

The Human Rights Issue in China, 1929–1931

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In recent years the issue of human rights in China has been in the international limelight, especially since the Beijing Massacre of 4 June 1989. It is, however, not a new issue in the history of modern and contemporary China. Earlier in the 1970s and 1980s, a movement for Chinese democracy and human rights was launched by dissidents, though with little success.¹ Nor is it widely known that during the first years of the Nationalist rule there was a short-lived Human Rights Group (HRG) made up of a small number of Western-educated intellectuals.

The HRG was a group of loyal critics steeped in the tradition of remonstrance whose aim was to impress upon the government the need to effect political and constitutional reforms. Their criticisms were scathing, however, attacking the Nationalist government's authoritarian and repressive tendencies. Though very small and short-lived, the HRG can be understood as representing the first generation of Chinese human rights advocates and a precursor of contemporary China's human rights movement. And though the issue did not receive the wide attention the HRG desired, it posed an intellectual challenge to the Nationalist leadership and raised broader questions which would be addressed by human rights activists in the post-Mao era.

This article examines the issue in the context of Nationalist rule, and seeks to offer some insights into the larger question of Chinese democracy. It will concentrate on the thoughts of Luo Longji and Hu Shi, the acknowledged leaders of the group, and focus on a number of questions. What were their understanding and conceptions of human

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¹ See, for example, James D. Seymour (ed.), *The Fifth Modernization: China's Human Rights Movement, 1978–79* (New York, Human Rights Publishing Group, 1980); Andrew J. Nathan, *Chinese Democracy: The Individual and the State in Twentieth Century China* (London: I. B. Tauris, 1986).

rights? What were their main concerns and demands? Given the relationship between human rights and democracy, what sort of democracy were they talking about? And why did the issue fail to develop into a popular movement during the inter-war years?

This article will also compare and contrast the HRG's concerns with those of the human rights activists of the post-Mao era. It will show that the problems addressed by the two groups in different times and under different circumstances were strikingly similar in many respects. These concerns related to one-party rule and dictatorship, violations of human rights, thought control, the lack of a rule of law, inefficient and corrupt administration, and the absence of political reforms. Indeed, students of the contemporary human rights movement will find historical parallels and antecedents in the early Nationalist period.

Background to the Issue

The issue was brought up in 1929 by a small group of Anglo-American-educated Chinese intellectuals who were closely associated with the Shanghai magazine, *The Crescent* (*Xinyue*). Founded in 1928 by Xu Zhimo, Hu Shi, Wen Yiduo, and other graduates of Qinghua College as well as a number of returned students from Britain and the United States, *The Crescent* was originally a literary monthly devoted to the study of fiction, poetry, translation, and literary criticism. In April 1929, however, it began to concern itself with the political issues of the day, following the publication of Hu Shi's article entitled 'Human Rights and the Provisional Constitution'.

What prompted Hu to write the article was that on 20 April the government had announced 'An Order for the Protection of Human Rights' following the conclusion of the Third National Congress of the Nationalist Party (GMD), at which the leadership formally inaugurated a six-year period of political tutelage prior to constitutional rule. To Hu Shi, political tutelage without constitutionalism meant one-party rule involving the personal dictatorship of Jiang Jieshi. Given the repressive tendencies of the Nanjing regime, the April order was seen as a farce.²

Hu's critique focused on three points. The first concerned the government's definition of human rights in terms of protecting one's

² Hu Shi, 'Renquan yu yuefa' (Human rights and the provisional constitution), *Xinyue*, Vol. 2, No. 2 (10 April 1929), p. 1.

'body, freedom, and property'. In Hu's view, this narrow definition ignored a whole range of other rights that could be considered human. Moreover, even within this narrow definition, the terms 'freedom' and 'property' were not defined, and the government did not specify what rights were being protected.³

A second point concerned the source of human rights violations. While the April order stated that 'individuals or organizations' should not invade or impair anyone's 'body, freedom, and property' by any illegal means, there was no mention of the Party organization, the government, or any official or quasi-official bodies that might do so. The real problem, as Hu saw it, was that it was often the government and the Party, as well as bodies or agents acting in the name or on behalf of the Party, that violated human rights, and there was no law to provide sanctions against the Party or the government when they did so.⁴

Thirdly, Hu made the point that no protection was accorded to those accused of being anti-revolutionary or suspected of being communist; they were liable to detention or imprisonment without trial. Hu wondered, for example, whether the activities of the numerous anti-Japanese associations in China came under the rubric of the April order—a question which had been raised by the Shanghai press.⁵

Hu approached the human rights issue from a legalistic point of view (more of this later). He condemned as illegal actions the government's arbitrary arrests of people accused of being 'reactionary', 'anti-revolutionary' and communist suspects as well as other violations of human rights. In short, Hu argued if the government was serious about the protection of human rights, it was imperative that the foundations for a rule of law be laid. To that end, the first step should be to adopt a Constitution or at least a Provisional Constitution for the period of political tutelage. Basically concerned with constitutionalism and the defence of rights against the incursions of the Nationalist regime, Hu was less interested in a philosophical or theoretical discussion of human rights.

It was left to Luo Longji (1896-1965) to define and conceptualize human rights. A Qinghua scholar and holder of a BA and an MA from the University of Wisconsin as well as a PhD in government

³ *Ibid.*, p. 2.

⁴ *Ibid.*, p. 2.

⁵ *Ibid.*, p. 3.

from Columbia University, Luo had also spent one year at the London School of Economics and Political Science under Professor Harold Laski.

Luo Longji's Conception of Human Rights

Writing in an article entitled 'On Human Rights', Luo Longji declared that 'the bankruptcy of human rights is a fact that cannot be covered up in China today'. He accused the government of arbitrary arrests, imprisonments without trial, and secret executions—actions that were not confined to individual corrupt and cruel officials but were symptomatic of a bad system of government, for which the leadership should be held responsible.⁶

Luo defined human rights as 'whatever conditions necessary to be human', the most important of which was the right to life (*shengming*). Luo did not distinguish between the right to life and the right to live. But no doubt he appreciated that the former was only the bottom line. To live people need more than clothing, food, shelter, personal safety, and work, and should enjoy the right 'to develop individuality, to cultivate personality, and to attain the goal of the greatest happiness of the greatest number of the wide community'.⁷ Luo enumerated a total of thirty-five rights, including popular sovereignty, the rule of law, the independence of the judiciary, social equity, and equal opportunity.⁸ The word 'human' in Luo's essay clearly indicated that the rights in question were those considered to be an essential part of a properly human life. But Luo was not talking about only needs and interests in terms of livelihood and survival. More importantly, he considered that rights entailed dignity, happiness, and being oneself at one's best.

Luo did not owe his human rights ideas to the thought of Hobbes or of Rousseau. In fact, like Burke, Bentham, and Marx, Luo rejected Hobbes' idea of 'natural rights', as well as Hobbes' theory of rights as the satisfaction of all personal desires. Luo also dismissed Rousseau's notion of a pre-political state in nature in which human beings were equal, self-sufficient, and contented—the ideal of the 'noble savage'. But he acknowledged that human rights had existed prior to the

⁶ Luo Longji, 'Lun renquan' (On human rights), *Xinyue*, Vol. 2, No. 5 (10 July 1929), p. 1.

⁷ *Ibid.*, pp. 3–5.

⁸ *Ibid.*, pp. 17–25.

state and the law, and apparently accepted Rousseau's notion of the social contract and Hobbes' philosophy of government by consent.⁹

Luo approached human rights from the premise of social functionalism. A utilitarian liberal, he shared Laski's view that 'rights are those conditions of social life without which no man can seek, in general, to be himself at his best'.¹⁰ According to Laski, that does not mean to guarantee that one's best self will be attained; it means only that 'the hindrances to its attainment are removed so far as the action of the State can remove them'.¹¹ What, then, is the obligation or duty of the individual in return for his/her rights? Luo's answer was that:

I am only a member of the community. I do not exist independently of it. Rather my happiness is related to the happiness of the entire community. It is my responsibility to contribute to it to the best of my ability so that the whole community can be itself at its best, ultimately leading to the greatest happiness of the greatest number.¹²

The test of rights, therefore, was social utility, a view that reflected Laski's influence.¹³

There were two essential elements in Luo's conception of human rights: personal freedom and happiness, and the individual as a responsible member of society to which he/she must contribute for its social good. While the individual has a right to be free and happy, Luo was dismissive of Locke's idea of the atomistic individual who may be left alone in society, protected in the creation of personal property.¹⁴ As Terry Narramore has demonstrated, Luo's liberalism

⁹ Luo, 'Lun renquan', pp. 5-6; also Luo, '“Renquan” shiyi' (Discussion of human rights), *Xinyue*, Vol. 3, No. 10 (November 1930), pp. 9-10.

¹⁰ Harold J. Laski, *A Grammar of Politics* (5th edition, London, George Allen & Unwin, 1967), p. 91.

¹¹ *Ibid.*, p. 98.

¹² Luo, 'Lun renquan', p. 5.

¹³ 'Rights, therefore,' said Laski, 'are correlative with functions. I have them that I may make my contribution to the social end. I have no right to act unsocially. I have no claim to receive without the attempt, at least, to pay for what I receive. Function is thus implicit in right. In return for the conditions with which I am provided, I seek to make possible a contribution that enriches the common stock. And that contribution must be personal, or it is not a contribution at all. . . . I have to do something that is worth doing in order to enjoy that which the experience of history has proved to be worth enjoying. I may pay my debt to the State by being a bricklayer or an artist, or a mathematician. Whatever form my paying takes, it is essential that I should realise that the rights I have are given to me because I am performing some given duties.' See Laski, p. 94.

¹⁴ Terry Narramore, 'Luo Longji and Chinese Liberalism, 1928-32', *Papers on Far Eastern History*, No. 32 (1985), p. 173.

was the new liberalism of Laski and the Fabians, not Locke's and Smith's *laissez-faire* liberalism.¹⁵ For Luo, human rights were means to an end as well as an end in themselves, the end being the general good of society—in other words, the happiness of the largest number of people in the wide community.

While Luo agreed with Bentham in opposing the doctrine of natural and inalienable rights,¹⁶ he rejected Bentham's view that rights are the products of law—that is, people possess only such rights as are given them or allowed them by law. Luo was prepared to accept that the test of proper law is the degree to which it conduces to the greatest happiness of the greatest number, but he did not think that human rights were necessarily dependent on law. 'One may know what one's rights are from the law of the land, but not what rights one *ought to enjoy*' (emphasis added), he wrote, pointing out that law and justice are two separate things and that laws are enacted to protect rights.¹⁷ Here again, it is possible to see the influence of Laski, who held that rights 'are prior to the State in the sense that, recognised or no [*sic*], they are that from which its validity derives'.¹⁸

It was in those terms that Luo understood the relationship between human rights and the state, as well as between human rights and the law. In his view, the state exists to perform certain functions. Once those functions are lost, the *raison d'être* of its existence is gone. Luo understood the state to be a trust whose duty it is to regulate and protect rights, including the right to private property. He insisted that the authority of the state is limited, not absolute, as are people's obedience and duties to it.¹⁹

Luo was not arguing for small government or a weak state, nor did he attack the existence of the state. Actually, Luo acknowledged that the state should enjoy extensive powers and be able to command

¹⁵ *Ibid.*

¹⁶ Bentham called that doctrine 'rhetorical nonsense upon stilts', maintaining that 'Right is the child of law; from real laws come real rights, but from imaginary laws, from "laws of nature" come imaginary rights. . . . Natural rights is simple nonsense.' Quoted in Maurice Cranston, 'What Are Human Rights?' in *The Human Rights Reader*, eds Walter Laqueur and Barry Rubin (New York, Meridian Books, 1977), p. 18.

¹⁷ Luo, 'Lun renquan', pp. 6, 12–13.

¹⁸ Laski, p. 91. Laski also opined that every state is known by the rights it maintains and that the way of judging its character lies, above all, in the contribution it makes to the substance of people's happiness. Thus, he put it in a nutshell: 'The State, briefly, does not create, but recognises, rights, and its character will be apparent from the rights that, at any given period, secure recognition.' *Ibid.*, p. 89.

¹⁹ Luo, 'Lun renquan', pp. 7–10.

allegiance from its citizens. But he also maintained that both the state and the individual should fulfil their duties and obligations in a reciprocal manner. Like the Chinese Communists, Luo regarded the state as a tool, but, unlike them, he insisted that it should be used for promoting the common good of society and the happiness of the entire people and not the interests of the labouring classes alone. Thus, the state is only one of the many kinds of human organizations. Its relationship with the individual is one, not of domination, but of cooperation based on reciprocity, mutual constraints and mutual responsibilities, on the notion of a social contract, and the idea of interaction between state and society.²⁰

Clearly, Luo was talking about a Laskian rights-duties relationship, but at the back of his mind was perhaps also the Confucian tradition which emphasized loyalty of the people on the one hand and, on the other, the state's duty to care for the people, if not actually to provide them with basic subsistence. Given his Anglo-American education, Luo had a profound understanding of individualism and the sense of personal freedom associated with it. But, characteristic of the Chinese intellectuals of his time, he disapproved of social irresponsibility, and made no concession to the free individual's duties and obligations in return for the rights one enjoys. Moreover, he believed in a strong and efficient state. At no time did he argue for individual rights taking precedence over the general good of society. And, notwithstanding Laski's influence, Luo's thinking on rights and obligations reflected a common concern of modern Chinese intellectuals about the harmful effect on society of irresponsible individualism. In this regard, Frederic Spar seems to have overlooked Luo's balanced treatment of rights and obligations, of state and individual, when he writes that 'Luo unwaveringly placed the individual, not the state, at the center of his deliberations'.²¹

Luo made a distinction between human rights and citizens' rights (*minquan*), the latter being rights that the state confers upon its citizens. He pointed out that it is possible for a person to be stateless (that is, not a citizen of any state), but that there can be no citizens who are not human beings. The scope of human rights, therefore, is broader than that of citizens' rights which emphasize the political

²⁰ Luo Longji, 'Women yao shenmo yang de zhengzhi zhidu' (What sort of political system do we need?), *Xinyue*, Vol. 2, No. 12 (10 February 1930), pp. 5-7.

²¹ Frederic J. Spar, 'Human Rights and Political Engagement: Luo Longji in the 1930s', in Roger B. Jeans (ed.), *Roads Not Taken: The Struggle of Opposition Parties in Twentieth-Century China* (Boulder, Westview Press, 1992), p. 62.

aspects. Thus, the people's rights of which Sun Yat-sen spoke in his lectures on the Principle of People's Rights, especially as these related to election, initiative, recall, and referendum, were citizens' rights—political rights—which did not include liberty and equality, personal freedoms, or civil liberties.²²

Yet the fine distinction Luo drew between human rights and citizens' rights is rather artificial because, notwithstanding his definition of the term, human rights include the civil and political rights derived from the ancient notion, of Grecian origin, of the 'natural' rights of the individual.²³ Together, these rights were sometimes known as the 'first generation' of rights, regarded by socialists, communists, and nationalistic leaders of the underdeveloped societies as expressions of Western bourgeois culture and notions of individualism. These did not include 'economic, social, and cultural rights' or 'group rights' ('the second generation of human rights').²⁴

Reviewing the evolution of rights in England, France, and the United States from an historical perspective, Luo found that these had undergone different stages and that the meanings of certain political thought and ideals had also changed over time and space. Thus, he acknowledged, human rights were both temporal and spatial and demands for certain conditions necessary for human existence varied in time and space. While certain conditions existed at

²² Luo Longji, 'Renquan buneng liuzai yuefa li' (Human rights cannot stay in the provisional constitution), in 'Miscellany', pp. 3-7, *Xinyue*, Vol. 3, No. 7 (August 1930), pp. 5-6.

²³ Civil rights may be defined as rights of immunity that the individual enjoys free from the interference of the state and others and independent of the general social conditions of society in which one lives. They include freedom of thought, conscience and religion, expression and association, residence and movement, right to life, freedom from arbitrary killing, torture or mistreatment, freedom from slavery, arbitrary arrest or detention, and equality before the law. Political rights may be understood as rights of participation in politics, including the right of access to public service and the right of election and recall of government. See Ann Kent, *Between Freedom and Subsistence: China and Human Rights* (Hong Kong, Oxford University Press, 1993), p. 8.

²⁴ The Universal Declaration of Human Rights of 1948 added to the civil and political rights in the first twenty-one articles a set of new 'economic and social' rights, or the second generation of human rights. 'Group rights' were included in the 1966 International Covenant on Civil and Political Rights and the 1966 International Covenant on Economic, Social, and Cultural Rights. These stated that human beings form peoples who are entitled to political self-determination and control over their own natural resources as well as to live in a peaceful, healthy, and economically developing environment.

a given time in a given place, others did not, owing to circumstantial constraints.²⁵

The view that human rights are 'historical', meaning that they could not be asserted abstractly of the entity 'human beings' but must be related to the development of the country in which particular people live seemed acceptable to Luo. Yet his conception of human rights was not informed by China's existing socio-economic conditions. This is not to say that he ignored economic rights. In fact, he stressed the right to work and the state's obligation to provide work for the citizen and welfare in the event of natural disasters. However, throughout the 1930s, Luo did not pay sufficient attention to social injustice in China and the economic plight of the masses.

Luo's main concerns, shared by the whole HRG, were about the failings of the Nationalist rule, especially in terms of political tutelage and one-party dictatorship, thought control, and the absence of a rule of law.

Specific Concerns of the HRG

Political Tutelage and One-Party Dictatorship

The GMD, which came to power through a revolutionary route, was not anxious to establish a democratic, competitive political system. In proclaiming a period of political tutelage, the GMD placed itself above the state (*dang zai guoshang*) and outlawed all other political parties (*dangwai wu dang*, no parties outside the ruling party). A Provisional Constitution was not promulgated until 1931. No mechanisms were in place to limit the powers of the state, and no provisions were made for the effective exercise of popular sovereignty.

The late Sun Yat-sen had insisted on a stage of political tutelage in the Nationalist revolution because he believed that the people of China were not ready for democracy. As is well known, in his last years, Sun believed that the Chinese people enjoyed an excess of freedom, not a lack of it, that they were 'a sheet of loose sand', and that what China needed was 'corporate freedom', 'state freedom', and national unity, not more personal freedom at the expense of state power. Liang Shiqiu of the HRG attributed Sun's authoritar-

²⁵ Luo, 'Lun renquan', pp. 14-17.

ianism partly to his frustration as a revolutionary leader and partly to Soviet influence after 1923. Questioning the entire 'loose sand' theory, Liang argued that personal freedom and state freedom were not mutually exclusive, but both possible and desirable.²⁶

Also called into question was the assumption that the GMD was equal to the task of political tutelage. Hu Shi argued that if the Chinese people needed training in democracy, so did the government. What the people needed was a 'civic life' (*gongmin shenghuo*) in which they could exercise and enjoy civil rights. He rejected Sun Yat-sen's argument that the early Republic failed because constitutional rule was ahead of national unification and political tutelage. In Hu's view, the Republic failed not because of premature constitutionalism but because constitutional government was never established in the first place. 'Without constitutionalism', Hu wrote, 'political tutelage is nothing but autocracy. Surely that would not train people to go down the democratic road.'²⁷ Hu was adamant that only a constitutional government was qualified for political tutelage. Apparently he was not opposed to political tutelage *per se*. What he objected to was tutelage without a constitution. He was naive to think that once a constitution was adopted rights would be duly protected.

If political tutelage under constitutionalism was acceptable to Hu, it was not to Luo Longji in any case. For Luo considered tutelage to be part of a dictatorship; and a dictatorship, whether it was personal, party, or class, was unacceptable because it did not serve the purpose or functions of the state. Luo further argued that people did not need years of dictatorship before participating in the affairs of the state, any more than did the shareholders of a company need a period of managerial autocracy before participating in the affairs of the company. Like Hu, Luo contended that the political inexperience of the Chinese people was not a problem, because political experience was incremental and progressive and democracy a learning process. Luo was impressed by the Anglo-American model because it was one of trial and error which allowed learning from experience.²⁸

Luo observed that tutelage and authoritarianism did not make the Nanjing administration any more efficient. If anything, it was

²⁶ Liang Shiqiu, 'Sun Zhongshan xiansheng lun ziyou' (Mr Sun Zhongshan and liberty), *Xinyue*, Vol. 2, No. 9 (10 November 1929), pp. 1-7.

²⁷ Hu Shi, 'Women shenmo shihou caiyou xianfa?' (When can we have a constitution?), *Xinyue*, Vol. 2, No. 4 (10 June 1929), pp. 5-8. The quote is on p. 5.

²⁸ Luo, 'Women yao shenmo yang de zhengzhi zhidu', pp. 10-13.

rendered ineffective by incompetent self-serving Party members. Luo singled out the malpractices in the public service examination system which had favoured Party members who filled the best positions in the government. Instead of being open and competitive, it had become what Luo called a spoils system whereby people joined the Party in order to secure a government post and thereby to enrich themselves by abusing their authority. Luo condemned that kind of government—‘rule by Party members’—as a source of official corruption, a retrogressive step, political suicide, and a dead end for China.²⁹

Such a regime, moreover, was intolerant of public opinion and criticism. It sought to control popular thought by suppressing freedoms of speech and publication.

Thought Control

Freedom of the mind, the spirit, and the will is one of the principles on which human rights are based. It is an essential right that satisfies one's desire to express one's view and is, in this sense, an end in itself. At the same time, the utilitarian sees social utility in freedom of speech: it allows one to contribute to society through reasoned public debate. Thus, Luo Longji regarded making such contributions as a social responsibility, being oneself at one's best, and achieving the greatest happiness for the greatest number all at once. Conversely, suppression of such a right destroys one's personality and individuality, which is tantamount to destroying one's life and, ultimately, the life of the wider community.³⁰ For Luo, freedom of speech was both a means to an end and an end in itself.

²⁹ Luo Longji, 'Wo dui dangwu shang de "jinqing piping"' (My 'thorough' criticisms of the affairs of the [Nationalist] party), *Xinyue*, Vol. 2, No. 8 (October 1929), pp. 11-13.

³⁰ Luo, 'Lun renquan', p. 7. Luo acknowledged Laski, who wrote: 'The view I am concerned to urge is that from the standpoint of the State the citizen must be left unfettered to express either individually, or in concert with others, any opinions he happens to hold. He may preach the complete inadequacy of the social order. He may demand its overthrow by armed revolution. He may insist that the political system is the apotheosis of perfection. He may argue that all opinions which differ from his own ought to be subject to the severest suppression. He may himself as an individual urge these views or join with others in their announcement. Whatever the form taken by their expression he is entitled to speak without hindrance of any kind. He is entitled, further, to use all the ordinary means of publication to make his views known. He may publish them as a book or pamphlet or in a newspaper;

Acknowledging that freedom of speech posed a threat to the existing order, Luo warned that its suppression was a far, far greater danger to the authority. He argued that the only good thought was that which could be debated in a public forum and stand up against public scrutiny. Freedom of thought and expression must be absolute: 'If there is no absolute freedom, there is absolutely no freedom'.³¹ However, as Narramore has observed, Luo did not judge any aspect of human life in absolute terms. The intriguing question is whether Luo valued freedom of thought and speech more for its social utility and, if so, whether he was not imposing his own constraints on it.³²

Meanwhile, in a draft paper entitled 'We Want Our [Kind of] Freedom', Hu Shi deplored the lack of freedoms of thought, speech, and publication in China as a national disgrace, and argued that intellectuals like himself needed such freedoms to fulfil their duties as citizens of the state in two ways: first, to make constructive criticism of the government by generating and participating in reasoned debates, and second, to foster a new culture in which China's scholars would concern themselves with the important public issues of the day. The aim of all this was to encourage and to empower them to play the role of public supervisors of the government and political parties.³³ To Hu, too, freedom of speech and a free press had important socio-political functions.

The HRG was concerned that the government was seeking to politicize literature and art in an effort to achieve unity of thought (*sixiang tongyi*) under the Three Principles of the People. Liang Shiqiu, a literary critic, teacher, and translator of Western literature noted for his advocacy of the independence and aesthetic purposes of literary expression, warned that thought control could only spawn radical opposition and create 'enormous social chaos'. It was impossible to unify thought in any case, and what the Chinese needed was emancipation of thought and a liberal education.³⁴

he may give them in the form of a lecture; he may announce them at a public meeting. To be able to do any or all of these things, with the full protection of the State in so doing, is a right that lies at the basis of freedom.' See Laski, p. 120.

³¹ Luo Longji, 'Gao yabo yanlun ziyouzhe' (Advice to those who suppress freedom of speech), *Xinyue*, Vol. 2, Nos 6-7 (10 September 1929), pp. 9-10.

³² Narramore, p. 181, thinks Luo did.

³³ Di Yunzhi, *Hu Shi nianpu, 1891-1962* (A chronology of Hu Shi's life, 1891-1962) (Hong Kong, Zhonghua shuju, 1966), p. 111.

³⁴ Liang Shiqiu, 'Lun sixiang tongyi' (On unity of thought), *Xinyue*, Vol. 2, No. 3 (10 May 1929), pp. 6-8.

The calls for the emancipation of thought, a free press, and a liberal education were refrains of the May Fourth era to which the HRG intellectuals belonged. In the view of Hu Shi, whose May Fourth totalistic iconoclasm has been studied elsewhere,³⁵ the GMD was a party of the old culture, a reactionary party which had become petrified intellectually and which, alienating many a progressive thinker, could only save itself by embracing the new culture of science and democracy.³⁶

The HRG was convinced that a democracy would be better able to protect rights. Anti-communist, it had no wish to overthrow the government. What it desired was political reform and a rule of law.

Rule of Law

Democracy is based on the rule of law, which in turn is the very foundation of human rights. In the Western legal tradition, law is applied equally to all. Binding on the law maker, it is meant to prevent arbitrary actions by those in authority. Law guarantees a realm of freedom that is essential to the protection of life and human dignity against tyrannical oppression and to the regulation of human relations and activities in the community. A rule of law means rule not by the rulers, or by regulations, but justice under a set of rules and guidelines applied equally to all, without the arbitrary swings to and fro that characterize both totalitarian and authoritarian regimes. It holds due process in as high regard as it holds outcome, and also concludes a sacred respect for property rights, the most effective hedge against expansive state power.

Chinese political culture is characterized by *renzhi*—rule by the rulers. Traditionally, Chinese laws, based on a system of ethics, were rules and regulations used for political purposes, that is, to protect the existing order and the ruling classes and to maintain stability. There was little distinction between civil and criminal laws as the emphasis of the legal system was on control and punishment, not protection of rights. *Renzhi* emphasized personal charisma (in the Weberian sense), benevolence, and good government. It was also a style of politics and public administration that superseded institu-

³⁵ See Lin Yu-sheng, *The Crisis of Chinese Consciousness: Radical Antitraditionalism in the May Fourth Era* (Madison, University of Wisconsin Press, 1979).

³⁶ Hu Shi, 'Xin wenhua yundong yu Guomindang' (The new culture movement and the Nationalist Party), *Xinyue*, Vol. 2, Nos 6-7 (10 September 1929), p. 15.

tions, and in which there were no recognized political rules or mechanisms for conflict resolution in a peaceful way. Because of its dependence on personalities, Chinese politics was always unstable and conflict-prone, which led to factionalism, official corruption, and arbitrary actions by the rulers. *Renzhi* impeded institutional development, and the Chinese had no concept of the rule of law in the Western sense.

The Nationalist rule was within that tradition. Only a rule of law could give the people of China the protection they needed against the invasion of the state and the arbitrary actions of the rulers. Thus, Hu Shi insisted, whereas the people needed a 'civil life', the government must also lead a life governed by a rule of law (*fazhi shenghuo*).³⁷

Hu had particular reasons to be concerned about the government's abuse of powers. In October 1929, he was reprimanded by the Minister for Education, Jiang Menglin, for the views he expressed in his essays on human rights and constitutionalism, views described as 'anti-revolutionary', 'old-fashioned', and 'ridiculous'. He was said to have misinterpreted the Party's ideology and Sun Yat-sen's thought, and was further criticized for being 'arrogant', 'ill-intentioned', and 'superstitious about Western democracy'. Finally, he was accused of sabotaging the Party centre and national unity. As a consequence, he was dismissed from his position as Principal of The China Public Institute in Shanghai.³⁸

As noted earlier, Hu approached human rights from a legalistic point of view. Violations of rights were illegal, and so only a rule of law could compel the government to act legally like everybody else. It was this approach that led Hu to insist that civil rights movements should proceed from a legal premise. He recognized the function of law in an evolving political order and the need to educate people about the concepts of rights and freedoms and how these could be defended through a process of law.³⁹ In December 1932, following the arrests by the government of a number of dissidents and Communists, an organization called the Chinese League for the Protection of Civil Rights was formed in Shanghai, under the leadership of Song Qingling, widow of Sun Yat-sen and a long-time critic of the

³⁷ Hu, 'Women shenmo shihou caiyou xianfa?', p. 6.

³⁸ Yang Tianshi, 'Hu Shi yu Guomindang de yiduan jiufen' (Hu Shi's differences with the Nationalist Party), *Zhongguo wenhua*, 9 (Spring 1991), p. 125.

³⁹ Jerome B. Grieder, *Hu Shih and the Chinese Renaissance: Liberalism in the Chinese Revolution 1917-1939* (Cambridge, Mass., Harvard University Press, 1970), pp. 277-8.

post-1927 GMD, and the well-known educationalist, Cai Yuanpei. Its objectives were to secure the release of all political prisoners and to fight for the freedoms of speech, publication, assembly, and associations. Early in 1933, a branch of the League was set up in Beijing, with Hu Shi as chairperson. While opposing the government's arbitrary arrests and suppression of civil liberties, Hu insisted that the League's movement should be aimed at overseeing the government on the one hand and, on the other, educating the people on the function of the law in protecting their rights. Hu did not endorse the League's demand for the 'unconditional release of all political prisoners'. He argued that all those who were branded revolutionary or anti-government and who had been arrested on political grounds should be given the same legal protection as everyone else who had been arrested for different reasons. Hu was highly critical of the habit of relying on personal relations (*renqing* and *guanxi*) to secure the release of the detainees. He did not wish to be part of the League's effort to turn a legal issue into a political cause, and accepted that the government had the right to deal with political opponents who sought to subvert it or overthrow it by force, provided the due process of law was followed.⁴⁰

Luo Longji's attacks on the government also landed him in trouble with the authorities. On 4 November 1930 he was arrested in Wusong after a house search and taken to Shanghai, where he was charged with expressing 'reactionary' views and 'insulting' Sun Yat-sen, which made him a communist suspect. Yet just as his arrest was sudden and arbitrary, so was his release. He was freed immediately after a powerful figure within the GMD intervened and bailed him out.⁴¹

This incident led him to publish an article in *The Crescent* entitled 'What Is Rule of Law?' Having lived in England for one year, Luo was impressed with the English sense of justice and the English legal system which informed his understanding of the rule of law. He appreciated that the administration of justice is a process and that a process of law would provide the necessary mechanism for preventing

⁴⁰ Hu, Shi, 'Minquan de baozhang' (The protection of civil rights), *Duli pinglun*, No. 38 (19 February 1933), pp. 2-5; Zhongguo kexueyuan jindaishi yanjiusuo (ed.), *Zhongguo minquan baozhang tongmeng* (The Chinese civil rights protection association) (Beijing, Zhongguo shehui kexue chubanshe, 2nd edition, 1984), pp. 105-6; Grieder, pp. 277-8.

⁴¹ For a full account of his arrest, see Luo Longji, 'Wo de beibu de jingguo yu fan'gan' (My arrest and my disgust at it), *Xinyue*, Vol. 3, No. 3 (10 May 1930).

arbitrary actions by the rulers. And he considered it particularly important to create a new legal culture in China and to establish the machinery for ensuring that laws were clarified, enforced, and applied equally to all.⁴²

Luo would not share Hu Shi's naivety that the adoption of a Constitution would automatically guarantee the protection of rights. He went a step further than Hu, placing the human rights issue in a broader political and institutional framework because he believed that the fundamental problem lay with politics—the lack of a sound political system and good institutions, which in turn was due to military ascendancy and official corruption under a spoils system. 'What sort of a system do we want?' He asked in an article published in *The Crescent*. His answer, in short, was: 'There is only one route for Chinese politics to go down today, one that recognizes only institutions, not persons. Once the system is on the right track, we support whoever is in power. Without a system in place that suits the [modern] time, we would oppose whoever is in government.'⁴³ The function of a sound system and good institutions, he concluded, was to reduce the chances for evil doings to a minimum on the one hand and to promote mutual cooperation and exercise mutual restraints on the other.⁴⁴

Luo's prescription for China's chronic political malaise was correct because the root cause of that malaise was, as noted earlier, a personalist style of politics and government. The political system Luo advocated was a democratic one that recognized institutions and rested on a rule of law. The question that arises now is: What sort of democracy were Luo and company talking about?

Democracy and Expertocracy

'Democracy is essentially a kind of education', wrote Hu Shi. What he meant was that democracy involved a process of educating both government and people, a process of trial and error. China had no experience in democracy, Hu acknowledged, but that was not a problem because what the people needed was the opportunity to gain the experience. As well, it was precisely for that reason that both rulers

⁴² Luo Longji, 'Shenmo shi fazhi?' *Xinyue*, Vol. 3, No. 11 (December 1930).

⁴³ Luo, 'Women yao shenmo yang de zhengzhi zhidu', p. 2.

⁴⁴ *Ibid.*, p. 24.

and ruled, like young kids needing education, should 'go schooling'. That would be a long process, but it would produce the desired results over time.⁴⁵

The education analogy is an interesting one. If everyone needs education and is entitled to it, then everyone is entitled to be part of the democratic process. No doubt, the HRG was imbued with Anglo-American ideas. However, the available evidence suggests that while they upheld the principle of popular sovereignty they were interested in a sort of paternalistic democracy in which the educated elites would provide the leadership and govern the country on behalf of the people, and in which the national leaders would be responsible and accountable to the people. There would be elections, pluralism, multi-party rule, and protection of human rights. But would there be universal suffrage and majority rule? Luo was ambivalent, saying only that all those who had attained their majority could directly or indirectly participate in politics on an equal basis.⁴⁶

What was clear was that Luo desired a representative government that would combine entrusted power and expert service. He called for the immediate opening of the National Assembly to adopt a Constitution so that such a government could be established. He advocated a democratic system of government not because it was perfect, nor because it could eliminate all evil doings by those in authority, but because, as Bertrand Russell argued, it could control, contain, or minimize such evils. There could be no entrusted power without elections, multi-party competition, and freedoms of thought, speech, publication, and association. Nor could there be expert service without an open and competitive civil service examination system, and unless the terms of office were protected by law, and the opportunities for official corruption contained by legislation. In terms of representative bodies, Luo favoured four categories: vocational bodies (including chambers of commerce, trade unions, peasant associations, educational associations, teachers' associations, and the federation of student unions), local organizations (not stated exactly what these were), political parties, and the experts (professional societies).⁴⁷

However, no government, whatever its system, could be good unless served by able personnel. A student of government, Luo was

⁴⁵ Hu, 'Women shenmo shihou caiyou xianfa?', pp. 4-5.

⁴⁶ Luo, 'Women yao shenmo yang de zhengzhi zhidu', p. 10.

⁴⁷ *Ibid.*, pp. 15-24.

most interested in administrative processes, sharing Hu's view that politics was a specialized science (*zhuanmen kexue*) fit for the experts only, and not something for such laymen as those in the Nanjing government.⁴⁸

Hu Shi took exception to Sun Yat-sen's adage that 'knowledge is difficult, action is easy'. Sun's thesis, Hu criticized, makes too much of a dichotomy between knowledge and action, ignoring the fact that they are in a dialectical relationship where knowledge leads to action and action improves knowledge.⁴⁹ Hu was also concerned that it could encourage young people to develop an anti-intellectual attitude. If action is easy, why bother to acquire knowledge? No wonder, Hu said, the military had an excuse to interfere with the business of government. To be sure, knowledge is difficult. But, Hu insisted, action is not easy either. Thus, he wrote:

The greatest danger today is that those in charge of the state do not understand that their task is an absolutely complex and difficult one. Is there anything on earth more complex and difficult than having a group of men who have no modern academic training to govern a country which lacks the foundations of a modern materialist state? To undertake their task, there is no other way than consult the experts and apply science [to China's problems].⁵⁰

Hu made a distinction between popular participation in politics (*renmin canzheng*) and running the state (*zhiguo*). The former did not require specialized knowledge because what the people needed was experience which could be gained through participation itself, whereas the latter was a big enterprise that involved the solution of specific problems through the application of specialized knowledge. As the Chinese people were reluctant to participate in politics, the challenge to a democratic state was to induce them to do so.⁵¹ After making this distinction, Hu was able to insist that the business of government was the responsibility of the experts. His message was that politicians should be advised and assisted by the specialists. This

⁴⁸ Luo Longji, 'Zhuanjia zhengzhi' (Expert politics), *Xinyue*, Vol. 2, No. 2 (10 April 1929), p. 6. But Luo was much more critical of the Communists' ability to rule China should they win power. Observing that the CCP cadres had received only primary and secondary education, he characterized most of the junior party members as city rascals and country bandits. See Luo, 'Lun Zhongguo de gongchan' (On China and communism), *Xinyue*, Vol. 3, No. 10 (September 1931), p. 5.

⁴⁹ Hu Shi, 'Zhinan, xing yi bu yi' (To know is difficult, to act is not easy either), *Xinyue*, Vol. 2, No. 4 (10 June 1929), p. 12.

⁵⁰ *Ibid.*, p. 15.

⁵¹ Hu, 'Women shenmo shihou caiyou xianfa?', p. 4.

gave rise to the notion of what may be called expertocracy—'government by experts' (*zhuanjia zhengfu*) and 'expert politics' (*zhuanjia zhengzhi*).

It was Luo Longji who expounded that notion. For a start, Luo explained 'expert politics' in terms of the role of the state. Rejecting the *laissez-faire* liberalism of the eighteenth century, he advocated the state as an instrument for national development, especially in the areas of railways, telecommunications, transport, mining, reclamation and the like, which, he believed, should not be left to the private sector. For Luo, the state was also an agent of social reform,⁵² although it is unclear from his writings what sorts of social reforms he considered necessary for China.

Further, taking a cue from Sun Yat-sen, Luo argued that just as a company needed a board of directors and expert managers, so a country needed a capable president and an able government. Also accepting Sun's distinction between *quan* (power which belonged to the people) and *neng* (ability possessed by the specialists), Luo maintained that a government by experts was made up of professional civil servants like a board of directors, while the people were the shareholders on whose behalf the board of directors and expert managers run the business. The criteria of public administration were cost-effectiveness and efficiency.⁵³

Luo went so far as to say that he did not care what the ideology was as long as the administration was efficient.⁵⁴ That was a dangerous view because it could undermine the democratic cause he espoused. For if it could be demonstrated that democracy could not solve China's problems and that an authoritarian system could provide good government and efficient administration, could a case not be made for enlightened authoritarianism? As well, in the event of a conflict of interest between democracy and efficiency, which should take precedence? Luo did not raise these questions, and it is unclear what his answers would have been.

Luo was more specific and systematic in addressing the question of political systems than Hu. Whereas Hu was interested in his familiar homily that the scientific method, taught him by John Dewey, offered the best solutions to China's problems, Luo was convinced that it was changes in the political system that offered the best prospects

⁵² Luo, 'Women yao shenmo yang de zhengzhi zhidu', pp. 5-7.

⁵³ Luo, 'Zhuanjia zhengzhi', pp. 2-5.

⁵⁴ *Ibid.*, p. 1.

for the future. Furthermore, while Hu adopted a legalistic approach to rights and was naive about the efficacy of a constitution, Luo seemed sceptical about the actualization of constitutional rule in the absence of administrative and political reforms.

The HRG was concerned with political, not social, democracy. Yet HRG democracy was not based on human rights in the broadest sense. Not the entire population was to participate in the political process, the idea of majority rule was not entertained, and there was no suggestion that all the people be politically empowered. The HRG's view of human rights was implicitly negative in the sense that rights must not be trampled on by the state and that one had the right not to be invaded by those in authority. It was scarcely suggested that rights guarantee equal respect, equal opportunity, and membership of a political community in which effective participation was not only possible but also encouraged and facilitated. Likewise, little was said about universal suffrage by secret ballot, one person one vote, or the protection of the rights of the minority. Democracy was advocated more for its utility than for its liberal values, as a means of resolving China's political problems, ensuring personal freedom, and protecting human rights.

Luo's expert politics and Hu's distinction between popular political participation and running the state betrayed contradictory elements in their democratic thought. On the one hand, they rejected the doctrine of political tutelage and the familiar argument that the Chinese people were not fit for democracy. In this regard, they stood for the people with a faith in their nativist wisdom and their ability to participate in the democratic process. On the other hand, as intellectuals they took an elitist view of their leadership role, having no time for the peasants and workers in matters of public administration and, implicitly, policy formulation. The differentiation between *quan* and *neng* was as negative as it was positive for it implied that only those with abilities could become the rulers. The business of government was a preserve for the intellectuals and upper middle-class experts who would manage the affairs of state in the public interest. The idea was 'for the people', 'of the people', but not 'by the people'.

It is too easy for us to view the Chinese liberals of the Nationalist period from today's perspective and forget that they had to take account of the existing socio-political conditions in China. It should be appreciated that HRG democracy was premised on a process of gradual change. If it was paternalistic, it was suited to Chinese tradi-

tion, where the masses or ordinary people (*lao baixing*) expected leadership from the civil elites and where, as John Fairbank observed, 'the upper-class official had governed best when he had the true interests of the local people at heart and so governed on their behalf'.⁵⁵

The Issue in Comparative Perspective

In 1929 the Chinese human rights issue concerned first and foremost civil rights. Notwithstanding Luo Longji's utilitarian view of the state, relatively little was said about what the state should do for the people in the social and economic spheres. And the case for human rights was made on the basis, not of universality, but of the failings of the Nationalist rule.

Hu Shi's essay that fired the first salvo in *The Crescent* in April 1929 failed to produce an immediate and profound impact in China's intellectual circles. It took Cai Yuanpei more than a month to write briefly to Hu Shi praising him for what he said.⁵⁶ And it was not until the end of July that another friend of Hu's named Zhang Xiaoruo lauded him in a letter for his 'rare courage and seriousness in lecturing the government on such an important issue on behalf of the people, the silent majority'.⁵⁷ A year later, in May 1930, another friend, Zhang Yuanji, praised him for saying what others would not dare say.⁵⁸ A few months later, Shanghai's *Minbao* (People's Daily) grossly exaggerated the extent to which the HRG represented a third force in Chinese political thought alongside the Three Principles of the People and communism.⁵⁹

Why did the issue fail to receive the wide attention the HRG desired? Part of the reason was that while the Nationalist government had many failings, authoritarianism *per se* was not the major cause of popular discontent and intellectual dissent, nor were violations of human rights which were commonplace under any Chinese

⁵⁵ John King Fairbank, *China: A New History* (Cambridge, Mass., The Belknap Press of Harvard University Press, 1992), p. 319.

⁵⁶ Zhongguo shehui kexueyuan jindaishi yanjiusuo Zhonghua minguo shiliaoshi (comp.), *Hu Shi laiwang shuxinxuan* (Selected correspondence of Hu Shi) (Hong Kong, Zhonghua shuju, 1983), Vol. 1, p. 517.

⁵⁷ *Ibid.*, pp. 525-6.

⁵⁸ Yang Tianshi, p. 127.

⁵⁹ Zhongguo shehui kexueyuan . . . (comp.), *Hu Shi laiwang shuxinxuan*, Vol. 2, p. 64.

regime at any time. It could be argued that one-party rule and political tutelage could have been acceptable to more than a few government critics and the people at large had there been a rule of law and a reasonable degree of personal freedom and tolerance of intellectual dissent. (As the British colony of Hong Kong demonstrated, it was possible to enjoy a rule of law and personal freedom without democracy.) Human rights and democracy were vague concepts to most Chinese at the time, as these were alien to their political tradition. Although the Nationalist government was repressive and unpopular, there was a school of thought that what China needed was not democracy but a strong state and good government. Advocates of enlightened authoritarianism, among whom were a few Western-educated scholars, did not see human rights as a high priority. Neither did those who believed in social justice and economic equality before political rights and civil liberties.

Indeed, the reason why a human rights movement failed to develop in the 1930s was because it was irrelevant to the more pressing problems facing China and the Chinese people. China was steeped in violence, war, and revolution. It remained divided after 1928, with recalcitrant warlords in the regions and a communist movement. The level of foreign imperialism was increasing, especially in the northeast. China's problems then were a combination of internal disorder, foreign imperialism, and landlord/tenant tensions, aggravated by a corrupt government. Hu Shi, rejecting foreign imperialism as a root cause of China's problems, attributed them to five internal forces, namely, poverty, diseases, ignorance, corruption, and disorder.⁶⁰ Oddly enough, he did not include autocracy and the repressive state.

Although human rights were of necessity a political issue, few of their advocates were political activists. Hu Shi tried to avoid political engagement as much as he could, although Luo Longji did not. Others of the HRG were in the main arm-chair intellectuals who paid insufficient attention to China's socio-economic problems. They were liberals, not visionaries, favouring evolutionary change and strongly opposed to any violent revolutionary methods. And they failed to mobilize the masses.

The HRG disbanded itself after 1931, though not before criticizing the Provisional Constitution of the Period of Political Tutelage

⁶⁰ Hu Shi, 'Women zou natao lu?' (Which road are we going?), *Xinyue*, Vol. 2, No. 10 (10 December 1929).

promulgated by the GMD at the conclusion of the National People's Congress in May of that year.⁶¹ *The Crescent* was forced out of business in that summer after the police raided its office, made a few arrests, and confiscated a thousand copies of the July issue of the magazine. Soon afterwards China was plunged into an external crisis. As the Manchurian crisis deepened, the mood of China's political and intellectual elites changed, favouring national unity in the face of foreign aggression. The government was now attacked, not for its violations of human rights, but for its policy of non-resistance. The human rights issue then receded into the background, and subsequently became part of a broader movement for constitutionalism and democracy which continued unabated during and after the War of Resistance.

The Chinese Communists were opposed to the HRG from the outset because of its anti-communist stand. Writing in the party organ *The Bolshevik* in 1931, CCP leader Qu Qiubai attacked the HRG's 'ulterior motives' and accused it of attempting to use Western bourgeois ideas as a weapon to counter the communist movement. The HRG, Qu went on, was actually working for the GMD because its real motives were to eliminate communism and to promote the interests of the bourgeoisie and the landlords at the expense of the peasantry and the labouring classes.⁶²

Recent scholarship in the People's Republic of China is less hostile, interpreting the HRG as basically a two-pronged bourgeois movement influenced by Anglo-American thought. On the one hand, by attacking the GMD dictatorship, the HRG exposed the government's 'decadent, reactionary, and repressive' character; in this sense the HRG was positive and progressive in its espousal of civil rights and liberties, the rule of law, expert administration, and popular supervision over the state. On the other hand, the HRG was stridently anti-communist, pinning its hopes on the government to reform and to eliminate the CCP. Moreover, because it represented bourgeois and capitalist interests, it was constrained by class limitations and divorced from historical realities. Hu Shi's insistence on gradual reform is contrasted with the communist idea of change. His dismissal of foreign imperialism as China's principal enemy draws

⁶¹ See Luo Longji, 'Dui xunzheng shiqi yuefa de piping' (Criticisms of the provisional constitution for the period of political tutelage), *Xinyue* (July 1931).

⁶² Qiu Bai [Qu Qiubai], 'Zhongguo renquanpai de zhen mianmu' (The real face of the Chinese human rights group), *Buershenweike*, Vol. 4, No. 5 (November 1931), pp. 101-22.

strong criticisms, while Luo Longji is faulted for separating human rights from people's rights and for placing civil and political rights ahead of social and economic rights.⁶³ Further, Hu's and Luo's legalistic and political approaches to the Chinese problem are described as 'utopian', meaning totally unrealistic, on the grounds that freedom of speech, a free press, and democratic politics were neither sufficient to change the government nor substitutes for the most pressing needs of the masses.⁶⁴ Reflecting Beijing's current stand on human rights, the PRC writers reject the concept of universality, arguing that human rights and rule of law are not absolute but relative to classes and societies. They criticize the HRG's lack of concern about the plight of the masses whose rights to clothing, food, and shelter were not given a higher priority. Finally, they insist that the HRG was opposed to the liberation of the proletariat and the masses uninterested in the broader question of social and economic equity.⁶⁵

Fifty years on, post-Mao China saw the unfolding of a human rights movement which displayed historical parallels and continuities with the past. The most striking similarity was opposition to one-party rule and to the claim of the Party leadership that the Party—and only the Party—held out hopes for China's future. The idea of political tutelage was no monopoly of the Nationalists.

There were similar calls for democracy, even though the term democracy meant different things to different people. Human rights and democracy were interrelated issues, held together by a common view that open, representative, and responsible government would provide an answer to the ills of Chinese society, including corruption which was rampant in the 1980s. Human rights advocates, past and present, have emphasized the importance of political pluralism and the freedoms of thought and speech. The demand for a free press was as strong in the 1980s as it had been 50 years before.

A rule of law is regarded by all human rights advocates as absolutely essential. The CCP leaders, like those of the GMD before

⁶³ See, for example, Qin Yingjun, 'Renquanpai zhengzhi sixiang qianxi' (Brief analysis of the political thought of the human rights group), *Shixue yuekan*, 6 (1986), pp. 63–8; Liu Jianqing, 'Renquanpai lunlue' (On the human rights group in brief), *Nankai xuebao*, 2 (1987), pp. 77–82; Bao Heping, 'Lun "Renquanpai" de zhengzhi zhuzhang' (On the political thought of the 'human rights group'), *Minguo dang'an*, 2 (1991), pp. 79–87.

⁶⁴ Hu Weixi, Gao Ruichuan, and Zhang Limin, *Shizi jietou yu ta* (The crossroads and the tower) (Shanghai, Shanghai renmin chubanshe, 1991), pp. 285–93.

⁶⁵ Gong Yongkang, Liu Wenzhu, and Sun Youcai, 'Qianlun renquanpai de zhengzhi sixiang' (A brief discussion of the political thought of the human rights group), *Liaoning shifan daxue xuebao* (January 1987), pp. 76–8.

them, virtually put themselves above the law, which led to corruption and arbitrary actions by those in authority. Chinese politics under communism were just as personalistic as in the Republican era. Political interference with the judiciary was a perennial problem, one that still confronts China today.

All these problems were highlighted in the post-Mao era by the Li Yizhe Movement (1974-79), the Democracy Wall Movement (1978-80), and the protest movement of the late 1980s which culminated in the Beijing Massacre of 4 June 1989. These movements called for the establishment of a system of socialist democracy based on Marxist principles that would eliminate the rule of a privileged political elite and the establishment of a legal system which would institutionalize these principles. The China Human Rights League, formed in Beijing on 1 January 1979, demanded, among other things, freedom of thought and speech, safeguards for the constitutional right to assess and criticize Party and state leaders, elections of state and local leaders, and freedom of movement, including foreign travel. Wei Jingsheng, well known for his Democracy Manifesto, called for a 'Fifth Modernization' in addition to Deng Xiaoping's 'Four Modernizations'. His twin goals were 'the realization of human rights' and 'the kind of democracy based on the cooperation of all the people', supported by a 'kind of rule of law which was conducive to the realization of equal rights'.⁶⁶ Some years later, Liu Binyan, stressing the importance of press freedom and Party reform, advanced the idea of 'a second kind of loyalty' based on political criticism, and also called for the establishment of a multi-party system within the existing socialist framework.⁶⁷ Until the Beijing Massacre of June 1989, the contemporary dissidents differed from the HRG intellectuals before them in their calls for socialist democracy rather than Western-style democracy.⁶⁸

Furthermore, the human rights advocates during both periods were reticent about the political empowerment of the people, favouring paternalistic democracy rather than liberal democracy based on human rights in the broadest sense. Luo Longji's expertocracy was reminiscent of the traditional literati's elitism and emphasis on Confucian meritocracy. Similarly, the dissenting intellectuals of the contemporary period, as Merle Goldman has observed, were 'a

⁶⁶ Cited in Kent, pp. 142-3.

⁶⁷ *Ibid.*, p. 151.

⁶⁸ One notable exception was Fang Lizhi, who considered that socialism, democratic or not, was no longer the answer to China's problems.

continuation of the literati in modern guise'.⁶⁹ Joseph Esherick and Jeffrey Wasserstrom have discovered that the student leaders at Tiananmen Square in 1989 were elitist and did not trust the masses or believe in majority rule.⁷⁰ And James Seymour observes that China's intellectuals in the 1980s, with the notable exception of Liu Xiaobo, held an elitist view of the will of the people as the basis of government authority, a view that did not envisage everyone to have the right to take part in government through democratic procedures.⁷¹ Neither Fang Lizhi nor Yan Jiaqi, like Luo Longji, conformed with the Western view of human rights as something inherent and inalienable. Neither was concerned with popular participation in government, and both sought an expanded role of leadership for the intellectuals like themselves.

Lastly, the human rights movements in both periods were not organized opposition. Both desired political reforms by the ruling party and government. The HRG was stridently anti-communist, whereas the post-Mao movement advocated socialist democracy, not the overthrow of the communist government. Both were within the tradition of loyal opposition, favouring change within the existing system. And both were unsuccessful because the existing authorities were repressive, politically immobile, and irresponsive to public demands. Neither the GMD nor the CCP tolerated loyal opposition.

There are also differences between the two periods. First, the HRG was a small group of liberal intellectuals who had little appeal to the masses, their activities being confined largely to Shanghai's educated circles. By contrast, the 1980s saw a more broadly based movement, begun by a few political activists in Beijing like Wei Jing-sheng who would not have been called intellectuals in the traditional sense but who were educated dissidents from working-class backgrounds, supported by university and college students and a number of establishment intellectuals. The support base was further broadened in the protest movement in the immediate pre-1989 period, backed by city dwellers from different walks of life, though support from the rural areas was weak.

⁶⁹ Cited in Kent, p. 148.

⁷⁰ Joseph W. Esherick and Jeffrey N. Wasserstrom, 'Acting Out Democracy: Political Theater in Modern China', *Journal of Asian Studies*, Vol. 49, No. 4 (November 1990), pp. 837-8.

⁷¹ James D. Seymour, 'What the Agenda Has Been Missing', in Susan Whitfield (ed.), *After the Event: Human Rights and their Future* (London, Wellsweep Press, 1993), pp. 38-9.

Second, the HRG, squeezed between two authoritarian parties, had little political space in which to manoeuvre, and in the end had no alternative to choosing between the two evils. The dissidents of the 1980s had only the CCP and the government to contend with. Although they also had little political space in which to operate, they were able to seize the opportunity provided by China's 'open-door' policy to enlist sympathy from all those who desired a civil society. The contemporary movement was more sustainable in that the Beijing government was forced onto the defensive in regard to its human rights record, if only because of foreign pressures.

Third, in 1929 there were no economic forces at work in the formation of the HRG. Economics was not an issue in the HRG's critique of the GMD, despite the plight of the Chinese masses. In the 1980s, although economics was not formally an issue in the democracy movement, it was a strong indirect influence in that the demand for political reform stemmed from the country's economic development, human rights being part of a broader movement for political reform to keep pace with economic change. Economic issues in the sense of economic rights were relevant to those involved in the Democracy Wall Movement. As economic reform led to social change, the desire for a civil society, personal freedoms, and the protection of political and civil rights grew.

Finally, the international climate in the 1980s was very different. Rapid and momentous changes were taking place in the Soviet Union and Eastern Europe, democracy was the intellectual vogue around the world, and Chinese human rights advocates enjoyed the support of the West and such international organizations as Amnesty International. Post-Mao China was not threatened by foreign imperialism; there was no Japanese invasion, no war, and no revolution. The only foreign pressures were from countries that wished to see an improvement in China's human rights record.

Clearly, there are more similarities than differences, underscoring the strong elements of continuity in the quest for human rights in twentieth-century China. Just as the HRG failed to bring about a reform of the GMD government, so the human rights movement in the post-Mao era failed to bring about a democratization of the political system. But the issue is not dead. Demands for human rights will continue as China becomes more prosperous and with the emergence of an affluent middle class and a consumer society.