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LIANG QICHAO'S POLITICAL AND SOCIAL PHILOSOPHY

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Liang Qichao (1873–1929) was one of the foremost intellectual leaders of contemporary China and one of its major political figures. He was arguably the most widely read public intellectual during the transitional period from the late Qing dynasty to the early Republican era. Like Diderot in France and Herzen in Russia, Liang was a thinker whose opinions and activities changed the direction of political and social thought in his country. Liang and his teacher, Kang Youwei (1858–1927), often referred to as “Kang-Liang,” transformed traditional Chinese philosophy into the kind of philosophy that we know today in China. Almost all the fundamental assumptions and ideas that we find in the work of contemporary Chinese philosophers can be traced back to Kang and Liang. This chapter will focus on Liang Qichao’s political and social philosophy.

Liang was more than a political philosopher or theorist. His career as a public intellectual, journalist, and political activist began when he was still a young man. Liang was twenty-two years old when in 1895 he and Kang organized the scholars’ protest in Beijing, an event that marked the beginning of the era of democratic mass movement in China.

The writings of Kang and Liang came to the attention of the young Emperor Guangxu and helped usher in the well-known “One-Hundred-Day Reform” in 1898. During this period the emperor acted on the advice of these scholars in an attempt to reform the imperial system. The suggested changes included setting up modern schools, remaking the 2,000-year-old civil service examination system, and publishing more translations of Western books on politics and history. Liang was recommended to the emperor and was granted an audience. The emperor placed him in charge of a newly authorized government translation bureau. Liang could have had greater influence, had he been able to speak proper Mandarin – the Emperor could not understand his Guangdong dialect.

The reform movement was suppressed by the Empress Dowager Cixi; on 21 September, 1898, she ordered the kidnap of the emperor, placed him under

house arrest, and seized control of the government. Orders were also issued for the arrest of Kang, Liang, and other reformers. Six of the intellectual leaders of the movement were arrested and put to death. Liang escaped to Japan, where he was to remain in exile for 14 years until the fall of imperial China. Liang returned to China in 1912 after the establishment of the Republic of China. When the autocratic president Yuan Shikai attempted to overturn the republic and have himself declared emperor, Liang, with his former student, General Cai Er, organized successful military resistance (Liang, 1916). Liang held cabinet positions twice, each for a very short period of time: the minister of the Department of Justice (September 1913–February 1914), and the minister of the Department of Finance (July–November 1917). Although he wrote on theoretical and scholarly issues all his life, only in his last decade did he become a university professor. In the 1920s, Liang was considered, together with Wang Guowei, Chen Yinke, and Zhao Yuanren, one of the “Four Great Masters” of Qinghua University. He died when he was only fifty-six years old.

Liang was an extremely prolific writer. He started publishing when he was twenty-three, and *The Collected Works of Liang Qichao* contains about ten million words. Liang wrote on an extremely wide range of issues: political philosophy (especially nationalism, constitutionalism, anarchism, human rights, and women’s rights), legal philosophy (including the first brief history of Chinese legal philosophy), international relations, philosophy of history, philosophy of science, metaphysics (especially the issue of free will and the law of causality), methodology of historiography, education, communication, journalism, economics, finance, and current political, social, economic, and financial policies, to give just a few examples.

Among his contemporaries, Liang was the most cosmopolitan. He invited Bertrand Russell to give a series of lectures in China. Liang spent 16 years in Japan and traveled extensively to the U.S., England, France, Sweden, Holland, Germany, Canada, Australia, and New Zealand. He met President Theodore Roosevelt and the financier J. P. Morgan and talked to the philosopher Henri Bergson. Liang had an imaginative and critical mind and was a marvelously gifted social observer. His books on his trips to America and Europe are full of insights about politics, customs, characters, and intellectual trends. Scholars in the future would do well to compare his book on his journey to the New World with de Tocqueville’s *Democracy in America* (1954; first published in two volumes 1835, 1840). He wrote one short treatise on each of the following Western philosophers: Aristotle, Spinoza, Hobbes, Rousseau, Kant, Fichte, Montesquieu, Bacon, Bentham, Spencer, and Darwin. Many people in China were introduced to these figures through Liang’s writings. Liang introduced a Chinese readership to the basic ideas of liberalism, anarchism, civic nationalism, constitutionalism, historicism, and the concept of a universal world history. Li Zehou, one of the most important philosophers writing in Chinese in 1980s,

assessed Liang as “the most influential propagandist of bourgeois enlightenment” (Li, 1979, p. 438). Indeed, a list of people who spoke passionately of how Liang’s writings transformed their life and thought would be a Who’s Who of modern Chinese history, regardless of their political positions.

Liang’s Civic Nationalism and His Critique of Cultural Monism

One of Liang’s central concerns was the problem of how to justify historical changes that included “changing China from an empire to a nation” and “*bianfa*” (reform; literally: changing institutions and laws). For Liang, reform meant creating new institutions, such as railroads, newspapers, modern schools (including schools for women), a parliamentary system, and the protection of people’s rights. And these institutions, according to Liang, were the essential components of a modern nation or state (*guojia*). For most of the Chinese in the late nineteenth century, these institutions were new and non-Chinese and hence creating them was illegitimate and unjustifiable.

How to justify historical change to his contemporaries was already a central problem in the first essay that Liang published, “*Bianfa tonglun*” (On Changing Institutions) (1896). Liang’s innovative solution to the problem can already be found in this essay. Before Kang and Liang, there had been several solutions to the problem of how to justify historical change. Liang’s innovation consisted in his extremely keen reflective awareness of the deep-seated assumptions or presuppositions that were taken for granted by his turn-of-the-century contemporaries. These assumptions defined a general framework that might be called the “framework of cultural monism.” Liang called all deep-seated assumptions *lixiang* (imagined principles):

What was *lixiang*? The things that everybody imagines and are commonly taken as the most reasonable principles. In the mind of people of any nation, there are inherited social customs of thousands of years, and their great philosophers’ teachings are eventually internalized in everyone’s brain and cannot be erased or washed away. This was *lixiang*. It was the most powerful thing in the world. Its power can produce various customs and all kinds of events. Whenever there was an old *lixiang* that has ruled the world for a long time, if we suddenly want to replace it by an opposite *lixiang*, a giant force was needed. (Liang, 1999, vol. 1 p. 413)

Here we shall focus on a specific set of *lixiang* that define the framework of cultural monism. Liang was the first to describe such a framework, and his account obviously inspired Levenson’s idea of “culturalism” (Levenson, 1959, 1968). The many assumptions in this framework focused on the views

that China is civilization or the world (*tianxia*); that the Confucian way (*dao*) or Confucian rituals and morals (*li-yi*) are universally true; and that the sovereignty of the empire (*tianxia*) lies in the emperor (*tianzi*), who is the Son of Heaven (*tian*).

In Liang's writings, cultural monism remained a major target throughout his life. For example, his civic nationalism, which holds that China is a nation and the sovereignty of the nation lies in the people or citizens, is the result of a direct negation of the assumption. Liang believed that the following three deep-seated assumptions were the main causes of China's weakness and its endless defeats in the modern world of nation-states:

First, there has been no awareness of the distinction between *guojia* (nation) and *tianxia* (the world, empire). The Chinese have not been aware that its *guo* was one nation or state [among many]. For China has remained united since ancient time; it has been surrounded by "little barbarians," who do not have civilization or government and thus could not be called a nation or state. We Chinese people do not see them as equals. Therefore, for thousands of years, China has been isolated. We call China the world, not a nation. . . . Secondly, there has been no awareness of the distinction between a nation (or state) and a dynasty (or court). The biggest problem of the Chinese people is that we do not know what kind of thing a nation is and thus confuse the nation and the court, mistakenly believing that the nation is the property of the court. . . . Thirdly, there is no awareness of the relationships between the nation or state (*guo*) and the citizens (*guomin*). A nation consists in the people. Who is the master of the nation? The people of the nation. . . . The Western people regard the nation as being shared by the king and the people. . . . This is not the case in China. One family owns the nation and all the rest of the people are slaves of the family. This is why, although there are forty million people in China, there are actually only dozens of human beings (*ren*). When such a nation of dozens of human beings encounters the [Western] nations of millions of human beings, how can it not be defeated? (Liang, 1999, vol. 1, pp. 413-14; also see Liang, 1999, vol. 2, p. 657, p. 736)

In his early essays, instead of distinguishing between *Chinese learning* and *Western learning*, Liang deliberately chose to speak of *political learning* (*zheng-xue*), which included, as he emphasized, both Chinese learning and Western learning. This enabled Liang to say that in order to change China into a modern nation and to make it strong, we should study both Western and Chinese political learning. Liang changed the subject by changing the question. Before Liang, the question was "Why should we study *Western learning*?" Liang started asking a very different question: "Why and how should we study *political learning*?" Liang's answer was, "If we really want to think about self-strengthening in China today, we must start with promoting political learning" (Liang, 1999, vol. 1, p. 43). "Regarding politics (*zheng*), there is no difference between China and the West. . . . These [rules and laws] are the same in both the ancient and

present time, in both the West and China. They are common principles for all nations" (Liang, 1999, vol. 1, p. 137).

Liang shifted the focus from "civilization" to "nation" and from "Western versus Chinese learning" to "the universal laws of all nations." He wrote in 1899:

The Westerners, such as Grotius and Hobbes, who were all ordinary people, have written the universal laws of all nations (*wanguo gongfa*), and the whole world obeys them. The *Chunqiu* written by Confucius was also the universal laws of all ages. How ridiculous for anyone to say that Confucius must not be as intelligent as Grotius and Hobbes! (Liang, 1999, vol. 1, p. 154)

Notice that in 1899 Liang still held the assumption that the source of all truth is Confucius; this is why in the above passage he had to claim that Confucius had already known the universal laws of all nations. Around the 1900s, Liang no longer held this assumption. He now thought that one came to know the universal causal laws of history by studying history. He stopped appealing to Confucius. For Liang, the most important law was the causal relationship between nationalism and the rise of Western nations. Here was what he wrote in 1902:

That Europe has arisen, and the world has progressed since the sixteenth century was all because of the rising power of "nationalism" [Liang used the English term]. What is nationalism? Those people from different places, who are of the same race, language, religion and custom, see each other as fellows, seek independent self-rule and organize a government in order to seek the common good and to conquer other races. And by the end of nineteenth century (the last twenty or thirty years), this "ism" has developed to its extreme and has further become "national imperialism." [Liang used the English term] (Liang, 1999, vol. 2, p. 656)

The early Liang's justification for historical change and the creation of new institutions was based on such universal laws. For example, his justification for creating civil associations and parties in China was: "Among the strong nations in the West and East, there is no nation that has no parties and no one person who does not join an association" (Liang, 1999, vol. 1, p. 148). His justification for creating a national religion at the time was not different from his teacher Kang's justification; he said, "There are no ruling people who do not have a religion, and there are no nations that do not have a religion" (Liang, 1999, vol. 1, p. 150). His justification for creating local self-government was: "Cultivating the fashion of local self-government is the starting point of strengthening the nation. Today if we want to build a nation on this planet, the only art of doing it is through the citizen's self-government" (Liang, 1999, vol. 2, p. 758).

In the last decade of his life in the 1920s, Liang's role changed from a political activist to a historian; what Liang called the "historian's virtue of truthfulness" led him to reject his earlier belief in the *existence* of universal causal laws in history. However, in the 1900s, even though he still believed in the existence of universal historical laws, Liang had already changed his view regarding the *contents* of some of the universal causal laws. For example, he argued against his teacher Kang's claim that there was a causal relationship between religion (Christianity) and the rise of Western nations. He argued, rather, that it was freedom of thought that was partly responsible for the rise of the Western nations. For the same reason, he also opposed Kang's plan to establish Confucianism as a national religion modeled on Christianity. However, at this stage, Liang still took the freedom of thought as an instrumental value, as a means to the end of strengthening the nation. In his later life, Liang eventually came to see truth (and truthfulness) as an intrinsic value and never changed this position. He is one of very few Chinese intellectuals to have consistently taken freedom of thought as a value in itself (for detailed discussion, see Xiao, forthcoming).

Liang was the most original among the first generation of Chinese nationalists who articulated and introduced the fundamental idea of civic nationalism. His originality lay in two of his major ideas: his civic nationalism and his historicist concept of nationalism and nation. He believed that there was an intimate relationship between national rights (sovereignty) and the people's rights. He always reasoned on both levels: "The reason a nation has independent sovereignty (*zizhu zhi quan*) is because the people have independent sovereignty" (Liang, 1999, vol. 1, p. 344). The two rights were based on the same principle of self-mastery and independence:

Nationalism is the most just and grandest doctrine in the world: no nations should violate my nation's liberty, and my nation should not violate other nations' liberty. When this doctrine is applied to my nation, it means the independence of human beings (*ren*); when the doctrine was applied to the world, it means the independence of nations. (Liang, 1999, vol. 1, p. 459)

For Liang, the location of sovereignty within the people and the recognition of the fundamental equality among its members constituted the essence of civic nationalism and this was at the same time the basic tenet of democracy. In his essay "On the Progress China Has Made in the Last Fifty Years" (1922), Liang argued that China's progress was due to the citizens' awareness of two principles. The first one is "Anyone who is not Chinese has no right to govern Chinese affairs." The second is "Anyone who is Chinese has the right to govern Chinese affairs." He called the first principle "the spirit of nation-building" and the second "the spirit of democracy" (Liang, 1999, vol. 7,

p. 4031). As we have seen, unlike cultural nationalists and other nationalists, Liang believed that nationalism is a product of history and it has a beginning and it also has an end in the future; thus he did not believe that there has always existed a Chinese nation. Rather, we had to create China as a nation. He tried to historicize nationalism and to show that nationalism was the product of a certain historical epoch, that is, the modern age. "The eighteenth and nineteenth centuries are the age of nationalism. The French Revolution [by giving rise to nationalism] has accomplished the greatest achievement by far in history" (Liang, 1999, vol. 1, p. 459). He argued that, as a matter of universal law, China should and would become a nation: "Any *guo* (country) that has not gone through the stage of nationalism cannot be called a *guo* (nation)" (Liang, 1999, vol. 1, p. 460).

In introducing the concept of civic nationalism in China, Liang introduced the concept of the people (*min*) at the same time. Before its link with nationalism, *min* meant no more than the population of a region. Liang played a crucial role in the process of the "nationalization" of *min* (the people), and he used a new term *guomin* (people of the nation, citizens). He held that the life and death of a nation depends on the life and death of its citizens (Liang, 1999, vol. 1, p. 259):

What is a nation? It consists of the people (*min*). What is national politics? It is simply the people's self-government. What is love of country? It is the people loving themselves. Therefore, when the rights of the people arise, national rights are established. When people's rights or powers (*quan*) vanish, national rights or powers vanish. (Liang, 1999, vol. 1, p. 273)

From the last sentence of the above passage, we can see clearly that Liang's concept of "*quan*" means more than a normative and formal concept such as "rights." It also means "power." One might want to say it includes both "liberty" and what Rawls (1971) calls the "worth of liberty." But it might be more adequate to compare it with Hannah Arendt's concept of power. For both Arendt and Liang, power will be generated when people act together and, through power, people can found a new republic and make history. As Arendt puts it, "power springs up between men when they act together and vanishes the moment they disperse" (1958, p. 200). Liang would also agree with Arendt when she says that "power and freedom belonged together, . . . conceptually speaking, political freedom did not reside in the I-will but in the I-can" (1965, p. 148). Unlike Arendt, Liang also emphasizes that people's intelligence is essential for the generation of power. (For a discussion about the similarities and differences between Liang's and Arendt's concept of power, see Xiao, forthcoming.) It seems obvious that the word "*quan*" in the following passage should be translated as "power":

Those who speak of China must speak of "promoting the people's power (*quan*)."
It is necessary to promote the people's power, but the people's power cannot be achieved overnight. This power grows from the intellect. When there is one degree of intelligence, there is one degree of power. When there are six or seven degrees of intelligence, there will be six or seven degrees of power. When there are ten degrees of intelligence, there will be ten degrees of power. (Liang, 1999, vol. 1, p. 177)

For this reason, Liang considered his agenda of cultivating the Chinese people into new citizens (*xin-min*) as the crucial part of his political philosophy of rights. His justification for a standardized public education is that it is the passport to citizenship. For Liang, to increase the people's rights or powers is to increase their will to self-mastery: "The reason the people have *quan* (rights or powers) is because they have the will to self-mastery" (Liang, 1999, vol. 1, p. 334). To achieve this aim of self-mastery, the ideas and techniques of Neo-Confucian self-cultivation could be a very useful source, as Liang argued in what might be his best-known essay *Xinmin Shuo* ("On the New People" or "On Renewing the People"). This provides another example of his capacity to transform traditional Chinese philosophy – in this case, moral psychology and spiritual exercises – into contemporary discourse (for a more detailed discussion, see Chang, 1971). However, because of limited historical experience, Liang was not aware of the possible conflict of the two meanings of *quan*, and the possibility that the agenda of renewing people could dangerously become an agenda of forcing people to become free. Also, he was not aware of the possible conflict between national rights and people's rights, not to mention the possible conflict between national rights and human rights.

Liang's Two Concepts of Liberty

Isaiah Berlin and Elie Kedourie have independently argued that the Kantian idea of individual self-determination was one of the sources of nationalism (the idea of national self-determination) in Europe (see Kedourie's 1960 book, *Nationalism*, and Berlin's 1972 essay, "Kant as an Unfamiliar Source of Nationalism" in Berlin, 1996). As we have seen, in Liang Qichao, the ideas of individual and national self-determination went hand in hand.

The modern Chinese term *zhu-quan* (sovereignty) is an abbreviation of *zizhu zhi quan* (literally: the right of self-determination or self-mastery or autonomy). This phrase appeared as a translation of "[national] rights" or "[national] sovereignty" in a Chinese version of the American legal scholar Henry Wheaton's international law textbook, *Elements of International Law*. The book was first published in 1836 in the U.S. There were several revised editions. The American missionary W. A. P. Martin started the translation in 1862 when

he returned to China from the U.S. (Martin, 1966, pp. 221–2, 233–5). Martin used the 1846 edition of the book. With the aid of four Chinese scholars, he finished his rendering around 1864. His version, entitled *Wanguo gongfa* (Universal Laws of All Nations), could hardly be called a translation, not only because much of the original contents were omitted, but also because the translators mainly provided summaries of passages rather than word-by-word translations. In his preface, Martin used the idea that every human being has rights as an example to illustrate the idea of (national) rights.

Shortly afterwards, we also find Kang Youwei, Liang Qichao, Tan Sitong, and others applying the term *zizhu zhi quan* to *ren* (human beings) or *ren ren* (all human beings, every human being). The sentence "*ren ren you zizhu zhi quan*" (all human beings have the right to self-mastery or autonomy) thus became an extremely popular slogan at the time. We can also find this popular slogan in the books and magazines written, edited, and published by Christian missionaries, where the slogan was read not necessarily as a political one. Kang's and Liang's innovation is that they did not take it merely as a *metaphysical* claim about human nature. They took it as a *political* principle and went further to apply this principle to political, legal, and social issues. One result of these applications is their doctrine of *minquan* (the people's rights, popular sovereignty). The other is Kang's utopian idea that the family would be abolished in the future. No wonder some conservatives picked up this slogan as a major object of attack. We can find such an attack in Zhang Zhidong's essay on rectifying rights from his book *Quanxue pian* (Exhortation to Learn) (Zhang, 1995) which was published in 1898 and was given official distribution by the emperor. Zhang's essay was also included in *Yijiao Congbian* [Selected Writings on Protecting the [Confucian] Doctrine], a collection of essays attacking Kant–Liang's agenda of radical reform (Su, 1898). Zhang refused to take the idea of *zizhu zhi quan* as a political idea:

Recently some people who chased after Western doctrines have even claimed that every human being has *zizhu zhi quan*. This is ridiculous. *This phrase came from the books of Christianity and its meaning was just that God gave human beings spirit and soul, and that every human being had intelligence, wisdom, and thus could achieve certain things* (emphasis added). Therefore, it is a big mistake for the translators to render it as "every human being has *zizhu zhi quan*." (Zhang Zhidong's essay on rectifying rights, in Su, 1898, p. 127)

This passage reflects the important fact that Kang and Liang had already transformed the slogan into a *political* one. Thus, not surprisingly, Zhang's strategy had to be to reinterpret the slogan as a *nonpolitical*, harmless, metaphysical/religious claim about human nature.

Not long after W. A. P. Martin's translation *Wanguo gongfa* was published, Kang Youwei finished the manuscript of a book *Shili gongfa* (Substantial Axioms

and Public or Universal Theorems) around 1888. Its style was modeled on the Euclidean axiomatic system of geometry and Wheaton's system of international law. The manuscript remained unpublished in Kang's lifetime, but its basic ideas found their way into some of his published works, especially his influential book on utopia, *Datong shu* (The Book of Great Unity). More importantly, Kang showed the manuscript to his students, including Liang (Liang, 1999, vol. 2, p. 958).

The proposition, "Human beings have the right to self-mastery" (*ren you zizhu zhi quan*), was the first universal theorem (*gongfa*) of Kang's axiomatic system. Kang applied this universal theorem to the five basic Confucian human relationships (*wulun*): husband-wife, parent-child, teacher-disciple, emperor-subject, and elder brother-younger brother. He appealed to this universal theorem when he criticized the central aspects of Confucian moral teaching. For example, he wanted to abolish the family; in his future utopia, children would grow up in government-run units. "[When they grow up], they may see their parents. But according to the *gongfa*, parents should not require children to have filial piety, and children should not require parents to be benevolent, because human beings have rights of autonomy" (Kang, 1987, p. 285).

Kang's approach was both revolutionary and utopian. He looked at parents and children as if they were strangers armed with rights to self-mastery. He wanted to impose on intimate human relations a moral principle that was more properly applied to the relations of strangers. The New Culture Movement in the 1910s and 1920s and the Cultural Revolution in the 1960s and 1970s would seek to carry out radical utopian agendas that are not very different from Kang's. In these periods, radical individualists, anarchists, and utopian socialists promoted the abolition, among other things, of filial piety and the institutions of family and marriage.

However, Liang never went as far as that. He did not believe that the concept of rights should apply in the realm of intimate human relations. This was one of the major reasons that Liang ceased to be read when radical individualists, anarchists, and abolitionists of marriage in the New Culture Movement dominated the national cultural life. Liang criticized misapplications of Kang's teaching:

When some hear [Kang's] principles of Utopia, they learn nothing except that they should take their family members as strangers. . . . When they hear Locke's and Kant's theory of liberty, they immediately indulge in excessive and uncontrolled activities in the name of natural rights. (Liang, 1999, vol. 2, p. 763)

Liang distinguished political and legal liberty from social and ethical liberty in a way that roughly corresponds to Isaiah Berlin's distinction between negative and positive liberty. Liang used the distinction to respond to a popular

communitarian critique of the principles of liberty and equality. He defended these principles by recognizing that they are political and legal principles that are only applicable to the domain of the political:

I hope those older generations in our country understand that the function of liberty and equality is to be applied to politics. Outside politics, one should not appeal to these [two principles] as one's reasons for action. When they are applied to politics, they mean no more than that everyone has liberty protected by the law and that everyone is equal before the law. They should not be interpreted as going beyond this domain. (Liang, 1999, vol. 5, p. 2,845)

He argued that the older generation's objection to the principles of liberty and equality was based on confusing the negative legal concepts of liberty and equality with the positive ethical concepts of liberty and equality. He also held that the legal concepts of liberty and equality are the necessary conditions for any meaningful life:

Liberty and equality are two principles from which many political principles are derived. How could we then take them lightly? Everyone has liberty protected by the law; everyone is equal before the law – are not these two principles those on which people's lives rely? In the last two years, the government has arbitrarily invented all kinds of taxes to exploit people, which has deprived people of the liberty of property; the government has put people under surveillance and spied on people's speeches in the streets, which has deprived people of the freedom of speech and association; the government has fabricated evidence to trap people and put people to death without trial, which has deprived people of the liberty of life; the government has used coercive force to manipulate people's will, which has deprived people of the freedom of conscience. How can anyone have a meaningful life under such a political system? (Liang, 1999, vol. 5, p. 2,845)

Liang, however, argued that, beyond the legal realm, the concept of liberty means something very different:

There are also cases where the principle of liberty and the principle of equality are applied to character and action. Ethical theorists respect freedom the most. What they mean by "freedom" is what makes the conscience absolutely free [from the bodily desires], not controlled by the bodily desires. If you indulge in excessive sexual activities and base behavior and try to return to your original conscience, you will know clearly that you should not act like this. When your bodily desires arise and intervene, you cannot control them. On the contrary, you are controlled by them; you become the slave of desires. This is the opposite of freedom. If you still dare to say, "I am free," isn't this sad? (Liang, 1999, vol. 5, p. 2,845)

He held that the ethical concept of equality also means something very different outside the legal realm:

The ethical concept of so-called "equality" means that every human being has the same basic capacity; if anyone can extend this capacity, then one can become a sage [here Liang used the phrases from Mencius]. If some give it up and want to be [ethically] inferior, then they will lose the worth of their humanity and become a beast. How can they then be equal to others? (Liang, 1999, vol. 5, p. 2,845)

It is extremely interesting that Liang claimed that the ethical concept of equality was based on Mencius's metaphysics of human nature, but did *not* claim that the legal concept of equality was based on any metaphysics. The contemporary New Confucian program of – to use Mou Zongsan's term – working out (*kaichu*) democracy from Confucianism has recently gained much popularity, with several attempts to derive the political idea of human rights from Mencius's concept of equality (see, for example, William Theodore de Bary, *Asian Values and Human Rights: A Confucian Communitarian Perspective*, Cambridge: Harvard University Press, 1998; William Theodore de Bary and Tu Wei-ming, eds, *Confucianism and Human Rights*, New York: Columbia University Press, 1997). In contrast to Liang's account, the disadvantage of this approach is that if we lose confidence in Mencius's metaphysics, we will lose confidence in the concept of human rights. To put the point in the later John Rawls's terms in his *Political Liberalism* (1993), Liang's *political* concept of human rights is a stable one whereas the others' *metaphysical* concept is not.

Modernity as Differentiation: Liang's Invention of the Sixth and Seventh Human Relationships

Like the later Rawls of *Political Liberalism* (1993), Liang was able both to accommodate a communitarian emphasis on basic intimate human relations and to retain a liberal emphasis on the political and legal concepts of liberty and equality. Instead of trying to change the nature of the five Confucian basic human relationships, Liang proposed recognizing two new relationships: (a) the relationship among private persons in general (*yibang siren*), including strangers and private persons of different countries (Liang, 1999, vol. 3, p. 1,310), and (b) the relationship between the state and its citizens (*guoming*). He held that these new relationships are within the domain of rights and legal regulations. I shall call these two new relationships the "sixth" and "seventh" relationships.

Liang thought that the two most unfortunate features of the traditional Chinese legal system were its lack of private law (*sifa*) to govern the sixth relationship

and its lack of a constitution as the basic part of public law (*gongfa*) to govern the seventh relationship (Liang, 1999, vol. 3, pp. 1,311–12). According to Liang, civil law determines the rights and duties of strangers in general (Liang, 1999, vol. 3, p. 1,310) and the constitution determines the rights and duties of citizens in relation to the state (Liang, 1999, vol. 3, p. 1,312). Liang further argued:

The most valuable thing about Roman law was that its civil law was comprehensive. . . . Modern civilization started from the study of Roman law. Its influence was so great that the legal systems of all modern countries are not duty-based, but right-based. This was all because of the influence of Roman law. Since rights were the basis of law, the purpose of law was thus not to limit people's freedom, but to protect people's freedom. This will then make it natural for people to be pleased to have law and respect law. Is not this revolutionary change of [legal] principle crucially important? China has three thousand years of legal history; there have been countless legal texts. But there was almost nothing about civil law. (Liang, 1999, vol. 3, p. 1,311)

In 1906, these were important innovative ideas, but unfortunately not many people followed Liang's line of thought. From Zhang Dainian's autobiography, however, we know that Zhang's father, Zhang Zhongchin, who was a member of the congress in 1918, took this new approach to human relationships very seriously, believed that besides the traditional five relationships, there was one more relationship between person and person, that is, between persons who are not friends. He even gave himself a new name "*Liulun*" (meaning: the sixth relationship).

Quite recently, China has seen a "right-based law movement" that started in 1988 at the First Conference on Basic Legal Categories with a debate on the question "What was the basis of law: right or duty?" Since then, hundreds of articles on this issue have been published in magazines and newspapers. Most contributors have criticized China's duty-based conception of law and its one-sided tendency to emphasize duty over right. One prominent member of the movement wrote, "Only when a government takes citizens' rights seriously can the people have trust, respect and obedience for the law." This claim reiterates Liang's idea and argument of eighty years ago for a right-based legal system.

The seventh relationship in Liang's civic nationalism took a constitutionalist form:

However, if we do not have a constitution, we will not be able to have the rule of law. Why? Because a constitution is the basic law, without which all laws are without foundation and without protection. The Englishman Preston once wrote an article entitled "The constitutional law of the Chinese empire," commenting on the book *The Comprehensive Laws of the Great Qing (Daqing huidian)*,

saying that it was the eternally unchanging basic law and was like a constitution. . . . But this was nonsense. The constitutions of all nations, good ones and bad ones alike, generally have three parts: 1) the method of state structure; 2) the rules of state administration; and 3) the citizen's rights and duties with respect to the state. Lacking any one of the three, it cannot be called a constitution. *The Comprehensive Laws of the Great Qing* has only the second part and lacks both the first and the third. . . . Therefore, the difference between the *huidian* and a constitution is not a matter of degree, but a matter of kind. (Liang, 1999, vol. 3, p. 1,312)

When Mao Zedong was young and not yet a Marxist-Leninist, Liang was his hero. He even gave himself a new name containing a character from Liang's name. Under the influence of Liang's writings, the young Mao became a civic nationalist and constitutionalist, believing in democracy, reform, and local self-government. As a sixteen-year-old student in 1910, Mao read Liang's essay "On National Consciousness" and was especially impressed by the following passage:

A nation or state is like a company; the court is the management, and the head of the court is just the manager of the department. . . . This is why the King of France's statement "I am *guojia*" (L'état c'est moi) is today regarded as absolutely incorrect. The children of Europe would ridicule this when hearing it. (Liang, 1999, vol. 2, p. 663)

On the margin of this passage, Mao wrote:

When the country is legitimately founded, it is a constitutional nation: the constitution is made by the people and the crown is appointed by the people. When it is not legitimately founded, it is a totalitarian nation: the laws are made by the emperor who is not respected by the people. Today, Britain and Japan fall into the former category, while the dynasties in the long history of China fall into the latter. (Mao, 1990, p. 5)

We now know that, unfortunately, in his later years in power, Mao would totally forget what he had read and believed.

Liang's proposal to add two ethical relationships resulted from his critique of the traditional Confucian ideal of political and legal order, but he did not dismiss every element of this ideal. He accepted certain of its assumptions that were powerfully formulated in the *Great Learning* (*Da Xue*), one of the "Four Books" of the Confucian canon. The Confucian ideal was a dynamic conception of the transformative power of self-cultivation, which leads from self to family, state, and empire. The cultivation of the self and the regulation of the family are seen to be the "roots," and the governance of the state and the universal peace of the empire are seen as the "branches." Liang still took

self-cultivation and the family as the roots in his new formulation of civic relationships. This commitment was reflected in his massive writings on self-cultivation and its crucial importance for his new ideal of citizenship (see, for example, "On Renewing the People").

Liang's innovation of adding the elements "citizen" and "private person in general" to his account of basic relationships led to changes in the nature of the traditional elements and changes in the structure of the traditional relationships. The "state" and "empire" now had different meanings, and Liang also wanted to change the structure of the Confucian ideal. He argued that civil associations and other communities are the missing links between the state and the family:

Governance in Europe and America takes the individual person as a unit; governance in China [takes] the family. This is why people in Europe and America belong directly to the state, whereas people in China belong indirectly to the state. Confucian sages say that the root of the state is the family, and that when the family is well-regulated, the state can be well-governed. In such societies, there are no associations outside the family. . . . [T]hus I once said that there are only members of the family (*zhumin*), but no citizens (*shimin*) in China. For China never had *shimin*, the so-call "citizen" in English. (Liang, 1999, vol. 2, p. 730)

This emphasis on civil associations and communities was one of Liang's most important innovations, and it has obvious relevance for us today. To appreciate this, one must look at the efforts of contemporary Confucian scholars to deal with – or to avoid – this issue. In the *Great Learning*, the continuum of human cultivation and political transformation proceeds from the self to the family, to the state and to the world. Notice that in the sequence from the family to the state "community" or "civil associations" is not mentioned. In his commentary on the *Great Learning*, Tu Wei-ming regularly inserts the word "community" in the sequence from the family to the state. Here is a typical statement by Tu: "Family was the root, and harmony attained in the *community* [emphasis added], the state, and the world was a natural outgrowth of the well-regulated families. In this sense, what we do in the privacy of our own homes profoundly shapes the quality of life in the state as a whole" (Tu, 1988, pp. 115–16). What is missing in the Confucian version and is inserted by Tu is exactly what Liang wanted to create: civil associations and communities as the missing link between the family and the state.

If we agree with Max Weber, Niklas Luhmann, and Jürgen Habermas that modernity can be characterized as the differentiation of spheres of life, we should conclude that Liang Qichao's political and social philosophy has provided a fully articulated project for the modernization of China. It is thus necessary to understand Liang Qichao if we want to understand modern China.

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Liang Qichao's nianpu [Life and Letters of Liang Qichao]

For Liang's life as a person, politician, journalist, political commentator and political activist, as well as for the historical and intellectual context of Liang's thought and especially for the development of his thought, a very useful tool is Liang Qichao's *nianpu*. A *nianpu* is a collection of biographical and intellectual materials chronologically arranged. These two *nianpu* are a biographer's dream. They contain thousands of Liang's letters (drawn from a collection of nearly 10,000 letters), summaries, contexts and responses to his essays and monographs and the editors' comments.

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Liang Qichao's quanji [The Collected Works of Liang Qichao]

There are many editions of Liang's collected works, but there is still no critical edition. The first collection of Liang Qichao's writings was edited by He Qiangyi: *Yinbingshi wenji* 飲冰室文集 (collected essays from the ice-drinker's studio), published by Shanghai Guanzhi Publishing House in 1902. The latest collection was published in

1999. Between these two editions there have been about forty different editions. Until 1999, the most comprehensive and better edited was *Yinbingshi heji*, edited by Ling Zhijung. It consists of two parts: *wenji* (collected essays) and *zhuaji* (collected monographs and books):

Liang, Qichao 1936a: *Yinbingshi heji: wenji* 飲冰室合集: 文集 (collected works from the ice-drinker's studio: collected essays), 103 vols in 24 books, Shanghai: Zhonghua Book Company

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Liang, 1985: *Liang Qichao lun qin shi er zhong* 梁啟超論清史二種 (Liang Qichao's two books on Qing intellectual history), Zhu Weizheng, ed., Shanghai: Fudan Daxue Press. This is also a critical edition. The editor has corrected a lot of errors in the other editions. This should also be a model for the future critical editions of Liang's works.

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Discussion Questions

1. How can we justify the reform of institutions?
2. Are Liang Qichao's criticisms of cultural monism well-founded?
3. Are truth, truthfulness, and freedom of thought instrumental values or intrinsic values?
4. Does the concept of self-mastery help us to understand the relationship between national rights and people's rights?
5. Must political and legal rights be grounded in metaphysics?
6. Should we distinguish political and legal liberty from social and ethical liberty?
7. What follows from supplementing the five traditional Confucian relationships with the relationship among private persons in general and the relationship between the state and its citizens?
8. Did traditional China have a constitution?
9. Are self-cultivation and the family important for the governance of the state?
10. How should civil associations and communities affect relationships between citizens and the state?