

China and the Political Upheavals in Russia, the Ottoman Empire, and Persia: Non-Western Influences on Constitutional Thinking in Late Imperial China, 1893–1911

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*To follow the way of the Western nations means to go the way
to certain ruin. But also to remain in the position in which the
Russians in Russia, the Persians in Persia, the Turks in Turkey,
and the Chinese in China are is also impossible.²*

Leo Tolstoy (1828–1910)

*Constitutionalism is much in the air among oriental peoples, as is
shown by the examples of Turkey and Persia not less than of China.³*

Introduction

Constitutionalism, in China, is more often than not described as a “good shipped from abroad” (*bolai pin* 舶來品).⁴ But does this model suffice to explain all aspects of the emergence of modern Chinese constitutional thought?

1 The author would like to thank Professor Nikolay Samoylov for his generous help with Russian material, and the two anonymous reviewers for their valuable comments.

2 “Итти по пути западныхъ народовъ значить итти на вѣрный путь погибели. Но и оставаться въ томъ положеніи, въ которомъ находятся русскіе въ Россіи, персы въ Персіи, турки въ Турціи и китайцы въ Китаѣ, тоже невозможно,” in Leo Tolstoy, *1. Pis'mo k' kitaiĭsu (Oktiabr' 1906 g.)*. 2. *Kitaiskaia mudrost'. Mysli kitaiskikh' myslitelei 1. Pисьмо къ kumaiĭcu (Oktiabr' 1906 g.)*. 2. *Kитайская мудрость. Мысли китайскихъ мыслителей* [1. Letter to a Chinese gentleman (October 1906). 2. Chinese wisdom. Thoughts of Chinese thinkers] (Moscow: Posrednika, 1907), 11. The English translation follows Leo Tolstoy, “Letter to a Chinese Gentleman,” in *The Russian Revolution* (Christchurch: The Free Age Press, 1907), 85.

3 “Reaction at Peking,” *The North-China Herald*, no. 2142, August 29, 1908, 509–510.

4 E.g., Qi Sheng 齐盛, “Jindai Zhongguo xianfa de fazhan guiji” 近代中国宪法的发展轨迹 [The development track of constitutions in modern China], *Henan keji daxue xuebao (Shehui kexue ban)* 河南科技大学学报 (社会科学版) 29, no. 5 (2011): 93; Zhai Guoqiang 翟国强, “Zhongguo yujing xia de ‘xianfa shishi’: yi xiang gainianshi de kaocha” 中国语境下的

Certainly, late Qing constitutional thought was related to increased contacts with the West and Japan. There is strong evidence that Chinese intellectuals and officials industriously studied Western and Japanese constitutional models, and there is a considerable body of research on Chinese receptions of these models.⁵ Many—but not all—Qing intellectuals declared that China had never previously had a constitution, that the origins of the concept lay in ancient Greece and Rome or in medieval England, and that the concept had to be “imported” to China.⁶

But do these accounts tell the full story? If one looks at the global history of constitutionalism, one finds that China’s transformation in the beginning of the twentieth century was not unique; it was part of a global phenomenon that was well noted at the time, but which has been scarcely studied in the secondary literature.⁷ The Chinese constitutional transformation occurred

“宪法实施”：一项概念史的考察 “Constitutional implementation” in the Chinese language: an examination in conceptual history), *Zhongguo faxue* 中国法学 2 (2016): 109; Ma Xiaohong 马小红, “Shilun ‘chuantong’ Zhongguo xianzheng fazhan zhong de shiluo” 试论 ‘传统’ 中国宪政发展中的失落 A tentative discussion of the disappointments in the development of “traditional” Chinese constitutional government, *Faxuejia* 法学家 4 (2008): 1.

5 See Sōda Saburō 曾田三郎, *Rikken kokka Chūgoku e no shidō—Meiji kensei to kindai Chūgoku* 立憲国家中国への始動—明治憲政と近代中国 The start of China as a constitutional state—Meiji constitutional government and modern China (Kyoto: Shibunkaku shuppan, 2009); Yong Lei, *Auf der Suche nach dem modernen Staat: Die Einflüsse der allgemeinen Staatslehre Johann Caspar Bluntschli auf das Staatsdenken Liang Qichao* (Frankfurt am Main: Lang, 2010); Alison A. Kaufman, “One Nation Among Many: Foreign Models in the Constitutional Thought of Liang Qichao” (PhD diss, University of California, 2007).

6 See Zhou Kui 周達, trans. and ed., *Xianfa jingli* 憲法精理 Essential principles of constitutions (Shanghai: Guangzhi Shuju, 1902), *xu* 序, 1b; and the study primer Zaoshi Bianyishe 造時編譯社, *Xianfa: Kaoshi wenguan xin liqi* 憲法: 考試文官新利器 Constitution: a new and effective tool for examinations and civil servants (n.p.: 1911), *xu* 序, 2a.

7 Meribeth Cameron briefly mentions the phenomenon but does not delve into its details, see Meribeth E. Cameron, *The Reform Movement in China: 1898-1912* (New York: Octagon Books, 1963), 101. There has been more research on global revolutionary movements taking place at the same time. For some Chinese perspectives on Russia, see Gotelind Müller, “China and the Russian Revolution of 1905,” in *The Russian Revolution of 1905 in Transcultural Perspective: Identities, Peripheries, and the Flow of Ideas*, ed. Felicitas Fischer von Weikersthal et al. (Bloomington: Slavica, 2013), 279–289; and Gotelind Müller, “Chinesische Perspektiven auf den Russisch-Japanischen Krieg,” in *Der Russisch-Japanische Krieg 1904/05: Anbruch einer neuen Zeit?*, ed. Maik H. Sprotte, Wolfgang Seifert, and Heinz-Dietrich Löwe (Wiesbaden: Harrassowitz, 2007), 203–239. See also Don C. Price, *Russia and the Roots of the Chinese Revolution, 1896-1911* (Cambridge, MA.: Harvard University Press, 1974). Some attention is devoted to Liang Qichao’s views of Russia, although the Russian aspect of Liang’s worldview only plays a minor role in the vast sea of Liang studies. For a ground-breaking study of this topic, see Kaufman, “One Nation Among Many,” 175–225.

in the context of a world-wide “constitutional fever.”⁸ Four major Eurasian empires that had hitherto lacked constitutional charters promulgated such documents at more or less the same time: Russia in May 1906, Persia in December 1906, the Ottoman Empire in July 1908, and China in August 1908.

Was this wave of political reforms coincidental? Did these experiences interrelate, and if so, how? This paper tries to answer one aspect of this complex question by analysing how the Qing government and Chinese intellectuals viewed, and reacted to, the constitutional reforms taking place in Russia, the Ottoman Empire, and Persia. Did these events, which took place at the same time as China’s “constitutional preparation,” have an impact on China?

This paper will show that, during the whole period of “constitutional preparation,” the Qing government, as well as intellectuals and the Chinese media, looked not only to Japan or Western Europe. They also remained well aware of the other large Eurasian polities that were concomitantly transitioning to constitutionalism, i.e., Russia, the Ottoman Empire, and Persia. The experiences made by these countries did not fail to have a manifold impact on influence Chinese perceptions of how to cope with China’s own transition. On the one hand, the worldwide trend towards codification fostered the feeling that a constitutional document was necessary for the purposes of internal and external legitimacy, and for building nationalism from above. On the other hand, the fact that the hastily introduced constitutions in these countries did not necessarily solve their underlying problems was also noticed. Describing them as mere “sham constitutions” was one possible option, but they also reinforced Chinese notions that the population at large was not yet ready to partake in political reforms and that thorough “preparation” was first necessary.

Eurasian preludes to the wave of constitutional movements at the beginning of the twentieth century

“Constitution” and “constitutionalism” are highly polysemic terms.⁹ In a broad sense, “constitution” means the set of norms that define the organisation of a polity; it is the plan that determines the form and content of state action.¹⁰

8 The term was used in 1908 by the Japanese newspaper *Kokumin shinbun* 國民新聞 to refer to Egypt. “Ejiputo no kenpônetsu” 埃及の憲法熱 [Constitutional Fever in Egypt], *Kokumin shinbun* 國民新聞, Saturday, August 22, 1908, 3.

9 On the various meanings of “constitution” on a state level, see Hermann Heller, *Staatslehre*, 6th ed. (Tübingen: Mohr Siebeck, 1983), 281–315.

10 On this meaning of “constitution,” see *ibid.*, 273.

In this sense, every polity has a constitution, including imperial China prior to the late-Qing quest for thorough political reforms. And rather than merely being a despotic “absolute Cæsarism” as it was often (but not always) portrayed in both East and West, this pre-modern constitution was actually extremely complex, providing for a very intricate organisation of the Chinese polity.¹¹

As the plan for a state’s actions, constitutional law is usually accorded a higher level of validity than other forms of law, making all simple law theoretically subordinate to it. Since the eighteenth century, such constitutional norms have been increasingly written down in formalised documents. Furthermore, as constitutional texts mostly settled competing claims for power from various sectors of society, the notion came to imply certain material institutions: a “constitutional state” (*Verfassungsstaat*) is a state that provides for some kind of separation of powers, popular representation, and fundamental rights.¹² The far-reaching material connotations that the term “constitution” often acquired have led at times to the word itself being eschewed: Across the world, many constitutions were not called “constitutions,” as such, but rather “constitutional charters,” “fundamental laws,” or the like.

Although there are earlier documents having constitutional value,¹³ the concept received a tremendous developmental impulse when the

11 Refuting the notion of “absolute Cæsarism,” see Jan Jakob Maria de Groot, *Het kongsiwezen van Borneo: Eene verhandeling over den grondlag en den aard der Chineesche politieke vereenigingen in de koloniën, met eene Chineesche geschiedenis van de kongsi Lanfong* (The Hague: Martinus Nijhoff, 1885), 82.

12 On this narrower meaning, see Heller, *Staatslehre*, 305–315.

13 Sets of written norms that touched upon constitutional matters have always existed across cultures, even if they do not fully match modern definitions of “constitution.” For Imperial China, Chinese and foreigners alike have, in different contexts and with varying argumentative intentions, attributed constitutional functions to a large number of documents, ranging from the *Spring and Autumn Annals* (*Chunqiu* 春秋) to the Kangxi and Yongzheng Emperors’ *Sacred Edict with Amplified Instructions* (*Shengyu guangxun* 聖諭廣訓). For a reference to the *Spring and Autumn Annals*, see for instance Gugong Bowuyuan Mingqing Dang’anbu 故宮博物院明清檔案部, ed., *Qingmo choubei lixian dang’an shiliao* 清末籌備立憲檔案史料 Archival material on constitutional preparation in the late Qing, 2 vols. (Beijing: Zhonghua shuju, 1979), 108. For a reference to the *Sacred Edict with Amplified Instructions*, see “Kenpō” 憲法 [Constitution], *Asahi shinbun* 朝日新, October 23, 1898, 3. The modern East Asian term for constitution, “憲法” (*xianfa/kenpō/hōnbō*), itself refers to a seventh-century Japanese document called the *Seventeen-Article Constitution* (*Jūshichijū kenpō* 十七條憲法), which, however, only very vaguely resembles modern-day political constitutions. On the *Seventeen-Article Constitution*, see Ienaga Saburō 家永三郎 et al., eds., *Shōtoku Taishi Shū* 聖德太子集 Works of Prince Shōtoku (Tokyo: Iwanami Shoten, 1975), 12–22 (text), 475–483 (commentary).

United States and France promulgated their respective constitutions. Gradually, constitutions, with all their varied and multi-faceted uses, became one of the defining elements of nineteenth-century politics.¹⁴ Their use did not stay confined to the states of Western Europe and North America, but spread globally. In nineteenth-century Latin America alone, over one hundred constitutions were enacted,¹⁵ Oceania's first constitution was adopted in Hawai'i in 1840, and Africa's first constitution was adopted in Liberia in 1847.

While constitutions occupy the perceived top spot of a legal system, they are much more than just legal instruments. Constitutions are eminently political documents, and constitutionalism is by no means confined to the aforementioned meaning of "limiting the government." In fact, constitutions often were adopted as reactionary documents designed to counter revolutionary tendencies. As Prutsch and Grotke have demonstrated, based on the example of various charters of the nineteenth and early twentieth centuries, constitutions were handy legitimising documents that came to serve a host of functions, including the legitimization of state power, nationalism, imperialism, and militarism, as well as, conversely, defence against imperialism.¹⁶ Newly established states often enacted constitutions as the first symbols of their newly gained sovereignty, while for long-established polities, constitutions marked political ruptures or the result of political struggles.

As Benjamin Akzin writes, "to have a formal Constitution well-nigh became a universal fashion, a symbol of modernism."¹⁷ Akzin sees the process as basically having finished by the First World War, when, except for the United Kingdom, only "countries still in their pre-modern stage,

14 In 1900, the Japanese law professor Ariga Nagao (1860–1921), who was also very influential in China, published an article wherein he identified the following main features of the nineteenth century: 1. Reactionarism; 2. Constitutionalism; 3. Nationalism; 4. Expansionism. Ariga Nagao 有賀長雄, "Dai jūkyū seiki gaikō tsūkan" 第十九世紀外交通觀 Cent ans de la diplomatie européenne: One hundred years of European diplomacy, in *Gaikō Jihō* 外交時報 3, no. 24 (Meiji 33 [1900]). Chinese version in Ariga Nagao 有賀長雄, "Shilun huilu: Di shijiu shiji waijiao yilan" 時論彙錄: 第十九世紀外交一覽, in *Qing yi bao* 清議報 (Beijing: Zhonghua shuju, 2006), 2527–2533; 2587–2590; 2649–2653.

15 Roberto Gargarella, "Towards a Typology of Latin American Constitutionalism, 1810–60," *Latin American Research Review* 39, no. 2 (June 2004), 141.

16 See Kelly L. Grotke and Markus J. Prutsch, eds., *Constitutionalism, Legitimacy, and Power: Nineteenth-Century Experiences* (Oxford: Oxford University Press, 2014).

17 Benjamin Akzin, "The Place of the Constitution in the Modern State," *Israel Law Review* 2, no. 1 (January 1967), 1.

in respect both of their political and of their general social set-up, and without pretensions to modernity” did not have written constitutions.¹⁸ However, just a few years before the First World War, many Eurasian states still had no constitution. It was only in the 1900s that four of the largest and most populous empires of Eurasia—Russia, the Ottoman Empire, Persia, and China—really felt the necessity of adopting such a “symbol of modernism.”

In each of these countries, the constitutional movements of these years had been preceded by years or even decades of debates. In Russia, constitutional ideas became *en vogue* very soon after the French Revolution caused a massive upheaval in wider European politics, in spite of Russia’s having a very different historical and social background.¹⁹ Tsar Alexander I (1777–1825) initially favoured constitutionalism, and in his secondary capacity as King of Poland, he granted a constitution to that state in 1815.²⁰ At the opening of the Polish Sejm on March 15, 1818, Alexander announced that he would grant a constitution to the Russian Empire as well, as soon as it could “reach the appropriate maturity” for it.²¹ The tsar thus followed a common strain

18 Ibid.

19 See Geoffrey A. Hosking, *The Russian Constitutional Experiment*, (Cambridge: Cambridge University Press, 1973), 1–3.

20 In personal union to his capacity as tsar of Russia, Alexander I had become king of Poland in 1815, when the Congress of Vienna reorganised the political landscape of Europe after the Napoleonic Wars. On how the tsar was “captivated” by debates about a constitution and hence promoted legal reforms, see Tatiana Borisova, “Russian National Legal Tradition: Svod versus Ulozhenie in Nineteenth-century Russia,” *Review of Central and East European Law* 33 (2008): 302. Borisova further asserts (p. 330) that Alexander I forced the French King Louis XVIII to accept the “Charter of Liberties” in 1814 and sponsored the first constitutional charters of Baden as well as of Württemberg. This description might be slightly exaggerated. The tsar did indeed recognise the French *Charte constitutionnelle* of 1814 and the constitutions promulgated in southern Germany, but this was probably more to promote political stability than any reformist impulse. See Ulrike Eich, *Russland und Europa: Studien zur russischen Deutschlandpolitik in der Zeit des Wiener Kongresses* (Cologne: Böhlau, 1986), 419. For a collection of primary sources on the emerging constitutions of the various smaller German states, see Michael Hundt, ed., *Quellen zur kleinstaatlichen Verfassungspolitik auf dem Wiener Kongress: Die mindermächtigen deutschen Staaten und die Entstehung des Deutschen Bundes, 1813–1815* (Hamburg: Krämer, 1996). For a wider view of Russian policies towards Europe before and after the Congress of Vienna, see also Franziska Schedewie, *Die Bühne Europas: Russische Diplomatie und Deutschlandpolitik in Weimar, 1798–1819* (Heidelberg: Universitätsverlag, 2015).

21 “Извѣстія внутреннія Извѣстія внутреннія,” *Siēvernaïa Pochta ili Novaïa Sanktpeterburgskaïa Gazeta Stverniya Pochta ili Novaya Sanktpeterburgskaya Gazeta*, Saturday, March 30, 1818 (Julian calendar), 1.

of thought of the time, namely that constitutions had to develop organically from the political conditions and traditions of each country.²²

However, not long after, he distanced himself from such ideas due to internal and external unrest, which he believed to be the result of too much liberalisation. Immediately after Alexander's death, the Decembrist Revolt of 1825 against the new tsar, Nicholas I, aimed at a thorough reform of the Russian Empire, and involved the promulgation of a monarchical or even republican constitution.²³ The revolt was suppressed, but in reaction to the calls for a constitution, Tsar Nicholas I promulgated two large codifications of Russian law in the 1830s: the "Complete Collection of the Laws of the Russian Empire" and the "Digest of the Laws of the Russian Empire." Labelling the idea of a constitution as "foreign," the authorities promoted the establishment of a complete "legality," embodied in these codifications as the original and traditional Russian path of development.²⁴ This remained the legal basis of the Russian polity until the first years of the twentieth century.

As part of a discourse on modernisation, debates on constitutionalism also emerged in the Ottoman Empire and then, via the Ottoman Empire, in Persia. Beginning from Sultan Selim III (r. 1789–1808), successive rulers of the Ottoman Empire had tried to introduce reforms aimed at introducing legal-rational norms and centralising the empire.²⁵ Sohrabi depicts these reforms in a fashion that could also be used to describe the Chinese constitutional movement: "Through selective borrowing from more successful rivals, the reformers aimed to strengthen the state internally and improve its world standing."²⁶

22 On the topos of "maturity" in Russia, see Borisova, "Russian National Legal Tradition," 330, and Cynthia H. Whittaker, *The Origins of Modern Russian Education: An Intellectual Biography of Count Sergei Uvarov, 1786–1855* (DeKalb: Northern Illinois University Press, 1984), 36–56.

23 On the Northern and Southern constitutions, see Anatole G. Mazour, *The First Russian Revolution 1825: The Decembrist Movement: Its Origins, Development and Significance* (Stanford: Stanford University Press, 1963), 86–116.

24 Borisova, "Russian National Legal Tradition," 321.

25 On the history of the Ottoman Empire "from reform to revolution," see Nader Sohrabi, *Revolution and Constitutionalism in the Ottoman Empire and Iran* (Cambridge: Cambridge University Press, 2011), 34–71.

26 *Ibid.*, 34.

On December 23, 1876, the Ottoman Empire promulgated a Basic Law and thus “joined the ranks of constitutional governments.”²⁷ The new constitution came at a time of massive internal problems and tense relations with the other European powers. The Empire had defaulted on its debts a year earlier, separatist uprisings were rocking the Balkans, and there was an imminent threat of foreign intervention. However, the new constitution was more than just an insincere document intended to avert foreign threats. The fruit of a substantial movement agitating in favour of the constitution, it could also be seen as a culmination of the efforts towards internal reform over the course of several decades.²⁸

In Europe, the reaction to the 1876 Ottoman Constitution was hostile; it was mainly seen as a fraud or as parody of a constitution.²⁹ In Russia, the Ottoman constitution was met with particularly harsh disapproval. Tsar Alexander II himself was quoted as saying that the establishment of a constitutional parliamentary system for the whole of the Turkish Empire was an illusion that could never work in that country.³⁰ With the adoption of a constitution in the Ottoman Empire, Russia would become the last non-constitutional European power, a fact which might arouse further pro-constitutionalist agitation there. Such a situation was unacceptable to the Russian government and in itself could have constituted a *casus belli*, which explains Russian official resistance to it.³¹ And indeed, the dangers to Russia were evidenced when placards appeared in Moscow demanding an equivalent of the Ottoman constitution for Russia, leading to several arrests.³²

27 Ibid., 42.

28 See Robert Devereux, *The First Ottoman Constitutional Period: A Study of the Midhat Constitution and Parliament* (Baltimore: Johns Hopkins Press, 1963), 251.

29 On European reactions to the Turkish constitution, see *ibid.*, 87–91. However, although there were certainly a multitude of negative reactions to the Ottoman Constitution, the author of this paper suspects that European public opinion towards it was not as unanimously hostile as painted by Devereux, for a cursory reading of primary sources of 1876 reveals some dissenting opinions and heated debates. See “Die Zukunft der Osmanen,” *Neue Freie Presse. Morgenblatt*, no. 4438, January 3, 1877, 1–2. A thorough re-examination of foreign reactions to the 1876 Ottoman constitution would be a desideratum for future research.

30 “619. L’Ambasciatore a Pietroburgo, Nigra, al Ministro degli Esteri, Melegari,” in *I documenti diplomatici italiani, Seconda Serie: 1870/1896, Volume VII (25 marzo / 31 dicembre 1876)* (Rome: Libreria dello Stato, 1984), 755–757.

31 Karl Blind, “The Prorogued Turkish Parliament,” *The North American Review*, 175, no. 548 (July 1902): 48–49.

32 “Telegramme der ‘Neuen Freien Presse.’ Krakau, 2. Januar,” *Neue Freie Presse. Morgenblatt*, no. 4438, January 3, 1877, 6.

The constitution also lacked the sympathy of the young Sultan, Abdülhamid II (1842–1918, r. 1876–1909), and of the majority of those who held positions of power within the government. In the wake of a disastrous war against Russia, the Sultan prorogued the parliament indefinitely in February 1878, in effect revoking the constitution and returning to the *ancien régime*. Fleeting as this first constitutional period was, it served as a point of reference for further constitutionalist thought in the Ottoman Empire, as well as for the Young Turk Revolution of 1908.³³

Compared to the Ottoman Empire, Persia had a much lower level of institutional development. Still, the half-century before the Constitutional Revolution of 1906 saw vigorous debate on constitutionalism: Sohrabi counts about seventy relevant books and pamphlets published prior to the revolution.³⁴ Just as their Ottoman equivalents did, Persian thinkers associated constitutionalism with a strong, legal-rational state. And in a context characterised by much less religious diversity than in the Ottoman Empire, they pursued the same strategy of legitimising constitutionalism by Islamising it.³⁵ This brand of constitutionalism argued that a constitution meant a “conditional government” that operated within religious laws.³⁶ However, although the Persian constitutionalists were initially quite successful in co-opting the country’s Islamic clergy, the clergy’s support eventually waned when the actual constitution took shape in the mid-1900s.³⁷

Chinese perceptions of Russian and Turkish constitutionalism before the Russo–Japanese War

When Chinese intellectuals began seriously debating political reforms and the adoption of a constitution in their country, these conflicts in Russia, the Ottoman Empire, and Persia were still ongoing. Although modern notions relating to constitutions and parliamentarism had been known in China much earlier due to contacts with the

33 On the years 1876–1878 in Turkey, see Devereux, *The First Ottoman Constitutional Period*, in particular 21–33 and 251–256.

34 Sohrabi, *Revolution and Constitutionalism*, 299.

35 Ibid.

36 Ibid., 316.

37 The clergy was neither united nor uniform, however, but showed a complex variety of stances towards constitutionalism; *ibid.*, 313–322.

West,³⁸ it was in the 1880s and 1890s that calls for thorough political reforms began to be raised.³⁹ These early reformers not only referred to the models of Western Europe, the USA, and Japan (which had passed its own constitution in 1889), but were also aware of the global context in which constitutionalism was developing, and of the situations of Russia and the Ottoman Empire, the two standard examples of “autocracy.”

One of these early reformers was Zheng Guanying 鄭觀應 (1842–1922), a Cantonese entrepreneur who had not passed any imperial examination.⁴⁰ As an employee of a British trading company, he came across Western conceptions of constitution and parliamentarism at an early age. In his book *Easy Words* (*Yiyan* 易言),⁴¹ published in 1871, he painted the international scene of the time as a variation of the ancient Chinese Warring States period (475–221 BCE). Zheng identified Russia, Britain, the USA, Prussia, France, Austria, and Japan as the modern equivalents of the ancient Seven Warring States. Within these, Zheng equated Russia with the ancient Qin, due to their territorial vastness and strong spirits.⁴² But for Russia, the other six powers were constitutional states—and one of the main functions of constitutionalism in late Qing China was strengthening China’s national competitiveness. Thus, his assessment of Russia’s strength notwithstanding, Zheng devoted a section of his book to the bicameral parliamentary system found in the “Western countries,” which, he argued, ensured concord between government and people, and the quality of political measures.⁴³

38 On the first uses of the concept in China, see Wang Dezhi 王德志, *Xianfa gainian zai Zhongguo de qi yuan* 宪法概念在中国的起源 The origins of the concept of constitution in China (Jinan: Shandong renmin chubanshe, 2005).

39 On early political reformism in China, see Lloyd E. Eastman, “Political Reformism in China Before the Sino–Japanese War,” *Journal of Asian Studies* 27, no. 4 (August 1968): 695–710.

40 On Zheng Guanying, see Johannes Kehnen, *Cheng Kuan-ying: Unternehmer und Reformier der späten Ch’ing-Zeit* (Wiesbaden: Otto Harrassowitz, 1975); Guo Wu, *Zheng Guanying: Merchant Reformer of Late Qing China and his Influence on Economics, Politics, and Society* (Amherst: Cambria Press, 2010); Ichiko Chūzō 市古宙三, “Tei Kan’ei no ‘Ekigen’ ni tsuite 鄭觀應の“易言”について About Zheng Guanying’s “Yiyan”, in *Wada Hakushi koki kinen tōyōshi ronsō* 和田博士古稀記念東洋史論叢 (Tokyo: Kōdansha, 1961), 107–115.

41 The title is variously translated as “Words on Change,” “On Change,” “Easy Words,” or “Easy Remarks.” The translation with “easy” or even “careless” is more appropriate, for Zheng himself explains the title by citing various *loci classici* for the saying “talking is easier than doing.” See Zheng Guanying 鄭觀應, *Zheng Guanying ji: Shang ce* 鄭觀應集: 上册 Works of Zheng Guanying, vol. 1, ed. Xia Dongyuan 夏东元 (Shanghai: Renmin chubanshe, 1988), 63–64.

42 *Ibid.*, 66–67.

43 *Ibid.*, 103.

Zheng went into further details in his later book, *Words of Warning in Prosperous Times* (*Shengshi weiyán* 盛世危言), the first edition of which was published in 1894.⁴⁴ He expanded his categorisation of European countries according to their political importance. Russia still belonged to the first tier, together with Britain, France, Germany, and Austria-Hungary; the Ottoman Empire belonged to the second tier, on a level with Spain and the Netherlands.⁴⁵ Not unlike China, both the Ottoman Empire and Persia were victims of foreign aggression, in particular from Russia. Zheng wrote much about the Ottoman Empire, which he deemed to be in particularly bad shape, plagued by problems very similar to those of China. Both countries, Zheng argued, suffered from widespread corruption and drug addiction, namely coffee in the Ottoman and opium in the Chinese case.⁴⁶

The year 1895 changed Zheng's stance towards Russia somewhat. In that year, China first ceded the Liaodong Peninsula to Japan, but promptly reobtained it due to an intervention by Russia, Germany, and France. In the revised edition of the *Words of Warning in Prosperous Times*, Zheng recounted that the tsar of Russia had suggested to a Chinese envoy that China pursue reforms in order to resist foreign pressure.⁴⁷ Zheng took this admonition as a sign of how bad China's situation really was. Although he did not believe that the Russian stance was entirely altruistic, he endorsed the tsar's suggestion. China might otherwise end up like the Ottoman Empire in the first constitutional era of 1876–1878. According to Zheng's description, Russia had asked five European countries (the United Kingdom, Germany, France, Austria, and Italy) to push the Ottoman Empire to pursue political reforms. But the Ottoman Empire "did not listen." The Ottoman reaction "infuriated" the foreign powers, and Russia declared war on the Ottoman Empire.⁴⁸

44 The book was a revised and enlarged edition of the former *Yiyan*, and much of the thoughts expressed in it must be dated to the 1880s. After the first edition was published in 1894, a second version, substantially enlarged by Zheng himself, was published in 1895. Later, a third, revised edition was published in 1900. Various other unofficial editions were published at the time. On the complicated editorial history of the book see *ibid.*, 1–5, and Kehnen, *Cheng Kuan-ying*, 8–12.

45 Zheng Guanying, *Zheng Guanying ji*, 822 (only contained in the 1895 edition).

46 *Ibid.*, 363 (on corruption); 403–404 (on addictions). In the 1895 edition, Zheng still considered China's political problems to be less severe than Turkey's; by 1900, he had changed his verdict, declaring that the country was in a worse situation than Turkey.

47 *Ibid.*, 796–797.

48 Zheng refers to the "Andrássy Note" issued by the Foreign Minister of Austria-Hungary, Count Gyula Andrássy (1823–1890), on December 30, 1875, and backed by Russia, England, Germany, France, and Italy. See Devereux, *The First Ottoman Constitutional Period*, 26–27; 88–91.

Although the tsar's suggestion had certainly not called for the establishment of a constitution, this was, for Zheng, a key part of "self-strengthening." The reason for the ineffectiveness of China's administration lay in it not practising a system of constitutional monarchy. Except for Russia and the Ottoman Empire, Zheng argued, there were no civilised countries in the world without a constitutional system. Constitutions were ineluctable even for the few countries that still had autocratic systems of government. Russia itself had long ago considered a constitution, but had just not adopted it yet.⁴⁹

This view of China being, together with Russia and the Ottoman Empire, the only remnant of autocracy was not peculiar to Zheng. Neither was it a view exclusive to China: it conformed to both European and East Asian textbooks of political science of the time, which, when explaining the different types of polities, liked to use Russia and China as examples for absolute monarchies.⁵⁰ Such mentions of Russia and the Ottoman Empire, often containing further information or commentary, appeared in many books and articles explaining constitutionalism to Chinese readers at the turn of the century.

In 1898, the growth in reformist sentiment led to a first attempt at political reforms, which were aborted after little more than 100 days. Although none of the edicts issued by the Guangxu Emperor mentioned the word "constitution," the term was in fact already being used by some of the advisors who were proposing reforms to the Emperor.⁵¹ One of their most important figures, Kang Youwei 康有為 (1858–1927), suggested

49 Zheng Guanying, *Zheng Guanying ji*, 338–339.

50 See for example Carl Gareis and Paul Hinschius, eds., *Allgemeines Staatsrecht/Allgemeine Darstellung der Verhältnisse von Staat und Kirche* (Freiburg: Mohr, 1887), 39. Gareis classifies Russia, the Ottoman Empire, Persia, Japan, and China as "autarchies" (absolute monarchies). Based on Gareis in Japan: Ichiki Kitokurō 一木喜徳郎, *Kokuhōgaku* 國法學 (n.p., n.d. [ca. 1899]), 39–40. Ichiki only takes Russia and China as examples, given that Japan had established a constitution in the meantime. It is to be noted, however, that these were schematic categorisations in textbooks of political science and public law. In other contexts, however, there were also much more nuanced descriptions of China's political system. See Egas Moniz Bandeira, "Political Reforms in a Global Context: Some Foreign Perspectives on Constitutional Thought in Late Imperial China," *Contemporary Chinese Political Economy and Strategic Relations: An International Journal* 3, no. 1 (April/May 2017), 139–185.

51 The 1898 reforms are still a highly contentious topic in historiography, including the question of the role of the notion of constitutionalism. See for example Wong Young-Tsu, "Kang Youwei and the Reform Movement of 1898," *Journal of Asian Studies* 51, no. 3 (August 1992), and, from a Japanese perspective, Urs Matthias Zachmann, *China and Japan in the Late Meiji Period: China policy and the Japanese discourse on national identity, 1895–1904* (Abingdon: Routledge, 2009), 89–127, each with further references.

two models for China: the reforms effected in Russia by Peter the Great (1672–1725) and the Japanese Meiji reforms, which had culminated in the constitution of 1889. After the crackdown on the 1898 reforms, both Kang Youwei and his student Liang Qichao 梁啟超 (1873–1929) fled the country. Liang, a prolific writer, later came to play a crucial role in the formation of the modern Chinese concept of constitution.

Liang was deeply interested in Russian affairs, although his perception of Russia changed over the years.⁵² In various writings, he himself made use of the classification of Russia, the Ottoman Empire, and China as typical examples of autocracies. In his early introduction to the constitutions of the world, he stressed that Japan was the only Asian state to have a constitution, while all European states had one, except for Russia and the Ottoman Empire. And even the Ottoman Empire had once adopted a constitution, though it was quickly repealed.⁵³

Later, in his 1902 essay *On the Evolutionary History of the Autocratic Politics of China* (*Zhongguo zhuanzhi zhengzhi jinhua shi lun* 中國專制政治進化史論), Liang combined this view with his understanding of evolutionary theory, meaning a movement of progress towards a certain goal.⁵⁴ To this effect, Liang expressly cited Ichiki Kitokurô's 一木喜徳郎 (1867–1944) categorisation of “monocracies” versus “pleonocracies,” itself a distinction borrowed from the German legal scholar Carl Gareis (1844–1923), who had taken both China and Russia as examples of “autarchies.”⁵⁵ As Liang explained in another essay of the same year, such an autocratic mode of government did not have a single advantage, not even for the ruler. In the foremost

52 Müller, “China and the Russian Revolution of 1905,” 287. On Liang’s views of Russia, see also Kaufman, “One Nation Among Many,” 175–180, 192–225.

53 Liang Qichao 梁啟超, “Geguo xianfa yitong lun” 各國憲法異同論, in *Qing yi bao* 清議報, 741; reprinted in book form as Chuyang Xuesheng; Bianji suo 出洋學生編輯所 [Liang Qichao 梁啟超], *Geguo xianfa lüe* 各國憲法畧 (Shanghai: Shangwu Yinshuguan, Guangxu 28 [1902]), 1. See also Zhongguo zhi Xinmin 中國之新民 [Liang Qichao 梁啟超], “Lun zhuanzhi zhengti you bai hai yu junzhu er wu yi li” 論專制政體有百害於君主而無一利 On autocratic governments having a hundred disadvantages and not a single advantage, *Sein Min Choong Bou* (*Xinmin congbao*) 新民叢報, no. 21 (1902): 31.

54 Zhongguo zhi Xinmin 中國之新民 [Liang Qichao 梁啟超], “Zhongguo zhuanzhi zhengzhi jinhua shi lun” 政治: 中國專制政治進化史論 A history of the evolution of autocratic politics in China), in *Sein Min Choong Bou* (*Xinmin congbao*) 新民叢報, no. 8 (1902): 19.

55 Ibid., 22. For Ichiki’s original, see Ichiki Kitokurô, *Kokuhôgaku*, 39–40; for the German source, see Gareis and Hinschius, *Allgemeines Staatsrecht*, 39. For a brief discussion of the various Chinese positions on constitutionalism and evolutionary theory, see James Reeve Pusey, *China and Charles Darwin* (Cambridge, MA: Council on East Asian Studies, Harvard University, 1983), 337–338.

autocratic country, Russia, the tsar could not sleep easily due to the constant threat of assassination.⁵⁶ It was only later that Liang changed his mind to defend an “enlightened autocracy” (*kaiming zhuanzhi* 開明專制).

The magazine edited by Liang in Tokyo, the *Sein Min Choong Bou* 新民叢報, like other Chinese-language papers of the time, carried many articles taken from other media, domestic as well as foreign. One of them, published in 1903, was an article from the *American Review of Reviews* by Nahum Isaac Stone (1873–1966) about the political conditions of Russia, translated under the title “Can Russia be a constitutional country?”⁵⁷ In the article, Stone, a native of Odessa, expresses the view that the constitutional movement had grown so strong that it had become impossible for the Russian government to suppress it; the days of autocratic government were numbered. The translator added a comment that the Chinese people also longed for freedom, and that the Russian situation served as a warning.

At that time, a certain Zhou Kui 周逵 from Hunan was even more vociferous in his evaluation of the Ottoman Empire and Russia. Zhou was a Chinese student at Waseda University in Tokyo and associate of Wang Rongbao 汪榮寶 (1878–1933), who would later become one of the men entrusted with drafting the Qing Constitution.⁵⁸ In 1902–03, he published two books in Shanghai, one entitled *Essential Principles of Constitutions* (*Xianfa jingli* 憲法精理) and the other one, *Account of the Constitutions of the World* (*Wanguo xianfa zhi* 萬國憲法志). Although often overlooked by later generations, Zhou’s books were rather influential in shaping Chinese constitutional discourse at the turn of the century.

56 Zhongguo zhi Xinmin, “Zhongguo zhuanzhi zhengzhi jinhuo shi lun,” 31.

57 Nahum Isaac Stone [Yenu Ai Situn 耶努埃斯頓], “Eguo sui ke wei lixianguo hu: Meiguo pinglun zhi pinglun” 俄國遂可為立憲國乎：美國評論之評論 Can Russia be a constitutional country? (*American Review of Reviews*), in *Sein Min Choong Bou* (*Xinmin Congbao*) 新民叢報 30 (1903): 78–80; original in: Nahum Isaac Stone, “Political Conditions in Russia,” *American Review of Reviews* 27, no. 4 (April 1903): 441–444. It may be noted that although the Chinese version only names the *American Review of Reviews* (*Meiguo pinglun zhi pinglun* 美國評論之評論) as a source text, the rendering of the author’s name (N. I. Stone) in Chinese (*Yenu-ai-situn* 耶努埃斯頓) raises the question of whether the article was not rather indirectly translated through a still unidentified Japanese medium, a hypothesis supported by the fact that the magazine was printed in Yokohama. A Japanese version would probably have transcribed the initials N. I. as **Enu Ai* *エヌ・アイ, resulting in the Chinese rendering *Yenu Ai* 耶努埃. This Chinese transcription would seem slightly odd if converted directly from English.

58 On the “Association on Studies of the State” Guoxueshe 國學社 founded in 1903, see Zhao Linfeng 趙林鳳, *Wang Rongbao: Zhongguo jindai xianfa di yi ren* 汪榮寶：中國近代憲法第一人 (Taipei: Xinrui wenchuang, 2014), 86–87.

The *Essential Principles*, a translation of Japanese sources, showed a keen awareness that theories of constitutionalism were not united in Europe.⁵⁹ The book carried a large and extensive list of all countries in the world that had constitutions, along with their dates of promulgation, including not only the famous ones, but also those of countries such as Haiti, Uruguay, and Liechtenstein, besides mentioning special cases such as Canada and Hawai'i.⁶⁰ As usual, Japan is mentioned as the Asian example of a constitutional state, while Russia and the Ottoman Empire are used as counter-examples.

But Zhou went further: While Zheng Guanying 鄭觀應 had still described Russia and the Ottoman Empire as civilised exceptions to constitutionalism, Zhou dismissed both as uncivilised. Thus, the *Essential Principles* expressly linked constitutionalism to “civilisation,” the blurb on the back cover adamantly stating that “except for barbarian autocratic countries,” there was not a single country on earth that was not constitutional.⁶¹ A very clear assessment of the situations of the Ottoman Empire and Russia was given in the preface to his second book, the *Account of the Constitutions of the World*:

If I look around at all the countries in the world, the countries which use autocracy to exert their uncivilised barbarian *ancien régime* are so scarce they can be counted on the fingers of one hand, like Turkey and Russia. They are rare like stars in the morning sky. What could one still say about Turkey? Or take Russia: Although at the surface it seems to be looking proudly at the world, I heard the comments of specialists in surveying countries, and its internal situation is precarious like a pile of eggs. It is, again, clear that it will not be able to conserve its autocratic form of government.⁶²

Thus, for Zhou, autocracy in China, Russia, and the Ottoman Empire alike was untenable, and was doomed to extinction:

If the peoples of China, Russia and Turkey do not perish, it is ineluctable that they, too, will be governed by constitutions.⁶³

59 Zhou Kui, *Xianfa jingli*, shang 上, 2a.

60 Ibid., shang 上, 2b–4b.

61 Ibid.

62 Zhou Kui 周達, *Wanguo xianfa zhi* 萬國憲法志 *Account of the constitutions of the world* (Shanghai: Guangzhi shuju, 1902), 1a. All translations are mine, if not otherwise stated.

63 Zhou Kui, *Xianfa jingli*, zixu 自序, 1b.

1904–1906: Russia introduces a constitution; China considers constitutionalism

The Russo–Japanese War, which began in February 1904, is often described as the turning point that propelled constitutionalism to the top of the political agenda. It is portrayed as having pushed the public in favour of a constitution and made the Chinese government accept it as a goal, for Japan’s victory was attributed to its constitutionalism.⁶⁴ However, the outcome of the war was less of a surprise than is often depicted, at least among those who had read Zhou Kui. It rather seemed like a confirmation of what Chinese intellectuals had been saying for quite a few years: that autocracy was inferior to constitutionalism, and autocratic countries would have to adopt constitutionalism sooner or later.

Although Russia suffered defeats against Japan in several early battles, at the beginning of the conflict, there was some apprehension about the possibility of Japan losing the war, thus tarnishing the very idea of constitutional government. Thus, in March–April, the *Zhongwai ribao* 中外日報 published an article, later republished in the *Eastern Miscellany* (*Dongfang zazhi* 東方雜誌) of April 10, 1904 (Guangxu 30/02/25), on Russia’s influence on China. The article stated that both Japan and Russia were threats to China, but Russia was much more so, and if Russia managed to win the war, it would be a blow to the Chinese reform movement. The Chinese government would think that the reason for China’s weakness lay not in China’s lack of constitutional government, but in the imperfection of China’s own authority. According to the article, the Chinese people would thus fall into even more awe before the whites, thinking that they were superior by nature. Just about everything would fall into a state of hopelessness.⁶⁵

These fears were not realised. By the beginning of 1905, the situation of Russia was so bleak that it chose to negotiate for peace. In the wake of the very unpopular war with Japan, several internal problems within Russia exploded in severe unrest, which came to be known as the Russian Revolution of 1905. Russia signed a peace treaty with Japan on September 5, 1905, having been able to negotiate surprisingly positive conditions.

64 See, among many, Pan Wei-Tung, *The Chinese Constitution: A Study of Forty Years of Constitution-Making in China* (Westport, CT: Hyperion Press, 1983), 4; Cameron, *The Reform Movement in China*, 101.

65 “Lun Zhongguo suo shou Eguo zhi yingxiang: Lu eryue Zhongwai ribao” 論中國所受俄國之影響：錄二月中外日報 On the Russian influence received by China: Reprinted from the February *Zhongwai ribao* (*Dongfang zazhi* 東方雜誌 1, no. 2 (Guangxu 30/02/25 [April 10, 1904]): 37.

The war had been won by Japan, a country much smaller in area, population, and number of soldiers. In accordance with the writings of constitutionalists like Zhou Kui and others, its victory was explained by the fact that Russia was an absolute monarchy while Japan had already evolved to a constitutional monarchy. Chinese writings brimmed with assertions like:

This was not a war between Japan and Russia, but a war between the two systems of constitutionalism and autocracy.⁶⁶

But Chinese published opinion did not merely dwell on the news that Russia had lost the war, but also took the internal developments of that country into account, namely the unrest that was occurring there:

When the literati hear this, they too say: This is not a war between Japan and Russia, but a war between the two arts of governance, constitutionalism, and autocracy. Since army and navy clashed, Japan has not lost once, and Russia has not won once. Until now, not only the Russian people are standing up in droves and fighting for constitutionalism, but also the literati in our country have realised this matter's urgency. Thus, more and more people contend for the idea of constitutionalism, with far-reaching plans and timely announcements. Beginning with the diplomats stationed abroad, to the officials in the border regions, up to, currently, some from within the circles of high officials and princes at the Court: they, too, are gradually adopting this standpoint.⁶⁷

And indeed, Tsar Nicholas II was still under heavy pressure due to social and political unrest. In October 1905, he agreed to concessions by issuing the so-called October Manifesto. The manifesto provided for some basic civil liberties, as well as for the creation of an advisory and legislative body elected by universal male suffrage, the State Duma. After a few months, on May 6, 1906 (Julian calendar, April 23), the tsar promulgated a formal constitutional charter, the Fundamental Laws of the Russian Empire.

66 See for example “Lixian jiwen (Dongfang Zazhi linshi zengkan xianzheng chugang)” 立憲紀聞 (東方雜誌臨時增刊憲政初綱) Records of constitutionalism: Special edition of the *Eastern Miscellany*: A first outline of constitutional government, in *Xinhai geming* 辛亥革命 4, ed. Zhongguo Shixuehui 中國史學會 (Shanghai: Shanghai Renmin Chubanshe, n.d.), 12. Among many others, see “Lun lixian wei wanshi genben” 論立憲為萬事根本 On constitutionalism being the basis for everything, in *Dongfang Zazhi* 東方雜誌 2, no. 10 (Guangxu 31/10/25 [November 21, 1905]): 171.

67 [Yan Fu 嚴復], “Lun guojia yu wei lixian yiqian you keyi xing biyi xing zhi yaozheng” 論國家於未立憲以前有可以行必宜行之要政 On the state having optional and mandatory fundamental policies to carry out before adopting constitutionalism, in *Dongfang Zazhi* 東方雜誌 2, no. 12 (Guangxu 31/12/25 [January 19, 1906]): 203.

This drive for constitutionalism itself was also well perceived within the Chinese print media. The *Eastern Miscellany* reported:

The Russian people have united across the whole country and handed in petitions to the sovereign, and they have striked in droves. [...] Now, Tsar Nicholas II has acceded to the demands of his people to convene a parliament and hold elections for members of parliament. From now on, the Russian people, who have lived under autocratic rule, have all obtained the right to enjoy constitutionalism. However, our country's people are still keeping silent, waiting for the government to establish a constitution.⁶⁸

But the idea of constitutionalism was also gaining prominence in government circles. On November 18, 1905, the court gave instructions to prepare an *Outline of Constitutional Government* (*Lixian dagang* 立憲大綱).⁶⁹ And in December, two groups of high-ranking officials departed for a tour of Japan, Europe, and the United States with the aim of studying foreign political systems, an undertaking modelled on the Japanese Iwakura mission of 1871.⁷⁰ One of the groups, led by Duanfang 端方 (1861–1911) and Dai Hongci 戴鴻慈 (1853–1910), visited Russia, although neither the Ottoman Empire nor Persia were objects of study.

The study group placed an emphasis on Japan, the United Kingdom, Germany, the United States, and France, staying in these places for a comparatively long period. Secondary literature on the study tour has also

68 Juemin 覺民, "Lun lixian yu jiaoyu zhi guanxi" 論立憲與教育之關係 On the relationship between constitutionalism and education), in *Dongfang zazhi* 東方雜誌 2, no. 12 (Guangxu 31/12/25 [1906]), 244–245.

69 Zhu Shouming 朱壽朋 and Zhang Yuming 張毓明, eds., *Donghua xulu* 東華續錄 (Shanghai: Shanghai guji chubanshe, 2002), Chapter Guangxu 197, 6.

70 The commission had been sent by Imperial edict on July 16, 1905, but the departure had been delayed by a bomb attack at the commission. For the edict, see *ibid.*, 1. For an English translation, see Norbert Meienberger, *The Emergence of Constitutional Government In China (1905–1908): The Concept Sanctioned by the Empress Dowager Tz'u-Hsi* (Bern: Lang, 1980), 24. See also the supplementary edict of July 27, 1905, Wang Guangyue 王光越, Su Wenying 蘇文英, and Li Baowen 李保文, eds., *Daqing lichao shilu: Daqing Dezong Jing Huangdi shilu* 大清歷朝實錄大清德宗景皇帝實錄 (Beijing: Beijing Shutongwen shuzhuhua jishu youxian gongsi, 2010), chapter 546, 22. For more information on the study trip as such see E-Tu Z. Sun, "The Chinese Constitutional Missions of 1905–1906," *The Journal of Modern History* 24, no. 3 (September 1952), 251–268; Meienberger, *The Emergence of Constitutional Government in China (1905–1908)*, and Amy E. Gadsden, *Building the Rule of Law in Early Twentieth Century China (1905–1926)* (PhD diss., University of Pennsylvania, 2005), 16–46.

focused on these places.⁷¹ Yet one should not neglect the instructiveness of the stay in Russia for the group, as it was the only country toured that had not previously had an established constitutional government, but was just in the process of establishing one. Commissioner Duanfang himself stressed that China should pay extraordinary attention to Russia at that moment, as it was organising constitutional politics.⁷²

Indeed, although the Russian October Manifesto did initially succeed in quelling popular unrest, the successes were only temporary. After a few months, strikes and violence reoccurred, and the Russian government returned to martial law, suppressing the newly granted civil rights and executing large numbers of people. In March and April 1906, parliamentary elections were won by moderate socialists and liberals who demanded more reforms, and the session of this first parliament ran from May 10, 1906 to July 22, 1906 (Gregorian calendar).

Against the backdrop of these political developments in Russia, the Chinese minister to St. Petersburg, Hu Weide, had sent a letter asking the group to come earlier. The group as a whole could not rearrange its schedule, although some assistants were sent to Russia to do preparatory work.⁷³ The group arrived in St. Petersburg on May 19, 1906 from Budapest and stayed eight days in Russia, before departing to The Hague.

In principle, the commissioners shared the sentiments of the public, i.e., that Russia's autocracy had caused the country's weakness and that it would also follow the path of constitutionalism. As Duanfang wrote in his report:

In the wideness of its territory and the largeness of its population, Russia is among the top nations of the world. But alas, if you talk about a strong army, then the military competitiveness

71 For a brief account of the visit within the context of Sino-Russian relations, see Nikolaĭ A. Samoĭlov Николай А. Самойлов, *Rossĭia i Kitai' v XVII—nachale XX veka: Tendentsii, formy i stadii sotsiokul'turnogo vzaimodeĭstviia* Россия и Китай в XVII—начале XX века: Тенденции, формы и стадии социокультурного взаимодействия (St. Petersburg: Izdatelnyĭ Dom Sankt-Peterburgskogo Gosudarstvennogo Universiteta, 2014), 112. For another, somewhat biased account, see Gao Fang 高放, *Qingmo lixian shi* 清末立宪史 (Beijing: Huawen Chubanshe, 2012), 104.

72 Duanfang 端方, *Duan Zhongmin Gong zougao* 端忠敏公奏稿, 3 vols. (Taipei: Wenhai Chubanshe, 1967), 679.

73 *Ibid.*, 677–678; Cai Erkang 蔡爾康, Dai Hongci 戴鴻慈 and Zaize 載澤, *Li Hongzhang lipin Oumei ji; Chushi jiu guo riji; Kaocha zhengzhi riji* 李鴻章歷聘歐美記; 出使九國日記; 考察政治日記, eds. Zhang Xuanhao 張玄浩 et al. (Changsha: Yuelu shushe, 1985), 488.

was not sufficient to stand against one newly emerged Japan. [...] This has no other reason but that autocratic regimes cause a double danger for their rulers and countries. Among all strong countries of East and West, only Russia has been an autocratic regime, but this has only been like that in the past. For in Russia now, due to the lost war, its military and people are deducing the causes of the defeat and jointly searching for the path to revitalisation. As time is pressing, they are planning to convert to a constitutional regime, and among all countries, there will be no longer any remnant of autocratic regimes.⁷⁴

However, this was not the only impression Duanfang, Dai Hongci, and their entourage got during their stay in Russia. The unrest that Russia was suffering also made an impression on them. On May 24, the group had an audience with Sergei Witte (1849–1915), the Russian statesman who had been the mastermind behind the October Manifesto and the Russian constitution that had just been promulgated a few weeks earlier. After the adoption of the constitution, and before the Chinese commission's visit, Witte had been ousted from his post as Prime Minister, to be replaced by the conservative Ivan Goremykin (1839–1917). Duanfang records his encounter with Witte as follows:

According to [former prime Minister Witte], although this country has been preparing for constitutionalism for over a hundred years, the people are still not fully equipped with knowledge, and it is very hard to change this at once. Probably, with the present declaration, the current government cannot but succumb to public opinion, but it will definitely not be able to satisfy its wishes. He [Witte] is deeply worried that unrest would be difficult to disperse. This is the real state of Russia's current preparation for constitutionalism.⁷⁵

Although Witte left detailed records about his dealings with Li Hongzhang 李鴻章 (1823–1901), his memoirs and personal notes do not contain any record of his encounter with the constitutional commissioners.⁷⁶

74 Duanfang, *Duan Zhongmin Gong zougao*, 694–695.

75 Ibid., 679.

76 See Sergei Witte Сергей Юлевич Витте, *Iz Arkhiva S. Ū. Vitte: Vospominaniĭa. Tom 1: Rasskazy v stenograficheskoĭ zapisi, Kniga 1 Iz arkhiva S.Ū. Vitte: vospominaniĭa. Tom 1: Rasskazy v stenograficheskoĭ zapisi, Kniga 1* [From the Archive of S. Y. Witte: Memoirs. Vol. 1: Stories in Stenographic Record, Book 1] (St. Petersburg: Dmitriĭ Bulanin, 2003); Serge Witte Сергей Юлевич Витте, *Iz Arkhiva S. Ū. Vitte: Vospominaniĭa.*

It cannot be fully ascertained to what extent Duanfang's (and his colleague Dai Hongci's) accounts of the encounter accurately reflected what was debated at the meeting. Within Russia's ruling circles, Witte had been one of the main driving forces behind political reform, but having been recently forced to resign, he was not satisfied with recent developments in his country. Conversely, Duanfang's words about the "preparation for constitutionalism" closely match tropes that were current in China by that time, but at the same time also corresponded to Russian and Western notions that a country's constitution had to emerge organically from that country's traditions.

Duanfang's and Dai's sojourn did influence their thoughts about the introduction of constitutionalism in China. Gao Fang claims that the constitutional commissioners learned from Russia that one should increase the oppressive capability of the armed forces while using constitutionalism as a tool for deceiving the people.⁷⁷ This interpretation is drawn from Duanfang's remarks that, in spite of Russia's defeats and troubles, and the fact that it was still militarily exhausted, it was putting great efforts into the recovery of its military forces. China should not underestimate this in its own considerations, Duanfang concluded.⁷⁸

Gao's conclusion is not impossible, but is rather boldly extrapolated from Duanfang's words. The version of constitutionalism that the court was envisioning primarily aimed at using the modern technique of a written constitution to make China "strong and prosperous."⁷⁹ It was clear that one of China's overarching goals was strengthening the military, particularly considering China's weakness on the international scene. It was quite natural that Duanfang would also pay attention to military matters, and note what China had to learn from Russia in this field.

Том 1: Rasskazy v stenograficheskoi zapisi, Kniga 2 Iz arkhiva S.Yu. Vitte: vospominaniya. Том 1: Рассказы в стенографической записи, Книга 2 [From the Archive of S. Y. Witte: Memoirs. Vol. 1: Stories in Stenographic Record, Book 2] (St. Petersburg: Dmitrii Bulanin, 2003); Sergei Witte Сергей Юлевич Витте, Iz Arkhiva S. IŪ. Vitte: Vospominaniia. Том 2: Rukopisnye zametki Iz arkhiva S.Yu. Vitte: vospominaniya Том 2: Рукописные заметки [From the Archive of S. Y. Witte: Memoirs. Vol. 2: Handwritten Notes] (St. Petersburg: Dmitrii Bulanin, 2003). Records of Witte's encounter with the constitutional commissioners have not yet been found in the Russian archives (personal communication with Professor Nikolay Samoylov, January 30, 2016).

77 Gao Fang, *Qingmo lixian shi*, 508.

78 Duanfang, *Duan Zhongmin Gong zougao*, 680.

79 See Meienberger, *The Emergence of Constitutional Government in China*, 88–89.

However, Duanfang described in a neutral tone—and not inaccurately—how internal and external troubles had led the Russian government to adopt a constitution, and how the stabilisation of the government’s power had led to its not meeting the requirements of the people and the parliament. But even if the October Manifesto and the 1906 Constitution were a *coup de théâtre* to deceive the people, Duanfang does not paint this policy as being successful. His account of the strikes, and of the tensions between the government and the parliament, as well as of Witte’s pessimism, is written in an objective tone. Due to the rather unsatisfactory state of things he described, it is probable that he had doubts about the utility of Russia’s approach to constitutionalism.⁸⁰ In another memorandum summing up his thoughts on constitutionalism, already cited above, Duanfang stresses that Russia was the only country that was still introducing constitutionalism and had not yet left autocracy; he describes how autocracy not only caused the Russian tsar’s personal danger, but also the country’s weakness, vociferously endorsing a transition from personal rule to rule by law.⁸¹

Thus, the lesson that Duanfang and Dai Hongci learned from their stay in Russia was probably a different one. It is to be found not in Duanfang’s, but in Dai’s travel diary. In his account of the meeting with Witte, Dai said that the Russian delegation had told the Chinese delegation to be very cautious. China should first set the laws of the country, then the ruling classes and the people should respect them, and only then could China think of constitutionalism. Witte estimated that a period of fifty years would be necessary for the task, which could not be abbreviated: If the government pressed forward without a foundation, it could stumble; if, however, it did not meet the demands of the people, there could be violence.⁸²

Even though Dai Hongci was of the opinion that China could not postpone the matter for fifty years, he agreed that a constitutional system could not easily be introduced in China, even less so than in Russia. In spite of a highly educated elite, Dai remarked, the Russian masses were illiterate and even poorer than in China. Yet Russia shared a border with the European powers, its politics had much in common with them, and its “qualification for constitutionalism” was higher

80 Duanfang, *Duan Zhongmin Gong zougao*, 679.

81 *Ibid.*, 694–696.

82 Cai Erkang 蔡爾康, Dai Hongci 戴鴻慈, and Zaize 載澤, *Li Hongzhang lipin Oumei ji: Chushi jiu guo riji, Kaocha zhengzhi riji*, 485.

than China's.⁸³ Dai concluded that, in order to ensure the adoption of a constitution in China, "preparation" was needed, and one pressing matter would be to improve education in general and legal training in particular, sending batches of students abroad.⁸⁴ As Dai stressed, "if you establish a constitution with empty words, wherein the citizens do not have general knowledge nor legal thinking, then there is no one to deliberate on the laws nor to observe them. The evils of such an approach are about the same as not having a constitution at all."⁸⁵

The exploits of the study commission resulted in the Qing government's announcement, on September 1, 1906, that it would henceforth "prepare for constitutionalism." After "several years" of preparation, a date for the implementation of a constitution would be decided.⁸⁶ Sectors of the public were already accusing the government of playing for time and not being willing to introduce real constitutionalism.⁸⁷ However, it was not only Chinese government circles which perceived Russia's problems arising from its having too rapidly promulgated a constitution.

Foreign observers were often rather sceptical about the prospects of China's constitutional enterprise, not unlike Japanese constitutionalists, who had once been advised to proceed cautiously when adopting their constitution.⁸⁸ Itô Hirobumi 伊藤博文 (1841–1909), the main figure behind the Meiji constitution, in principle supported constitutional reforms in China, but held that this was a matter of generations rather than of years.

83 Ibid., 487.

84 Ibid., 485–486.

85 Ibid.

86 Gugong Bowuyuan Mingqing Dang'anbu 故宮博物院明清檔案部, *Qingmo choubei lixian dang'an shiliao*, 43–44; a translation of the edict is to be found at United States Department of State, ed., *Papers Relating to the Foreign Relations of the United States with the Annual Message of the President Transmitted to Congress December 3, 1906*, 2 vols. (Washington, DC: Government Printing Office, 1909); Part one, 349–350.

87 See the 1907 pamphlet Zhang Bingling 章炳麟, "Tiantao: Minbao linshi zengkan" 天討: 民報臨時增刊 Heavenly demands: *Minpao* special edition, in *Xinhai Geming* 辛亥革命, vol. 2, ed. Zhongguo Shixuehui 中國史學會 (Shanghai: Shanghai renmin chubanshe, 1957): "It is [constitutionalism] only by name, not by substance" (368); "Thus, preparing for constitutionalism is just a substitute word for preparing to discriminate against the Han" (372–373). It should be noted that outside of China, this view coexisted with much more benign views of the Chinese government, as well as with all kinds of intermediate positions. See Moniz Bandeira, "Political Reforms in a Global Context."

88 On Herbert Spencer and Japan, see for example Zachmann, *China and Japan in the Late Meiji Period*, 107–108, with further references.

Throughout the last years of his life, he was very pessimistic about the constitutional reforms being carried out in China, unsuccessfully trying to become an advisor to the Chinese government and accurately predicting the fall of the Qing “within three years” from 1909.⁸⁹ Law professor Nakamura Shingo 中村進午 (1870–1939) pointed at the end of 1906 to the failures of constitutionalism in Hawai’i, Transvaal, Russia, and Persia, warning the Chinese against overenthusiasm about the adoption of a constitution being the key to national success.⁹⁰

This scepticism was not just confined to foreign observers. The difficulties of the new constitutional mode of government were even perceived in the otherwise reform-oriented, pro-constitutionalist press of China. In March 1906 (Guangxu 32/3), the *Eastern Miscellany* outlined the nature of Russia’s difficulties. Russia was not introducing constitutionalism carefully and therefore could not hope to experience its benefits. Instead, the paper argued, “constitutionalism needed preparation first,” anticipating the government’s stance:

The Russian popular revolt has been going on for several years running. But what is the origin of this narrative? Where does it actually emanate from? We think that there is probably one big cause for it. What is this cause? It is to be felt in the mark left by the outcome of the Sino–Japanese war. [...] This [the revolt] is definitely due to an external stimulus and does not come from the accumulation of the people’s force. It certainly evokes the empty word of constitutional government, but does not grasp the spirit of constitutional government. Its goals are purely objective and not subjective. To hope for constitutionalism from such a standpoint, isn’t this a large mistake already in its fundaments?⁹¹

89 See Moniz Bandeira, “Political Reforms in a Global Context,” 163–173, with further references.

90 Nakamura Shingo 中村進午, “Shinkoku rikken no zento wo ayabumu” 清國立憲の前途を危ぶむ Uncertainty about the prospects of constitutionalism in China, *Gaikō Jihō* 外交時報 9, no. 12 (Meiji 39 [1906]), 255–256.

91 Shunxiu 舜修 [pseudonym], “Lun lixian dang you yubei” 論立憲當有預備 The adoption of constitutionalism must be prepared, in: *Dongfang zazhi* 東方雜誌 3, no. 3 (Guangxu 32/3/25 [April 18, 1906]), 45.

1906–11: Russo-Sino-Japanese-German arguments against constitutionalism

By 1906, in spite of some scepticism in certain sectors in relation to government's earnestness, the proportion of published opinion that was categorically opposed to any action taken by the central government was still much lower in China than in Russia, where the number of death sentences rose sharply from between 10 and 26 in 1905, to between 144 and 236 in 1906, and to around 1000 in 1908.⁹² In China, published opinion did not initially dismiss every move by the central government as a façade for further oppression, and as has been seen, not only the government, but even published voices of the pro-reform press took the ineffectiveness of the October Manifesto and of the 1906 Constitution as a warning against making reforms too abruptly.

But on the other side of the political spectrum, the persistent unrest in Russia and the violent reaction to it by the Russian government also served as a catalyst for increasing mistrust of the Chinese government. If the Russian imperial government had granted a constitution without changing its dictatorial form of rule, was not the same to be expected in China? As an example, the Tokyo-based revolutionary *Minpao Magazine* 民報, in the editions for July and August 1908, published two articles translating excerpts from Maurice Baring's (1874–1945) book *A Year in Russia*, originally published in New York in 1907.⁹³ In fact, the *Minpao* articles, signed by a translator with the pseudonym “Blood and Tears” (*xuelei* 血淚), were less faithful translations than (in parts very loose) adaptations. Containing many interpolations, the *Minpao* articles conveyed views that differed fundamentally from the original text.

Baring's book is a first-hand account of the political events in Russia between August 1905 and August 1906, describing the struggles between the various political factions for Russia's political course and analysing them within their historical context. Baring noted that the revolutionary

92 See Nikolaï Stepanovich” Tagantsev” Николай Степанович Таганцевъ, *Smertnaïa Kazn': Sbornik' statei* Смертная казнь: Сборникъ статей The death penalty: Collection of articles (St. Petersburg: Gosudarstvennaïa Tipografiia, 1913), 89–92 (chapter “Data on the application of the death penalty in Russia”).

93 Maurice Baring, *A Year in Russia* (New York: E. P. Dutton and Company, 1907); Maurice Baring, “Lü E Zaji” 旅俄雜記 Miscellaneous notes on travelling in Russia, *Minpao Magazine* 民報 22 (Meiji 41/7 [July 1908]); Maurice Baring, “Lü E Zaji (xü ershier hao) 譯叢旅俄雜記 (續二十二號) Miscellaneous notes on travelling in Russia, continued from no. 22), *Minpao Magazine* 民報, 23 (Meiji 41/8 [August 1908]).

movement had by no means collapsed, in spite of the government's apparent success in pushing it back.⁹⁴ In the conclusion to the book (not translated into Chinese), Baring described two sides of the conflict. The defenders of autocracy, he wrote, argued that Russia was an Oriental country and that Western institutions were not suitable for it, stating:

These people [the defenders of autocracy] say that all talk of a Constitution is beside the mark. They argue thus :

“We must have a Constitution, just as we have an army and a navy, because the idea soothes the revolution-haunted breasts of foreign financiers, but we shall never have a real Constitution because we don't want one. Reforms? Oh yes, as many as you please, on paper, signed and countersigned, but they will remain a dead letter, because they are not adapted to the character and the spirit of the nation. [...] Russia is like China, you can draw up a Constitution for Russia ; but when it is carried out, you will find that the only practical difference between the old state of affairs and the new is that the writing-table of the Minister of Foreign Affairs is to be oblong instead of round.”⁹⁵

Baring himself tended to disagree with this position, although he was not very emotionally invested in this judgement. A few years previous, he would have agreed, and he still thought that this group might be correct, but contact with the other group of Russians had made him change his opinion. He now felt that the comparison with China was wrong because China was a highly literate nation. In Russia, however, the autocratic regime was not “the natural expression of national characteristics but a fortuitous disease” that had sprung from comparatively recent changes in Russian history.⁹⁶ The proponents of this second opinion were favoured by Baring, who sums up their response to the defenders of autocracy in the closing paragraph of his book:

But those who [...] without following any party are liberal in thought and deed say to their opponents: “If it is true that what you represent is really Russia, we have no further wish to remain Russian, and the day you are proved to be in the right, we will emigrate and settle in Turkey, in Persia, or in China.”⁹⁷

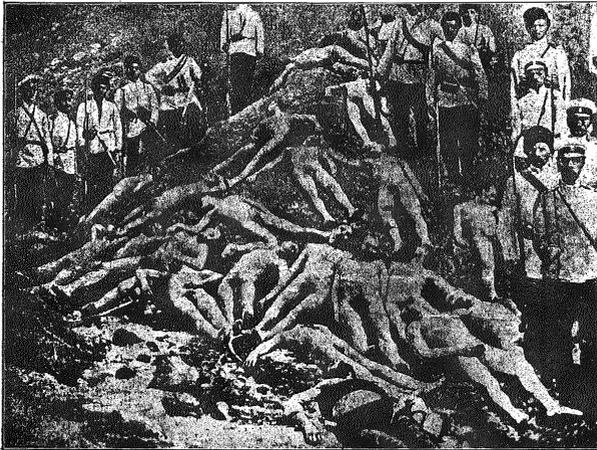
94 Baring, *A Year in Russia*, 99–100.

95 Ibid., 304.

96 Ibid., 305–306.

97 Ibid., 307.

諸望憲者立憲也狀慘之屍暴人殺後憲立國俄此



圖屍暴之國憲立

Fig. 1: Illustration from Minpao Magazine (August 1908): “This is the woeful scene of slain corpses laid out to the public after Russia established a constitution. You who are hoping for a constitutional government, why do you not take this as a warning?”

The *Minpao* does not directly translate these reflections. Instead, the translator interpolates his own—very resolute—opinion into Baring’s text, writing that the Russian government had “guilefully established fake constitutionalism in order to appease the ignorant people.”⁹⁸ As the translator exclaims in another passage attributed to Baring: “Alas! How can a so-called constitutional country be so barbaric?”⁹⁹ The explicit equation of the worrisome Russian situation with that in China was made in the front pages of the magazine. One of the two introductory images to the August edition was a shocking photo showing atrocities committed by Russian soldiers.¹⁰⁰

But the Chinese did not passively observe the situation in Russia. Zhang Qingtong 張慶桐 (1872–?) was a Chinese student in Russia, who, in 1904–05, together with a Russian colleague, Arseniy Nikolaevich Vosnesenskiy (1881–1937), translated Liang Qichao’s study of Li Hongzhang

98 Baring, “Lü E Zaji,” 62, see also 61, 68.

99 Ibid., 61.

100 “Lixianguo pushi tu” 立憲國暴屍圖 Images of corpses laid out in a constitutional state, *Minpao Magazine* 民報 23 (Meiji 41/8 [August 1908]).

into Russian (under the title *Li Hongzhang or the Political History of China in the Last Forty Years*).¹⁰¹ As Li Hongzhang had died in 1901, the book did not expressly focus on constitutionalism, although it did mention it as an objective to be attained by modern states, something that Japan had managed to do but China had not.¹⁰²

In the preface to the translation, Zhang stressed how the two countries were intimately related, and how what happened in the one could have an impact on the other. China, he explained to the Russian audience, needed to rise, for only then would there be a stable peace and only then would the great spirit of the Hague Conference be realised if everyone had equal forces.¹⁰³ But the book was not only an introduction to China for Russian audiences. It was also meant as an indirect exhortation for the Russians to effect similar reforms as the Chinese. Zhang distributed the book very widely within Russian society, sending copies to a large number of important figures, including the famed Russian writer Leo Tolstoy (1828–1910).¹⁰⁴

Zhang's letter to Tolstoy, dated December 1, 1905, has survived. Herein, he made clear the political intentions of his translation:

By translating the work of Liang Qichao, we intend, on the one hand, to show the ethical structure of the Chinese to the Russian people, but also to influence the Russian government in the sense that it forsake the political principles which are harming us in the same way as the Russians.

[...] In the system of government of Russia and, still until recently, of China, government and people constituted two

101 Arseniĭ Nikolaevich" Voznesenskiiĭ Arseniĭ Nikolaevich Voznesenskiiĭ and Chzhanchintun" Чжанчинтунъ [Zhang Qingtong 張慶桐], *Likhunchzhan" ili Politicheskaia Istorĭa Kitaia za Posledniĭa 40 Liĕt Lixunchжанъ или политическая исторĭя Китая за послѣднĭя 40 лѣтъ* Li Hongzhang or the political history of China in the last forty years) (St. Petersburg: V. Berezovskiiĭ, 1905). On Zhang Qingtong, see Yan Guodong 閻國棟, "Goutong Zhong E wenhua de xianqu: Zhang Qingtong shengping shiji buju" 沟通中俄文化的先驱: 张庆桐生平事迹补苴 A pioneer of communication between Chinese and Russian cultures: setting right the achievements of Zhang Qingtong's life, *Eluosi wenyi* 俄罗斯文艺, 2 (2009), and Zhang Zhongxing 张中行, "Zhang Qingtong" 张庆桐, *Dushu* 读书, June 30, 1989, 109–116.

102 The original is to be found in Liang Qichao 梁啟超, *Liang Qichao quanji* 梁啟超全集 Complete works of Liang Qichao, eds. Yang Gang 楊鋼, and Wang Xiangyi 王相宜 (Beijing: Beijing chubanshe, 1999), 510–554.

103 Voznesenskij and Zhang Qingtong, "Likhunchzhan" ili Politicheskaia Istorĭa," xiii.

104 See Yan Guodong, "Goutong Zhong E wenhua de xianqu," 113–114.

separated factors, and without doubt, it was unjustified to judge the entire people on single deeds of its government. [...] For the actions of the government, the whole country was made co-responsible, even if it knew nothing of the measures.¹⁰⁵

But Tolstoy disagreed with Zhang in his reply, showing opposition to such modernisation.¹⁰⁶ Although Zhang noticed Tolstoy's earnestness and deep feelings for China, his answer did not change Zhang's reform-mindedness. Zhang returned to China at the end of 1905, where he took an official position at the public works administration of the Beiyang provinces before joining the Chinese delegation at the Hague Conference of 1907.¹⁰⁷ Later, he frequently discussed matters with Wang Rongbao, one of the men who was entrusted with drafting the definitive Qing constitution.¹⁰⁸

Tolstoy reiterated his stance the following year (1906), when he wrote a letter to a Chinese man staunchly opposed to China's constitutional reforms, the Penang-born and British-educated Ku Hung-Ming 辜鴻銘 (1857–1928). In his open letter,¹⁰⁹ Tolstoy argued that if man submitted himself to a human organisation of power like a constitution rather than to the natural or divine order, he would always be a slave. To Tolstoy, constitutions, as well as a modern military and modern industries, were signs of human depravity. The moral decay of autocracies had been resolved in the West by popular representatives charged with limiting

105 Paul Birukoff, ed., *Tolstoi und der Orient: Briefe und Sonstige Zeugnisse über Tolstois Beziehungen zu den Vertretern Orientalischer Religionen* (Zürich: Rotapfel, 1925), 125–127.

106 Leo Tolstoy, *Polnoe sobranie sochinenii/76 Seriiā 3: Pis'ma Полное собрание сочинений/76: Серия 3, Письма* Complete collected works, vol. 76, series 3: letters, ed. Vladimir Grigor'evich Chertkov Владимир Григорьевич Чертков (Moscow: Gosudarstvennoe Izdatel'stvo Chudozhestvennaia Literatura, 1956), 62–64.

107 Yan Guodong, "Goutong Zhong," 110. His participation in the Hague conference, however, was rather minor. On the Chinese delegation and Zhang's standing see Tang Qihua 唐啓華, "Qingmo Minchu Zhongguo dui 'Haiya Baohehui' zhi canyu" 清末民初中國對“海牙保和會”之參與 (1899–1917) China's participation in the “Hague peace conferences” in the late Qing and early Republic (1899–1917), *Guoli zhengzhi daxue lishi xuebao*, no. 23 (2005), 60.

108 He is mentioned sixteen times in Wang's diary from 1909–1912. Although Wang mentions meeting Zhang for discussions or even “long discussions,” he remains silent about the content. See Wang Rongbao 汪榮寶 et al., *Wang Rongbao riji* 汪榮寶日記 Wang Rongbao's diaries, *Zhongguo jindai renwu riji congshu* 中國近代人物日記叢書 (Beijing: Zhonghua shuju, 2013), 494.

109 Leo Tolstoy, *Polnoe sobranie sochinenii/36 Seriiā 1: Proizvedeniia Полное собрание сочинений/36: Серия 1: Произведения* Complete collected works, vol. 36, series 1: literary production, ed. Vladimir Grigor'evich Chertkov Владимир Григорьевич Чертков (Moscow: Gosudarstvennoe Izdatel'stvo Chudozhestvennaia Literatura, 1936).

the government, but this system had just meant the expansion of violence from one autocrat to a group of people acting in similar fashion. China, Russia, Persia, and Turkey should solve the evils of despotism by other means than those employed in the West. They should free themselves from human authority and submit themselves to divine authority. Tolstoy's anarchist stance was thus also a comment on the Chinese constitutional movement. And while this might have been a minority position, it was heard throughout Eurasia. His letter was not only published in the original Russian,¹¹⁰ but also translated into several European languages and into Chinese.¹¹¹

Tolstoy's letter was published at least twice in Chinese, namely in 1907–08 in the anarchist magazine *Tianyi* 天義, and in 1911 in the *Eastern Miscellany*, the pro-reform general magazine of Shanghai.¹¹² Interestingly, the *Eastern Miscellany* translated only the first five of the letter's nine sections, and also omitted all negative references to constitutions and constitutionalism. Thus, it translated Tolstoy's assertion that the Western peoples had introduced representative institutions, but omitted the following sentence about this being merely an expansion of violence. And in this version, what the "reckless" reform tries to implement instead of the autocratic system is not a "constitutional," but a "republican" system. These changes and the further omissions might have been unintentional, but they effectively deprived the translation of its contribution to Chinese constitutional debate.

1906–1911: Efforts to devise a constitution and technical discussions

The announcement that the country would "prepare for constitutionalism," on September 1, 1906, was followed by reforms of the central and

110 Leo Tolstoy, *Pis'mo k' kitaiĭsu*.

111 See, among other translations, Leo Tolstoy "Lettre a un Chinois," *Le Courrier Européen* 47, November 30, 1906, 721–723; Leo Tolstoy, Eugen Heinrich Schmitt, and Albert Skarvan, *Brief an einen Chinesen, Darlegung der Gefahren repräsentativer Verfassungen: Mit einem Anhang von Sprüchen chinesischer und buddhistischer Weisheit* (Hannover: Adolf Sponholtz, 1911).

112 Leo Tolstoy, "Eguo dawenhao Tuersitai bojue yu Zhongguo moujun shu" 俄國大文豪託爾斯泰伯爵與中國某君書 Letter of Russian literary master Tolstoy to a certain Chinese gentleman, *Dongfang Zazhi* 東方雜誌 8, no. 1 (Xuantong 02/02/25 [March 25, 1911]); Leo Tolstoy, "E Duersituo zhi Zhinaren shu jieyi" 俄社爾斯托致支那人書節譯 Abbreviated translation of a letter written by the Russian Tolstoy to a Chinese man, in: Kobayashi Jitsuya 小林實彌, ed., *Chūgoku shoki shakaishugi bunkenshū 2* 中国初期社会主義文献集 2 (Tokyo: Daian, 1966), 395–399 and Leo Tolstoy, "Zhi Zhongguoren shu" 致中國人書 (Letter to a Chinese Man), in: Kobayashi Jitsuya 小林實彌, ed., *Chūgoku shoki shakaishugi bunkenshū 2* 中国初期社会主義文献集 2 (Tokyo: Daian, 1966), 583–588.

provincial governments, compromises which left many unsatisfied. In terms of constitution-making *stricto sensu*, the central government established two fundamental institutions in 1907: the Constitutional Office (*Xianzheng bianchaguan* 憲政編查館, Compilation Office for a Constitutional Government),¹¹³ mainly charged with drawing up legal regulations, and the Political Consultative Council (*Zizhengyuan* 資政院),¹¹⁴ which was intended to be the precursor of a parliament under a constitutional system.

On July 22, 1908, the Chinese government ordered these two institutions to jointly and quickly come up with an outline of a monarchical constitution based on the best regulations found in various other states. They should also draft an electoral law, a law for a parliament, and a list of things to be provided for in the years before its convention. This edict was complied with very quickly, and the documents were produced in little over a month, by August 27, 1908. The plan approved on that day foresaw the promulgation of a constitution and the convening of a parliament in nine years, i.e., in 1916. The drafting of the final text of the constitution was commissioned to five men at the end of 1910 and beginning of 1911.¹¹⁵

The timing of the publication of the Qing regime's first official constitutional documents in 1908 is interesting in light of events ongoing elsewhere. A month previously, on July 24, 1908, the Ottoman sultan, Abdul Hamid, was forced to reinstate the 1876 constitution of the Ottoman Empire as a result of the Young Turk Revolution. In China, in spite of the officially acknowledged need for "constitutional preparation," this again was seen as an urge to introduce a constitution of China's own. The Shanghai newspaper *Shenbao* 申報, a widely read general newspaper that was affiliated with neither the reformist nor revolutionary camps, was afraid that the Ottoman Empire, now a constitutional polity, would be treated

113 Gugong Bowuyuan Mingqing Dang'anbu 故宮博物院明清檔案部, *Qingmo choubelixian dang'an shiliao*, 45–46.

114 Zhu Shouming 朱壽朋, Zhang Yuming 張毓明, eds., *Donghua Xulu*, Chapter Guangxu 209, 5; Gugong Bowuyuan Mingqing Dang'anbu, *Qingmo choubelixian dang'an shiliao*, 606; "The Capital: The Proposed Cabinet," *The North-China Herald*, 2091, September 6, 1907, 606.

115 For the first edict nominating the two main drafters, see Gugong Bowuyuan Mingqing Dang'anbu 故宮博物院明清檔案部, *Qingmo choubelixian dang'an shiliao*, 79; *Daqing xuantong zhengji shilu* 大清宣統政紀實錄, 2 vols. (Taipei: Huawen shuju gufen youxian gongsi, 1968), 755. For second edict nominating a further three drafters see *ibid.*, 865.

as an equal by the other powers.¹¹⁶ Before that, the powers had derided both China and Turkey for being the “sick men” of global politics, but Turkey had now unexpectedly catapulted itself onto the “constitutional stage.” Although the Ottoman Empire was not China’s enemy, it was now its turn to deride China.

The *Shenbao* feared that the Ottoman Empire, which could now freely sign international treaties, was now, as a constitutional country, in a position to force treaties upon China. Just as France had made herself protector of missionaries in China, The Ottoman Empire could make use of ethnic and religious affinities to the Uyghurs to intervene in regions like Xinjiang and others. If the Ottoman Empire made use of international law in this way, China would not be able to withstand it. Of the three countries that had not adopted constitutionalism by the turn of the twentieth century (Russia, the Ottoman Empire, and China), only China was left. Even if the Ottoman Empire was smaller than Russia, it was larger than Japan, and would not stay weak. China should adopt a policy to cope with this.

After China had adopted the *Outline of a Constitution*, the *Shenbao* published another article on September 24, 1908, this time commemorating the fact that China had now caught up with the Ottoman Empire.¹¹⁷ In that year, an article in the paper noted, five countries had turned to a constitutional system: China, Turkey, Persia, Egypt, and Morocco. The *Shenbao* remarked that all of them lay outside of Europe, had populations that were not of the white race, and had been in existential crises. But who could know whether, after some decades, the world would not be widely different? What could be fathomed was that these countries would be far better off than before the transition to constitutionalism, and that of these, China was the one with the best prospects, especially in military matters (the article went on to compare the militaries of the five new constitutional countries in some detail). If even Morocco could look to Japan’s example of military victory, how much more could China manage? The article ended full of pathos:

Vast are the waters of the Mediterranean! Unlimited are the skies
of Arabia! Beholding them, our people truly wants to open up
a boundless stretch of land!

116 “Lun Tuerqi lixian yu Zhongguo zhi guanxi” 論土耳其立憲與中國之關係 On the relationship between Turkish constitutionalism and China), *Shenbao* 申報, August 2, 1908.

117 “Jinnian zhi wu lixianguo 今年之五立憲國 This year’s five constitutional states, *Shenbao* 申報, September 24, 1908.

It was within this international context that a definitive constitution for the Qing Empire began to be drafted. But besides the official *Outline of a Constitution*, our knowledge of the concrete constitutional texts that were being drafted at the end of the Qing dynasty is rather limited, due to the fragmentary nature of the sources and their varying levels of preservation. The extant texts point to a very close resemblance between the developing Chinese constitution and the Japanese constitution of 1889. Yet a closer examination of the sources reveals that, although legal scholars, and especially those drafting the Chinese constitution, chose to adopt many, but not all, Japanese norms, they did not do so blindly, and were well aware of the ongoing constitutional efforts elsewhere. Not least, they were aware of the Russian constitution, promulgated in 1906, and of the Turkish constitution, reinstated on July 24, 1908.

Texts of foreign constitutional charters were translated into Chinese in large numbers in the early years of the twentieth century, and some of them were distributed within the Constitutional Office. Thus, the Russian constitution was published in quite a few different forms and media:

- A) *The Essentials of Government in Various Countries (Lieguo Zhengyao 列國政要)*,¹¹⁸ the 132-volume result of Duanfang's and Dai Hongci's constitutional mission abroad, contained three volumes (7–9) about the Russian constitution. These were, however, not a translation of the constitutional charter as such, but of the legal provisions concerning the State Council, the Duma, and the elections.
- B) In the special volume on constitutional government published by the *Eastern Miscellany* in 1906;¹¹⁹
- C) In the Tokyo-based *Magazine of Law and Politics (Fazheng Zazhi 法政雜誌)* of June 1906;¹²⁰

118 Duanfang 端方 and Dai Hongci 戴鴻慈, *Lieguo Zhengyao: Yibaisanshier juan 列國政要: 一百三十二卷* (n.p.: Guangxu 33 [1907]).

119 “Junzhu lixianguo xianfa zhaiyao (Ribei, Ying, E, Pulushi, Yidali): Eguo Xianfa” 君主立憲國憲法摘要 (日本、英、俄、普魯士、義大利): 俄國憲法 Excerpts from constitutions of monarchic constitutional states—Japan, United Kingdom, Russia, Prussia, Italy: The Russian Constitution, in *Dongfang zazhi 東方雜誌* 3, no. 3 (1906).

120 Zhu Jingqi 朱景圻, “Luxiya (Eluosi) xianfa zhengwen (1906 nian 5 yue 8 ri fabu)” 露西亞 (俄羅斯) 憲法正文 (一千九百零六年五月八日發布) Complete text of the Russian constitution, promulgated on May 8, 1906, in: *Fazheng zazhi 法政雜誌* 6 (August 14, 1906).

D) In the first edition of the journal *Miscellaneous Knowledge about Constitutional Government* (*Xianzheng zashi* 憲政雜誌), of December 1906,¹²¹

E) In the compendium *Constitutions of Seventeen Countries* (*Shiqi guo xianfa* 十七國憲法), published in book form in 1906;¹²²

F) In the *Bulletin of the Society for Preparation of Constitutionalism* (*Yubei lixian gonghui Bao* 預備立憲公會報); this was not a literal translation, but a prose reproduction, followed by a short commentary saying that, in spite of its shortcomings, it was a remarkable feat for a country that had been an autocracy for millennia. This was in accordance with the overarching trend of the world.¹²³

There are fewer translations of the Turkish and Persian constitutions, but each of them was translated at least once:

A) An abridged translation of the Persian constitution was published in 1907 in the *Eastern Miscellany* and then republished in the *Official Gazette of Sichuan* (*Sichuan guanbao* 四川官報), with the comment that the progress made by the country was much faster than expected.¹²⁴

B) The Turkish constitution was published as an annex to the *Eastern Miscellany* in June–July 1909.¹²⁵

C) One translation of the Turkish constitution was circulated within the Chinese government.

121 Bao Gongyi 包公毅, “Geguo xianfa zhengwen 各國憲法正文(俄國) Full texts of the constitutions of the various countries (Russia), *Xianzheng zashi* 憲政雜誌 1, no. 1 (December 16, 1906).

122 Qi Yuhe 齊雨和 and Gu Xiangjiu 古翔九, eds., *Shiqi guo xianfa zhengwen huibian* 十七國憲法正文匯編 (n.p.: Jingshen shuzhuang, Guangxu 32 [1906]).

123 He Yu 何域, “Eguo xianfa ji xuanjufa zhi dayi” 俄國憲法及選舉法之大意 Rough meaning of the Russian constitution and electoral law, in: *Yubei lixian gonghui bao* 預備立憲公會報 20 (Guangxu 34/11/13 [December 06, 1908]).

124 “Jingwai Xinwen: Bosi Xianfa 京外新聞: 波斯憲法 Beijing foreign news: The persian constitution, in: *Sichuan guanbao* 四川官報 25 (1907).

125 “Fulu: Tuerqi chongban xianfa tiaowen 附錄: 土耳其重頒憲法條文 Appendix: text of the reinstated Turkish constitution, in: *Dongfang zazhi* 東方雜誌 6, no. 5 (Xuantong 1/4/25 [June 12, 1909]); “Fulu: Tuerqi chongban xianfa tiaowen (xu di wu qi) 附錄: 土耳其重頒憲法條文 (續第五期) Appendix: text of the reinstated Turkish constitution, continued from no. 5), in: *Dongfang zazhi* 東方雜誌 6 (1909).

Besides the *Outline of a Constitution by Imperial Decree* (*Qinding xianfa dagang* 欽定憲法大綱), hastily drafted and officially presented in August 1908, there are three surviving drafts of a constitution. As to the official constitution in the process of being drafted, some of its content can be inferred from Wang Rongbao's diary, but due to the scarcity of other surviving sources from the time, the academic understanding of it is rather fragmentary.¹²⁶

One of the complete drafts is a document stored at the First Historical Archives in Beijing, which, however, was probably not an official internal draft by the compilers, but a private draft that happened to be circulated at the Constitutional Office.¹²⁷ The two other drafts were both published as books in Japan in 1909: One was compiled by the Chinese student Zhang Bolie 張伯烈 (1872–1934),¹²⁸ and one was written by the mysterious Japanese scholar Kitaoni Saburō 北鬼三郎 (?–1912).¹²⁹ Kitaoni's book comes in two differing versions: A preliminary version had been written before the 1908 *Outline* and given to a Chinese acquaintance of Kitaoni's. In 1909, an updated version was printed by a commercial editor and widely distributed in Japan.

From the surviving materials concerning the drafting of a new constitution, it is clear that, although the Japanese model was preferred, there was a keen consciousness of the constitutions of the world as well as the debates surrounding them. Perhaps the point of utmost importance to the Qing government was the part about the sovereign's position. In this part, the constitution of Russia, with its strong tsar, was of special interest. For example, an internal memorandum penned by Prince Pujun 溥儁 (1885–1942), housed in the archives of the Constitutional Compilation Office,¹³⁰ criticises the corresponding parts of the 1908 *Outline of a*

126 Cui Xuesen 崔学森, "Qingting zhixian yu Mingzhi Riben" 清廷制宪与明治日本 The Qing Court's constitution-making and Meiji Japan, (PhD diss., Lishixue xi 历史学系, Peking University).

127 See Shang Xiaoming 尚小明, "'Liang Zhong Qingmo xianfa cao'an gaoben' zhiyi" 两种清末宪法草案稿本" 质疑, (Disputing "Two constitutional drafts in the late Qing"), *Lishi yanjiu*, no. 2 (2007).

128 Zhang Bolie 張伯烈, *Jiading Zhongguo xianfa cao'an* 假定中國憲法草案 Hypothetical draft for a Chinese constitution (Tokyo: Dokusō Bessho, 1909).

129 Kitaoni Saburō 北鬼三郎, *Daishin kenpō an* 大清憲法案 Draft constitution for China (Tokyo: Keisei Shoin, Meiji 42 [1909]).

130 Jinjiang Xianzheng Bianchaguan niding xianfa dagang youguan Junshang daquan zhe canchou taguo xianfa fenbie qingzhong jianan nichen fuqi jiancai 謹將憲政編查館擬訂憲法大綱有關君上大權者參酌他國憲法分別輕重簡單擬陳伏乞鑒裁, file no. 09/01–01/003/009, First Historical Archives of China, Beijing.

Constitution on the basis of the Japanese and the Russian constitutions. Thus, Article 3 of the *Outline* stipulated that “laws shall be made and promulgated by the sovereign, and he has the power to determine what may be assigned to others for deliberation.”¹³¹ An annotation (in fine print) to the norm specified that “laws which have been passed by the parliament shall not become operative until approved and promulgated by the sovereign.”

In this case, the memorandum took issue with the *Outline*'s use of the expression “by the sovereign” (*qinding* 欽定), criticising its inappropriateness, the conceptual confusion expressed in the norm, and the technical slovenliness of the draft. The memorandum cites Article 5 of the Japanese constitution and Article 7 of the Russian constitution, which both determined that the sovereign and the parliament jointly exerted legislative power (*xing lifaquan* 行立法權). It goes on to cite Articles 6 of the Japanese and 9 of the Russian constitution, which both decreed that the Emperor approved (*caike* 裁可) the laws in a second, separate step. The memorandum heavily criticised the imprecise Chinese document by citing the Japanese and Russian texts as models of good law-making. Interestingly, this document did not adopt the common perception that Russia's constitution was a fake, but, without looking at the constitutional and legal reality, contrasted the texts of both the Japanese and Russian charters with the Chinese in technical terms:

The meaning of legislation in both Japan and Russia pays attention to the content and not the name; they treat laws as an essential tool for life and property of the people. [...] When the present article writes “by the sovereign,” it pays attention to the name and not to the content. Now, the reason why both the Japanese and the Russian constitution clearly regulate the power to approve laws in a special norm is exactly to express that the effects of executive power cannot arise without approval [by the sovereign]. The meaning is the same as the annotation to the present article, but there are some of its effects which cannot be attained by an annotation. Why is that? All countries, when drafting legal codes, will necessarily make sure that the words of the norms are certain and clear. Thus, exegesis and practice both shall be analysed according the original text, lest there be misunderstandings. [...] If the respective legal code does not exhaust the meaning of a

131 For the English translation of the *Outline*, see United States Department of State, ed., *Papers Relating to the Foreign Relations of the United States with the Annual Message of the President Transmitted to Congress December 8, 1908* (Washington, DC: Government Printing Office, 1912), 194–196.

norm in the article, then some regulate this in the second and third section of the article, and some add a “proviso” formula or the like. All these have the same effectiveness as the article itself. But one has never seen annotations added beneath the article!¹³²

That the drafting process was much more than a mere passive (albeit selective) copying of the Japanese model, but was indeed embedded in a wider—global—context of constitution-making, can also be seen in the example of the complete draft written by Kitaoni Saburô. Although it was written in Japan by a Japanese subject, it is particularly interesting because its Chinese version, translated by Li Jingming 李景銘 (1877–?), was circulated among the constitution-making authorities in Beijing and read by Wang Rongbao, one of the main drafters of the final constitution. There is some debate, however, as to how Wang Rongbao evaluated the draft.¹³³ The draft, whose genesis is still shrouded in mystery, is also valuable because it comes with an extensive article-to-article commentary by the author himself, showing the considerations that led to the final text.

Although Kitaoni’s draft was criticised at the time for being too close to the Meiji constitution,¹³⁴ it actually makes an earnest effort not to blindly copy the Japanese model, but follows the line of thought of “picking the best regulations from the various countries.” The commentary of every paragraph discusses the legal situation in various countries, and gives parallel norms in other constitutions. These were consistently ordered according to the greatest similarity of the respective national spirit to China’s, which, according to Kitaoni, was: Japan–United Kingdom–Russia–Prussia/Germany–others.¹³⁵ Thus, although Japan is Kitaoni’s most popular point of reference, he refers extensively to constitutions of a large number of countries, including such examples as Belgium and Luxembourg. Just about half of the proposed articles (thirty-seven of seventy-six articles) refer expressly to parallel norms in the Russian Constitution of 1906.¹³⁶ Kitaoni does not take the Persian and Ottoman constitutions into account; however, it would not have been

132 Junshang daquan 君上大權, file no. 09/01–01/003/009, First Historical Archives of China, Beijing.

133 See Shang Xiaoming, “‘Liang Zhong Qingmo xianfa cao’an gaoben’ zhiyi,” 166–167.

134 “Shinkan shôkai: Daishin kenpô an” 新刊紹介: 大清憲去案 Introduction to new publications: draft of a constitution for the Qing Empire, *Kokka Gakkai Zasshi* 國家學會雜誌 23, no. 9 (Meiji 42 [1909]).

135 See Kitaoni’s own explanation in Kitaoni Saburô, *Daishin kenpô an*, 2.

136 Articles 1–6, 8–15, 19–21, 24, 26, 28–30, 33–37, 39, 41–42, 50–51, 65–66, 68–69 and 74.

possible to mention the latter, given that the first version of his draft was written before the Ottoman constitution was reinstated.

The part which refers most heavily to the Russian Constitution is—again—Section 1, concerned with the Emperor’s position. The articles about the future parliament, on the other hand, did not take the Russian constitution into account nearly as often. Thus, Article 3 of the draft, which was particularly contentious, declared that the Emperor was “sacred and inviolable.” This provision, which had its origins in earlier Western European texts, was not only identical to the Meiji Article 3, but also to the Russian Article 3.

The sparse secondary literature on this draft (as well as on the other concrete constitution-making efforts of the late Qing era) has compared it mainly to the Meiji, but also to the Prussian constitutions. But it has overlooked that it was, at least from a textual point of view, also quite similar to the Russian constitution, of which the drafter was well aware. This was not a mere coincidence, but an expression of the global political processes in which it was embedded.

Conclusion

Coming from the constitutions of the USA and Western Europe, or even from Japan, one could see China as a late-comer to the modern concept of constitutionalism. But this view only captures a cut-out from a larger picture. China was not alone: some of the largest empires of the time, in terms of both area and population, were undergoing similar, albeit non-identical processes.

From the outset, Chinese intellectuals and government officials debating constitutionalism were interested in what was happening in constitutional terms in these countries supposedly so similar to their own, although probably less out of an intrinsic interest than out of their own internal interests and needs.¹³⁷ The Qing Empire had a long common border with Russia, direct diplomatic relations, and a long history of close cultural, economic, and political contacts. Moreover, Russia had imperial ambitions in the Far East, of which the Chinese were wary. Thus, it is not surprising that, among these states that were establishing constitutions at the same time as the Qing, Russia was by far the most cited and discussed in China. The Ottoman Empire and Persia were not overlooked either, and their experiences were also noted and debated, although to a lesser extent.

137 Müller, “China and the Russian Revolution of 1905,” 282.

Early Chinese discussions about constitutionalism often equated it with progress and expressly categorised China, Russia, and the Ottoman Empire as the countries that had not yet made this “evolutionary step.” Seen in this light, the Russo–Japanese war of 1904–05 was not so much a surprise to Chinese constitutionalists, but rather a confirmation of what they had been saying. Sometimes, but not always, debates went as far as equating constitutionalism with civilisation itself, as can be seen in Zhou Kui’s work or in the *Shenbao*’s assumption that a constitutional Ottoman Empire would finally be allowed to join the community of international law. The *Shenbao*’s analysis was an exaggeration: constitutionalism was not necessarily a “standard of civilisation,” as demonstrated, for example, by the recognition of a non-constitutional Russia as a great power on par with contemporary constitutional states. But constitutions were indeed becoming the central documents of modern national states. And every polity that moved towards the adoption of a constitution increased the moral pressure on China to follow suit.

When they decided to implement constitutionalism from 1905–06, the Qing government, as well as those involved in the drafting process, took a close interest in Russian and, to a lesser extent, Ottoman and Persian constitutionalism. Just as the defeat in the war had confirmed the need for a constitution, the intense difficulties encountered by Russia in spite of its speedy adoption of a constitution indicated to the government that the country had to be “prepared” for constitutionalism before it could be introduced. Such arguments were even seen outside of the government. But on the other side, news of the Russian government’s reactionary backlash were used as a warning against the intentions of the Chinese government.

Even though China’s relations were certainly closest by far with Japan, and their efforts towards a constitution bore a certain resemblance to Japanese models, the Chinese did not think of their constitutional movement as taking place in an environment in which they were alone in copying already finished models. In a global context where they were late, but by no means the latest, in introducing a modern constitution, Chinese intellectuals and officials were keenly aware that they were part of a wave of political changes that was affecting the whole Eurasian landmass.