposes of this chapter, human rights as defined in the United Nations treaties will be used as a reference point.³ It is recognized that the UN is far from a truly ‘international’ organization with its problematic and dated structure.⁴ However, as it is the closest to an ‘international organization’ that we have to date, its treaties dealing with human rights will be used as the definitions of ‘human rights’. The debate between universalist and relativist notions of human rights is complex; due to limitation of space I will not go into this discussion here. The focus of this piece is China’s concept of human rights, which started from a ‘universalist’ stance in the introduction and discussion of the concept among Chinese intellectuals, but as it became an issue in policy, increasingly ‘relativist’.

This chapter will examine the evolution of human rights in China – a product of Western influence that merged with the local culture and traditions and developed in cooperation with Japan, and more recently with Asian countries and the global South. It will begin by tracing the origins and establishment of human rights in China. Though it is recognized that the concept of human rights is a broad, ranging from first, second and third generation rights; the aim of this chapter is to trace the development of the concept in China, thus the scope of the definition of human rights will not be narrowed down. The analysis begins with the Qing dynasty during which the human rights concept first entered China and continues to the present day. This discussion focuses on the three crucial period of Chinese history, beginning with the Qing dynasty (1644-1912), the Republican period (1912-1949) and the People’s Republic of China (1949-present).

The first section of this chapter examines how the concept of human rights entered China and developed domestically with the help of external influences (both intellectual and political). From the late Qing, through to the Republican period and early years of the People’s Republic of China, Chinese intellectuals endeavoured to establish a Chinese form of these imported Western ideals. In this manner, China’s development of its human rights concept will be traced through the examination of the important external influences on China.

The development of human rights had three types of external forces that helped shape its development. Firstly, there were external intellectual influences in the form of scholars such as John Dewey who visited China, as well as Marxist and Leninist influences that came with the Sino-Soviet alliance. Secondly, with the PRC’s UN entry in 1971, it inherited the UN system from the ROC and resultantly was compelled to project a positive image as the rightful representative of ‘China’ in the UN.⁵ Thirdly, the ramifications of the Tiananmen Incident in 1989 subjected China to serious criticism from the international community and de facto diplomatic isolation. These three external forces combined with the local political and social culture for the PRC to create a version of ‘human rights’ concept suitable for their needs. Until Tiananmen, this concept was developed and utilised at the domestic level. In its

aftermath, there was a conscious policy shift where the concept was actively projected towards the global community.

The second section of this chapter covers this projection of ‘Chinese Human Rights’ or rather the ‘export’ of a Chinese version of human rights. Through the examples of Chinese Human Right White Papers, Asian values movement and Survival Emissions in climate change negotiations, it will be examined how human rights – originally an ‘import’ from the West has become a Chinese ‘export’ post-Tiananmen.

II. Human Rights as an Import

Origins

Human rights, like many other concepts in politics and law came to China via Japan.⁶ This was due to the fact that linguistically, the written language of Japanese was close to Chinese, allowing transfer of knowledge to occur smoothly.⁷ Moreover, the approach the Chinese and Japanese took towards new foreign concepts and ideals was quite complimentary.

The delineation of local (*nei*) and foreign (*wai*) was important in China as well as Japan.⁸ The foreign influences during the Qing dynasty were treated with caution and trade was confined in Guangdong to keep local areas protection from foreign influences. Similar to the ways the Japanese dealt with foreign influences confining them to Nagasaki’s *dejima*, this kind of cultural division between local and foreign was likewise popular among Chinese intellectuals. In this way, Chen Duxiu differentiates between East and West in his essay ‘The Differences in Fundamental Thought of Eastern and Western Peoples’ (Angle, 2002: 184).

Under such settings, it is quite understandable that foreign ideals of human rights with other concepts related to governance came to China via Japan. This was reinforced by many of the revolutionary figures like Sun Yatsen (see also Tsui, this volume), Chiang Kaishek, Liang Qichao, Liu Shipei, Chen Duxiu and Gao Yihan who spent their exile or study abroad in Japan.⁹ During their time in exile, they absorbed new foreign ideals and governance systems

that were often already translated into Japanese by Japanese intellectuals like Hiroyuki Kato and Yukichi Fukuzawa.¹⁰

The Meiji reformists, such as Kato and Fukuzawa were interested in the foreign discussion around rights and were particularly conscious not to directly translate these terms but to weave in local elements from their Confucian backgrounds. This resulted in rights becoming translated into *kenri* in Japanese or *quanli* in Chinese and eventually *minken* or *minquan*, the forerunner of *jinken* or *renquan*. These ideas stem from the Mencius-influenced concept of ‘heaven-endowed rights’ (*tempu jinken* in Japanese and *tianfu renquan* in Chinese) (Angle 2002: 119-120). From these beginnings, the Chinese imported foreign concepts that were already merged with Confucian traditions in Japan. These Chinese continued on this path with their own struggle to define and formulate human rights.

After the Opium War and the Unequal Treaties Chinese intellectuals began to slowly realize that the Western political system could not be ignored if they desired to stand up to the West. The Chinese approach has two turning points – both of which took place in Tiananmen Square. Before the first Tiananmen protest, the May 4th Movement in 1919, the Chinese intellectuals’ approach was: ‘Chinese learning as the essence, and Western learning as the practice’ (*zhongxue wei ti, xixue wei yong*) (Svensson 1996: 73). For example, the earlier works of Liang Qihao (1873-1929) place the western human rights discourse in the Confucian teachings of Xunxi and Mencius (Angle 2002: 150-158). However, after the May 4th movement, Chinese intellectuals such as Chen Duxiu (1879-1942) reject Confucianism, as Confucianism was identified as backward and one of the reasons China was not treated as an equal of the Western powers at the settlement of World War I. The second turning point came during the Tiananmen incident in June 1989, where the Chinese human rights concept became politicized and a priority in Chinese foreign policy. The Chinese discourse on human rights was geared towards a domestic audience prior to 1989, but after Tiananmen incident, the audience became the global community, and human rights became a tool for the CCP to project its power vis-à-vis the West.

The following section examines the external influences – both philosophical and political – that influenced China’s development of its human rights concept in chronological order.

External intellectual influences

Gradually, human rights became an important topic in Chinese debate. The development was a mixture of external influences that merged with internal beliefs to deliver a distinctive ‘Chinese characteristic’. The course human rights took in China, belies a certain obsession with bringing ‘Chinese characteristics’ to foreign concepts, stemming from a tragic history involving the humiliation of the Opium War and Unequal Treaties – leaving behind a strong indentation of victimization in the nation’s psyche. The result of these psychological ‘scars’ has resulted in a country strongly sensitive to any external intervention and intrusion into its sovereignty rights. One manifestation of this victimization complex is in the Chinese treatment of foreign terms.

As opposed to the current Japanese practice to simply transcribe foreign words using *katakana* script the Chinese generally create neologisms based on Chinese characters. In this manner, Beijing often emphasizes ‘*Zhongguo tese*’ (Chinese characteristics), and its political ideology as socialism with Chinese characteristics ‘*Zhongguo tese de shehui zhuyi*’.¹¹ Via this conception, socialism is mixed with local culture and local political needs giving it ‘Chinese characteristics’ (see Wielander, this volume).

A key element of external intellectual influence is the translation of important Western texts. In this case of human rights development, Western ideals were introduced through the translation of the key texts. For example, one of the most important texts in international law, Henry Wheaton’ *Elements of International Law* (1836) was translated by missionary A.P. Martin. The Chinese version of this book was published as *Laws of the Myriad of Nations* (*Wangguo Gongfa*) in 1864 and became an important cornerstone in the development of international law in China. (Angle, 2002: 107). This version of Wheaton is where we see rights translated as ‘*quan*’ for the first time. Wheaton’s volume sparked an interest in *quan* and discussion on its definition ensued in China.

The translation of Western writings on human rights entered China most frequently via Japanese translations of these Western texts. Sometimes such translations were also brought into China by missionaries or Chinese scholars studying abroad. However, there were also rare cases such as John Dewey and Bertrand Russell where the scholars themselves visited China to spread these ideals.¹² The impact of these visits on China's development of human rights which is far greater than the ones of the translated texts and will be examined in more detail below.

John Dewey

The American philosopher known for his work on democracy and civil society was on sabbatical in Japan in 1919 when he was invited to Peking University by his former students Hu Shi and Chiang Monlin. This coincided with the May Fourth Movement of 1919 which was an anti-imperialist political movement. Initially a protest against the Treaty of Versailles' settlement of German territories in China in favour of the Japanese, it triggered a chain of events that led to the New Culture movement (1915-1921), marking a departure from Confucianism to find a new Chinese culture comparable to western standards.

Dewey arrived at a time when China was struggling to be taken as an equal in international negotiations due to the Unequal Treaties. This low point in the international reputation of China was partly caused by the country's criminal and penal codes dating from the Tang dynasty which were frequently regarded as barbaric by the West. It left the global community with an unflattering view of Chinese civilization, well below its western counterparts.¹³ In this regard, China attempted a painful modernization of its image, yet a complete acceptance of Western concepts was something to avoid; such considerations resulted in a mixture of external influence with the local cultural traditions. Within this complex environment, Dewey was conscious to place his ideas of democratisation within the teachings of Mencius to make it easier for China to implement (Svensson, 1996: 163).

Owing to Dewey's timely arrival, it is no surprise he was influential in China. He stayed for two years, lecturing throughout the country and influencing intellectuals like Chen and Gao central to the debate of human rights in China. (Angle 2002, 195) Significantly, his students became influential in the academic and policy debate in human rights in China – most famous was Chang Peng-Chun, who became to be an influential scholar and diplomat. Chang was very active in the negotiations for the UNDUHR, and was responsible for incorporating Chinese ideals. Without Chang, the UNDUHR would have been more Western-centric. He quoted Mencius in UN meetings and brought Confucian principles into the UNUDHR (Twiss 2007: 60-63). Chang was most convincing since he had no linguistic barriers, but also his training with Dewey allowed him to place Confucian arguments within the context of Western philosophical thought on human rights. Dewey's lectures and writings and time spent in China have indirectly even had an impact on China's ability to articulate its human rights concept in international negotiations.

Marxist - Leninist influence

It is apparent that Marxism-Leninism became influential in China after Chen Duxiu established the Chinese Communist Party in 1921. However, it was also influential under the Guomindang government (Angle, 2002: 200).

Marxism-Leninism was influential in the Soviet Union, with which China had a close relationship, particularly after the establishment of the PRC. The PRC chose to 'lean to one side' – namely the side of the USSR, and under the Sino-Soviet alliance period, there was much aid and transfer of knowledge and technology from the USSR to China.¹⁴ Within this partnership, the USSR was seen as the 'bigger brother', presenting a model to emulate, until relations cooled in the Khrushchev era. China naturally adopted many models from the USSR – and this is reflected in the governance and political system of China.¹⁵ In this manner, the Constitution of the PRC explicitly mentions Marxism-Leninism along with Mao Zedong Thought, Deng Xiaoping Theory and 'Three Represents' as important guiding principles of the country (Preamble of the Constitution of the PRC). The importance of Marxism-Leninism is also reflected in Chen's writings which place equal importance on socialism and human rights and views science on par with human rights.¹⁶ If we recognize that Marxist-Leninism is an important influence on China, what is its influence in the human rights realm?

Marxism has a complicated relationship with human rights. In the sense that Marxism views welfare rights over individual rights, it sits well with Confucian ideals of rights and the paternalistic state (Weatherly 1999: 83, 97). This was reinforced with the Chinese adopting Soviet models of governance early in the PRC. Marxism was a welcome influence since it presented an alternative to Confucianism. Some intellectuals like Chen, began to see human rights as necessary, but perceived China's Confucian background incompatible with human rights particularly after the May 4 movement¹⁷. Suffice it to say, that the reception of external intellectual and ideological influence occurred through a mixed with local culture which eventually developed a Chinese version of human rights. Furthermore, the reception occurred in the areas where the external and internal influences had greatest overlap (e.g. collective rights, welfare).

China has gone through various reforms, many of them in the economic realm. However, Marxism remains influential in the Chinese conception and position in human rights to this day.

UN Membership

In this article, China is viewed in a continuum from the Qing dynasty through to the Nationalist Republic and the PRC. One of the most important external influences on the development of human rights in China is its experience of the UN entry in 1971 and its isolationist period prior to the entry.

As mentioned earlier, the human rights discourse in the West took off with the establishment of the UN and the negotiations of the human rights treaties. It is important to note that while there was the Chinese Civil War (1927-1949), there were two governments fighting to represent China. On one side was the Guomindang leadership, which eventually fled to Taiwan; on the other were the Communists who later emerged victorious in its takeover of the mainland (for details, see Tsui, this volume). Under such circumstances, the Guomindang became the rightful UN representative from its establishment, leaving the People's Republic of China (PRC) diplomatically isolated. It was not until 1971 that the government on the mainland became the representative of China, replacing the Republic of China (ROC) in 1971 under a complicated chain of events.¹⁸

Thus, it is important to note that from the establishment of the UN until 1971, important human rights treaties were being negotiated by the ROC, to which the PRC had no representation or participation in the world organization. For example, key UN human rights treaties such as the UN Universal Declaration of Human Rights (UNUDHR) passed in 1948, and the Double Covenants of 1966 – International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights¹⁹ were negotiated by the Republican government.

When the PRC joined the UN, it desired to sever any connections involving the ROC, declaring its predecessor's signatures and ratifications 'illegal, null and void' – an intention to wipe the 'diplomatic' slate clean in terms of its international obligations.²⁰ Added to this backdrop, 1971 was a year whereby China was in the midst of the tumultuous Cultural Revolution (1966-1976), largely limiting its primary policy goals to domestic affairs – to which active participation in human rights regimes were not at the forefront. According to Chiu, there was not a single article on human rights in China till 1976 (Chiu, 1989: 239).

However, with UN entry there was also external pressure on the PRC to project a positive image as the rightful representative of China. The PRC ended up accepting the UN Charter and UNUDHR but not the Double Covenants, unsurprising as the UNUDHR is declaratory, whereas the Covenants have binding force. It may also have been due to the fact that one of the leading negotiators for the UNUDHR was the student of John Dewey's mentioned above, Chang Peng-Chun who ensured that Confucian principles were also reflected in the UNUDHR (Twiss, 2007: 60-63).

Furthermore, China entered the UN and the human rights regimes discussion during the height of the Cold War between the opposed sides of the US and the USSR – characterizing further reluctance in any active participation. Judging from China's Marxist-Leninist background, one would assume that China would have leaned ideologically towards the USSR. However in 1971, Sino-Soviet relations were cooling with Sino-US relations

conversely warming. With Mao's death and Deng's ascension, China's previous reliance on Marxist-Leninist ideology gave way to economic practicality – characterized strongly by the latter's favoured idiom – 'black cat, white cat, as long as it catches mice, it's a good cat'. In conjunction, the split with the USSR and resultant waning of ideology allowed China a new avenue in human rights discussion as the end of the Cold War drew near, one distinct from the its former ally.

The PRC in the UN

China's engagement with human rights regimes coincided with its domestic reforms in 1978/79. Still, the Chinese were cautious in the beginning to sign treaties that were aspirational and less controversial such as ones against racial discrimination, torture, apartheid, genocide, and for refugees', children's and women's rights. Beginning with less contentious issues, China started to voice its position in human rights regimes, and by the late 1970s entered into other human rights regimes that were more invasive.

China's position in the Double Covenants was problematic not only because of its legal obligations but also because of the contents. It represented a philosophical divide between the western democratic countries who preached the importance of civil and political rights; whereas, the socialist nations maintained a belief in economic and developmental rights. To this end, it explains the existence of two covenants instead of a single covenant covering all human rights such as the single UNUDHR.

China only signed the Double Covenants with the pressure from return of Hong Kong in 1997 (Civil and Political) and 1998 (Economic and Social).²¹ The caution arose from their priority of ensuring sovereignty, which has been a central pillar for their foreign policy since the 'Five Principles of Peaceful Co-existence' became a central theme in Chinese international relations.²² It is exacerbated by the Unequal Treaties and the 'hundred years of humiliation'.²³

International Reaction to Tiananmen

The previous section provided an analysis of how external forces impacted on the development of human rights in China. This section examines another event that happened domestically but had international implications which impacted greatly on the development of Chinese human rights. June 1989 marks a turning point in Chinese human rights history like no other. Although it transformed the face of domestic politics, its international impact has arguably left an even more indelible imprint.

Up until 1989, China's image on the global community was positive with its leader Deng Xiaoping nominated twice as Times Magazine's 'Man of the Year' in 1978 and 1985. However this was irrevocably altered with the Tiananmen massacre, which for the first time exposed China to criticism for its human rights standards.²⁴ The resulting international firestorm left China in diplomatic isolation, encased in economic and arms embargoes, its aid packages from the World Bank, Asian Development Bank and foreign governments cut off.

III. Human Rights as an Export

As discussed in the previous section, the international criticism after Tiananmen was such a shock to China, it became a turning point in Chinese human rights development – the discourse on human rights in China which was aimed for a domestic audience prior to 1989, became a concept targeted for the global audience after Tiananmen. This section examines three examples of how China has endeavoured to spread its ideals to the global community in order to challenge the Western concept of human rights: specifically via Human Rights Papers, Asian Values and Survival Emissions²⁵. All of these movements were a result of Tiananmen – and occurred in the early 1990s. The success of these strategies varied, with Asian values arguably the least, and Survival Emissions the most successful. At the same time, some of Beijing's attempts were on their own (White Papers), while others were in cooperation with other countries. In the case of Asian values, China worked with other Asian countries, and in the case of Survival Emissions, China joined forces with the global South.

Human Rights White Papers

Beijing began projecting China's version of the human rights concept to the global community by publishing White Papers on human rights.²⁶ The first of these were published in 1991, with White Papers on human rights published periodically. These White Papers were an attempt to restore China's image by projecting China's version of human rights which were quite different from the ones used in the western criticism of China's human rights records. Then Premier Li Peng remarked the White Paper was a combative response to 'Western hostile forces' that were attacking China (for a detailed account of the use of propaganda in China's official discourse, see Ohlberg, this volume).²⁷

In this regard, the publication of the White Papers can be used as a barometer to gauge China's response to its human rights record. The publications peak with external criticism and dip when there is less. Twenty White Papers were published during the 1990s, a height which coincided with the Tiananmen incident at a rate of several per year, eventually slowing down in the 2000s to one annually.²⁸ In a similar vein, the contentious human rights topic in Tibet and Xinjiang have merited individual White Papers respectively– with ten on the former and two for the latter. Unsurprisingly, China has also written a White Paper on the United State's human rights record (2001), a blistering response reserved for its most vocal critic.²⁹

To this end, the effectiveness of China's White Papers is difficult to gauge. A degree of preparation is needed in the writing of one, thus there exists a time lag between the criticism and publication. Furthermore, once they are published, its effect depends on the readership and circulation, which is out of the hands of the Chinese. However, it is clear with Li Peng's statement that Beijing not only views the publication as a tool with which to respond to Western critiques of its human rights record, but post-Tiananmen has taken a more assertive and proactive stance in projecting said human rights beliefs.³⁰

Asian Values

In the lead up to the UN world Conference on Human Rights in Vienna, China together with Mahatir Mohammed and Lee Kwan Yu rounded up Asian countries to present a united front at the UN world Conference on Human Rights in Vienna (June 1993).³¹ Characterized as the Asian values movement, China attempted with the supporting efforts of other Asian countries

to present an alternative definition of human rights in the UN system built on Asian sources. Despite the religious, ethnic and linguistic differences, a merging emerged from the Asian diaspora including Buddhist, Confucian, Daoist, Islamic, Hindu and Christian values. The result was the 1993 Bangkok Declaration of Asian Ministers and a united front at Vienna.³² The Declaration emphasizes social collective over individualism, i.e. personal freedom, right to choice and right to justice which was presented at Vienna as an alternative view of human rights³³.

At the Vienna, the head of the Chinese delegation Liu Huaqiu made the following statement:

‘The concept of human rights is a product of historical development...Countries at different development stages or with different historical traditions and cultural backgrounds also have different understanding and practice of human rights. Thus, one should not and cannot think of the human rights standard and model of certain countries as only proper ones and demand all counties to comply with them.’³⁴ (*Chinese Journal of International Law* 2002: 737)

The Asian values movement was motivated by policy concerns. China was viewed with caution since it was only a few years after Tiananmen, and the Asian authoritarian regimes were under criticism for their lack of civil and political rights. The Chinese needed to correct their global image in human rights and this coincided with Singapore and Malaysia’s new found confidence with their rapid economic development. China’s and Asian countries’ answer to these attacks were to criticize the Western concept of human rights and present alternative which brought together different religious, ethnic and linguistic backgrounds in Asia. In this regard, the essence of ‘Asian values’ borrows heavily from Confucianism stressing family and collective rights, and respect for authority. The movement in opposition also criticized what it perceived as Western ‘vices’: delinquency, unwanted pregnancies and the breakdown of family life, high crime and disrespect for those in authority (Kishore 1993).

The Asian values movement enjoyed some success until the Asian Financial Crisis in 1997. Asian values began on weak grounds with the difficulty of a concept that encompasses all the various ethno-religious groups in Asia, moreover, with the Asian Financial Crisis compromising the confidence of the Asian powers, the movement eventually died out. However, it left a mark in the debate on human rights by presenting an alternative definition

of human rights to the current Western dominant one.³⁵ This Chinese ‘export’ of its human rights was not a complete failure in the sense that China was able to unify forces to critique the Western dominated debate of ‘universalism’ in human rights.

‘Survival Emissions’

The previous examples of White Papers and Asian values show how Beijing has endeavoured to project its version of human rights on its own, as well as in cooperation with other Asian countries. This section examines China’s projection of the primacy of developmental rights in the form of Survival Emissions in the climate change talks that are held in cooperation with the global South. This has been the most successful example of Beijing’s human rights ‘export’ altering the direction of the climate change talks significantly.

The definition of sustainable development is divided between the global North and the global South. This clash between environmental protection and economic/developmental rights has come to the forefront of international relations. ‘Sustainable development’ became a priority in the UN after the Brundtland Report (1987)³⁶, there have been various environmental regimes under the UN attempting to put the idea into action.³⁷ Many of these environmental regimes find the North in competition with the South in the debate between environmental protection and developmental rights. For example, the negotiations for the UN Framework Convention for Climate Change (UNFCCC) have been very controversial for this reason since its inception at the Rio Earth Summit in 1992.

The UNFCCC aims at the ‘stabilization of greenhouse gas concentrations in the atmosphere at a level that would present dangerous anthropogenic interference with the climate system’ (Article 2, UNFCCC). It recognizes the difference of the historical burden for climate change between the developed North and the developing South and adopts a principle of ‘common but differentiated responsibilities’ (Article 3.1, UNFCCC). However, like sustainable development and many other principles in international negotiations, it is an ambiguous term that requires further definition and one that the North and South find difficult to compromise on. The developed countries push to cut greenhouse gas emissions to avoid further climate change, while the developing countries do not want to have their development capped.

China has left a mark as a recalcitrant presence at the failed Copenhagen Climate Change Summit in December 2009. China takes the lead in climate negotiations leading the developing country coalition ‘G77 and China’ and more recently the BASIC group (a rising powers coalition including Brazil, India and South Africa).³⁸ The Chinese prefer to define ‘sustainable development’ as ‘sustained development’ placing more emphasis on development. Since the discussion of emissions caps and emissions trading has come into the UNFCCC, China has clearly identified itself with the coalitions of the global South and has played a leadership role in opposing any caps and stressing their economic/developmental rights.

When Premier Wen Jiabao spoke at Copenhagen, he emphasized that China was a developing country with 150 million still living below the World Bank’s poverty line of US 1.25 dollars a day, which highlights the country’s priorities in climate change for Beijing.³⁹ China does not stop at just siding with the developing countries, but also actively promotes the rights of the South in the climate change negotiations. When one considers that the WTO places China’s economy at number one, the developing country status becomes questionable and suggests it may be Beijing’s strategy to support for its position (WTO, 2013).

The Chinese delegation members align their position with developing countries and actively make sure China’s position is reflected in the ‘G77 and China’ and the BASIC group. This is a strategic move as UNFCCC reaches decisions by consensus and developing countries make up the majority of UN member states. Moreover, as in the discussion of the rise of the BRICS (Brazil, Russia, India, China and South Africa) in the economic realm, the mirror phenomena in climate change is the BASIC group. These rising powers share a significant portion of greenhouse gas emissions giving them a kind of ‘environmental power’. Within this context, when one considers that it was the Chinese negotiator for UNFCCC who popularized the idea of the North’s ‘luxury emissions’ versus the South’s ‘survival emissions’, China has become very active in promoting its version of human rights.

China’s former lead negotiator Zhong Shukong stated in the UNFCCC negotiations: ‘in the developed world only two people ride in a car (luxury), and yet you want us (developing

countries) to give up riding in a bus (survival)⁴⁰. This idea of Survival Emissions was attractive to the South since it emphasized the developing countries' priority of economic/developmental rights over the right to a safe environment. The Chinese concept of Survival Emissions has found wide acclaim in the South, and has allowed the 'G77 and China' and the BASIC group to exert significant influence over the climate talks. In this respect, China has been successful in its projection of their notion of economic/developmental rights by stalling a second commitment period for Kyoto Protocol in favour of the Chinese and developing countries.

IV. Conclusion

This chapter has examined the introduction, evolution and development of human rights in China. The process has been a complex one with introducing foreign concepts, borrowing and learning from Japan, and combining with local influences. In the case of human rights, reception of a foreign concept came via Japan, a country with considerable cultural and linguistic affinity. This is something that is still recognizable in China's approach to learning in economic development and legal reform today.

Through Chinese history the concept of human rights has been influenced by internal political, social and cultural factors, becoming a concept more suitable for local needs. The relationship between Confucianism and the concept of human rights is an interesting one. In its development it integrated foreign influences in its first phase, moving on to be completely rejected in the modernization period after the May 4th movement and then being revisited and assertively projected after Tiananmen. Although the relationship between foreign and local influences are at times complimentary, and at others, conflicting; the outcome – the Chinese version of human rights – has resonance with many of the elements of the internal influences.

After the Tiananmen Incident, the Chinese human rights concept becomes transmitted and projected in international negotiations through coalitions of like-minded states. Tiananmen was a turning point in the development of Chinese human rights as the process became politicized and the topic became a foreign policy tool for the CCP. This came at a time when the Chinese were rapidly catching up and was becoming a power equal to challenge the US,

the only remaining super power after the end of the Cold War. After 1989, there have been numerous attempts to get the Chinese conception of human rights reflected in international negotiations; most effectively through a coalition with the global South. In this respect, the ‘Beijing Consensus’ has attractive power and indicates that the oft-debated ‘Chinese challenge to the West’ will not be in security or trade but in human rights – challenging the Western values that dominate the human rights discourse. As China has matured as an actor and gained confidence in its international relations, China has moved from merely internalising the (originally Western) concept to creating a ‘Chinese version’ of these human rights projected in their White Papers, Asian values and Survival Emissions movements. The ‘Chinese’ version of these Human Rights is an export that is gathering support in the rising powers and global South.

Notes

¹ I recognize that neither China nor the ‘West’ is a monolithic entity. For the purposes of this chapter, we will take China’s concept of human rights to correspond to the official Chinese position and use the term the ‘West’ as a shorthand for the European and North American countries that have led the human rights debate in international relations.

² *Ibid.*

³ The starting point for contemporary international human rights will be taken post-WW II when the UN system was set up to ensure first generation (individual freedom from state interference), second generation (rights to claim welfare benefits from the state), and third generation (cultural and collective rights) rights. For a detailed discussion see Malanczuk (1997), chapter 14.

⁴ The UN was set up at the end of WW II. The UN structure and hierarchy reflect power politics at this time which are not necessarily relevant today. For example, the Security Council and its Permanent five members (P5) are particularly problematic. At the end of WW II, the P5 were the most powerful states in the world, but are no longer so today. Moreover, representation of the P5 has shifted quite significantly with the representation of China moving from ROC to PRC, and the USSR now replaced by Russia.

⁶ Another example of a concept that came to China via Japan is judicial independence. Not only did China import the term from Japan, it also adopted Japan’s model in implementing judicial independence. See the discussion in Lin (1999).

⁷ The Japanese language has three types of script – *hiragana*, *katakana*, and *kanji* characters. *Kanji* characters were imported from China into Japan together with Buddhism in the 6th century AD. The Chinese and Japanese languages share part of their script (the *hanzi/kanji*) though the languages themselves belong to different linguistic families. Japanese belongs to the Ural-Altaic language group and shares more similarities with Turkish, Hungarian and Finnish, while Chinese is part of the Sino-Tibetan language group.

⁸ On a related note, one of the reasons the first Qin emperor built the Great Wall was to separate the Chinese from the ‘barbarians’.

⁹ Sun, Liang, Liu, Chen, Gao spent their exile in Japan, while Chiang studied at a military school in Japan.

¹⁰ There was a phase in Kato’s life when he was influenced by Confucian teachings. Fukuzawa had a complicated relationship with local culture as represented in his *Datsuaron* (leave Asia and join the West [to modernize]). This complicated relationship with the local culture is similar to many of the struggles Chinese intellectuals went through in the course of the reception and translation/adoption of Western concepts.

¹¹ December 1978, the Third Plenary Session of the Eleventh Party Central Committee available at: <http://www.china.org.cn/english/features/45961.htm>

¹² See the discussion in Svensson (1996).

¹⁴ In 1949, Mao had proclaimed his policy of ‘leaning to one side’ as a commitment to the socialist bloc. The Soviet Union recognized the People’s Republic later the same year. A formal ‘Treaty of Friendship, Alliance, and Mutual Assistance’ was concluded in February 1950 and remained valid until 1980.

¹⁵ For example, the *Great Leap Forward* was inspired by the Soviet development model as was the state planning, elements of which remain in effect to this day, despite China's various economic reforms.

¹⁷ Chen discusses this in great detail in his article 'Confucianism and Modern Life'. This idea is also shared by Wu Yu in 1917. See discussion in Svensson (1996). (1996).. This is similar to the process Japan intellectuals went through in terms of a phase of rejection of the local culture to accept Western concepts. See the earlier discussion of Fukuzawa's *Datsuaron*.

¹⁸ See the discussion in Kent (2007).

¹⁹ Signed in 1966, the Double Covenants came into force in 1976.

²¹ China's status in human rights regimes can be viewed on the UN website at: <http://www.ohchr.org/en/countries/asiaRegion/pages/CNindex.aspx> (last visited 15 December 2013).

²² China's foreign policy pillars are best summarized in the Five Principles of Peaceful Co-existence which were proposed by Premier Zhou Enlai to resolve the 1953-43 Sino-Indian border clash. These principles were incorporated into the Panchsheel Agreement between China and India signed in 1954. They are: 1) Mutual respect for each other's territorial integrity and sovereignty, 2) Mutual non-aggression, 3) Mutual non-interference in each other's internal affairs, 4) Equality and mutual benefit, and 5) Peaceful Co-existence (see Mitra, this volume)

²³ China historically viewed itself as the Middle Kingdom, having a tributary state system with satellite states that surround it. During the Opium War China was brought down from this pedestal and deemed a civilization not at par with the Western powers. This This humiliation and 'loss of face' continued for a period labelled the 'hundred years of humiliation'. See Qi Zhou (2005).

²⁴ One of the reasons Tiananmen had so much media coverage was the fact that there was a significant loosening of the press restrictions during Gorbachev's visit to China in May 1989, a few weeks before the massacre.

²⁵ It is recognized that the debate between universalism and relativism is very complex. However, the focus of this chapter is China's concept of human rights. Thus, for the purposes of the chapter, the Chinese position on human rights is understood as a challenge to the Western dominant notions of human rights, which is taken as the universal definition in human rights regimes. See Pollis and Schwab (1979) for a discussion of the issues of 'universality' in human rights.

²⁶ An online version of the 1991 White Paper on *Human Rights in China* can be found at:

<http://www.china.org.cn/e-white/7/index.htm>. Subsequent White Papers on human rights can be found at: <http://www.china.org.cn/e-white/> (last visited on 15 December 2013).

²⁷ See the discussion in Foot (2000: 152).

²⁸ A Full list of White Papers is available at: <http://www.china.org.cn/e-white/> (last visited on 15 December 2013).

²⁹ The White Paper is available at: <http://www.china.org.cn/e-white/20020313/index.htm>

³⁰ While this change in Beijing is mainly attributable to Tiananmen, the 'rise of China' is not unique to human rights but is also mirrored in other areas. The 'rise of China' or 'China threat thesis' is covered extensively in the literature. For some examples see: Callahan (2005), Ikenberry (2008), Johnston (2003).

³¹ Japan signed the Bangkok declaration but also submitted reservations for the Declaration to the UN. An Asian values doctrine was popular among the nationalist factions in Japan, and Japan was signaling to China that although they were taking the a universalist position at the UN, they were also in agreement with China and their position could be negotiable. (Wan 2001: 95 and Foot 2000: 157).

³² Available on UN website at: <http://www.unhchr.ch/Huridocda/Huridoca.nsf/TestFrame/9d23b88f115fb827802569030037ed44?Opendocument> (last visited on 15 December 2013).

³³ At the Vienna conference, the head of the Chinese delegation Liu Huaqiu made the following statement:

"The concept of human rights is a product of historical development. [...] Countries at different development stages or with different historical traditions and cultural backgrounds also have [a] different understanding and practice of human rights. Thus, one should not and cannot think of the human rights standard and model of certain countries as only proper ones and demand all countries to comply with them"³³ (*Chinese Journal of International Law* 2002: 737).

³⁵ For example, this is reflected in the 'clash of civilization' argument. See Huntington (1993).

³⁶ The Brundtland Report is officially known as the UN *Our Common Future-Report of the World Commission Environment and Development* and available at: http://conspect.nl/pdf/Our_Common_Future-Brundtland_Report_1987.pdf

³⁷ For example the Montreal Protocol on Ozone, the Convention on Biodiversity, as well as the UNFCCC.

³⁸ China has been an unofficial leader of the 'G77 and China' emphasizing a historical responsibility for the developed countries for the current state of the environment. The 'G77 and China' is the largest intergovernmental organization of developing countries in the UN. Its name comes from the fact that China was

not formally a part of the G77 but chose to negotiate with the coalition. The ‘G77 and China’ was established in 1964 by 77 countries signing the ‘Joint Declaration of Seventy-Seven Countries’, issued at the first session of UN Conference on Trade and Development (UNCTAD). It can be divided into the subgroups of – BASIC, Least Developed Countries, African Group, AOSIS, ALBA (Bolivia, Venezuela, Ecuador, Cuba and Nicaragua) and OPEC. For details see the G77 website at: <http://www.g77.org/>

³⁹ WenJiabao’s Speech at the Copenhagen Climate Change Summit December, 2009 is available at: <http://english.people.com.cn/90001/90776/90883/6846795.html>

⁴⁰Zhong Shukong was an active negotiator for climate change until his death in 2000. See Joby Warrick, ‘Senior Ministers Arriving in Japan to Try to Salvage Climate Summit’, *The Washington Post*, available at: <http://www.washingtonpost.com/wp-srv/inatl/longterm/climate/stories/clim120797.htm>

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