Putting “Liberty” in its Place:
Discussions of 自由(Zi You), Slavery and Sovereignty in Turn-of-the-Century China

Elizabeth Dale
University of Florida
Department of History and Levin College of Law

In one of a series of lectures on constitutional ideas that he gave in Guangzhou in 1924 Sun Yat Sen announced that the Chinese people needed to stop focusing their attention on 自由 (zi you, usually translated as liberty or freedom). The Chinese had 自由, he argued; in fact, they had had too much of it for centuries and the time had come for them to shift their attention to more important constitutional goals.² Twenty years earlier, addressing a Chinese audience in Japan in

---

¹ For those who would like some historical context, I have attached a brief appendix that sets out a basic timeline of relevant Chinese history. There is also a simple historical narrative in Elizabeth Dale, “Constitutional Movements: An Example from China, 1894-1924” SSRN abstract 1496303.

² Sun Yat Sen, March 16, 1924 lecture, in The Triple Demism of Sun Yat Sen, Pascal D’Elia, trans. and ed. (1931), 251, 273-274. Sun’s talk on March 16 was part of a series of sixteen lectures, now known as the San Min Zhu Yi, that he gave on his constitutional theories in 1924. The collected talks were ultimately published, the complete set of these talks, translated into English, may be found in The Triple Demism of Sun Yat Sen. A Chinese version is available online:
http://zh.wikisource.org/w/index.php?title=%E4%B8%89%E6%B0%91%E4%B8%BB%E7%BE%A9&variant=zh-tw. (Page references in this paper are to D’Elia’s translation).
1905, Sun compared the Chinese people to the previously enslaved Blacks in the United States. He noted those slaves had become free people (自由民, zi you min) as a result of the Civil War and declared that the Chinese must seek 自由 as well.

To say the least, Sun’s treatment of 自由 in the two statements appears contradictory. Largely as a result of inconsistencies of that sort, Sun’s contemporary and modern critics have concluded that he lacked a coherent constitutional vision. He was, according to this argument, an activist whose ultimate goal—a revolution that would overthrow of the Qing Dynasty and establish a republican government in China—distorted his constitutional theories, especially his treatment of rights like liberty. To some extent, the charge is true, though I might frame the point slightly differently: Sun, like the other Chinese activists who fought for constitutional reform or revolution between 1894, when Sun formed his first revolutionary group, and 1925, 

---

4 Sun, zhongguo ying jianshe, 5.
5 See e.g., Luo Longji, quoted in De Bary and Lufrano, Sources of Chinese Tradition 2d ed. 2000), 2: 332-333 (Sun’s “weakness—which was at the same time his strength—lay in the fact ath in the selection of his strategy his main consideration was the attainment of his objective, not the evaluation of the means.”); Ssu-yü Teng and John K.Fairbank, eds., China's Response to the West (1954), 258 (noting Sun’s “lack of consistency,” characterizing Sun as “not a political theorist,” and “remarkably adaptable”); Peter Zarrow, China in War and Revolution (2005), kindle loc. at 5115 (Sun’s thinking was “unsystematic” and “self-contradictory”), kindle loc. at 5223 (Sun’s ideas were “vague”); kindle loc at 5236 (Sun’s ideas “elastic”). These criticisms were not confined to Sun; similar criticisms are made about other Chinese constitutional figures from this period. See, e.g., Alison Adcock Kaufman, “One Nationa Among Many: Foreign Models in the Constitutional Though of Liang Qichao,” (Ph.D. diss, University of California, Berkeley, 2007), 2-3 (discussing the ways in which this criticism was laid against Liang Qichao).
6 Howland, 133-134 (“Where, in 1905, Sun asserted that the people's rights were the goal of the revolution— which meant the establishment of equal rights for all and the abolition of inequality--by 1919 he began to dwell instead on the 'four great people's rights' pertaining to democratic political structure: election, referendum, initiative and recall. In 1924 he significantly revised the goal of individual rights; both in speaking to the graduates of the national military academy and in delivering his final version of the 'Three Principles,’ he insisted that the freedom and equality of the nation had to precede that of the individual, for only a free people can offer freedom to individuals.”)
when he died, did modify his constitutional theories over time. Those thirty years, a period of extensive constitutional debate within China, were also marked by significant shifts in China’s political landscape.\(^7\) The result was an environment in which constitutional ideals and goals evolved in response to heated debate and the pressures of everyday life.\(^8\) So it is more than fair to say that Sun adapted his constitutional ideas over the course of his thirty-year-long career as a constitutional activist, it would have been odd if he had not.

It is also fair to note, as many do, that Sun’s constitutional schemes placed very little emphasis on individual rights; there was no Bill of Rights in his model constitution and he was never particularly interested in appeals to any fundamental right.\(^9\) But when making that observation, it is important to recall that in that respect Sun was a creature of his time. Rights were not a significant focus of constitution-making for much of the nineteenth century; those turn-of-the-century constitutions that did guarantee rights generally hedged them around with limitations and disclaimers.\(^10\) Even in the United States, where there were attempts to lay claim to constitutional rights from the mid-nineteenth century on, “rights talk” was in its infancy and

---

\(^7\) See the Appendix for some of the major political changes in China in this period. It also bears noting that this was also a period of considerable constitutional debate on an international, or global level, Peter C. Caldwell, *Popular Sovereignty and the Crisis of German Constitutional Law: The Theory & Practice of Weimar Constitutionalism* (1997), 13-84, and that larger debate had implications in China, as well.

\(^8\) The process was hardly unique to China. See Elizabeth Dale, *Debating—and Creating—Authority: The Failure of a Constitutional Ideal, 1629-1649* (2001) (discussion of constitutional ferment in another place and time).

\(^9\) Howland, 132-134 (Sun’s attitude toward individual rights).

\(^10\) Caldwell, *Popular Sovereignty*, 30-35 (noting the extent to which European constitutional theory shifted away from the idea that citizens had rights against the sovereign in the second half of the nineteenth century); Wiktor Osiatynski, “The Paradox of Constitutional Borrowing,” *International Journal of Constitutional Law* 1 (2003): 244, 247. See also German Constitution of 1871 (no listing of individual rights). For constitutions that recognized individual rights, but then circumscribed them (usually by declaring that a right could not interfere with the right of another, or could be limited by law), see Ottoman Constitution of 1876 (which does, however, recognize the absolute “sovereign rights” of the Sultan); Meiji Constitution of 1889 (also recognizing rights that may be limited by law).
hardly a consistently effective political or constitutional force. 11 Claims based on liberty of contract may have been the exception to that rule, but that doctrine was hardly popular in European constitutional debate and largely ignored in the constitutional discussions in China before 1928. 12

Those observations aside, Sun’s constitutional ideas were more consistent, and complex, than his critics, or the two statements about 自由 with which this paper began, suggest. In the rest of this paper, I revisit Sun’s discussion of 自由 with several goals in mind. Most immediately, I do so to explore whether and to what extent it is possible to reconcile his statements in Japan 1905 with his remarks in Guangzhou in 1924. But more generally, I hope that this reconsideration provokes some thought about the issues that arise when we study constitutional borrowing, especially during constitution-making moments.

**Slavery, Sovereignty and 自由 in Turn-of-the-Century China**

To rethink Sun’s use of 自由, we need to step back from the assumption that he was referring to an individual right and try to figure out how he understood the term by considering how he used it in the context of his constitutional discussions. One way to do that is to explore the association suggested by Sun’s statements in Japan in 1905 (and echoed in his lectures in 1924), and consider how and why he talked of 自由 and slavery.

Slavery was no abstraction in turn-of-the-century China. Unwanted (or unaffordable) Chinese children, especially daughters, were sold up until the 1920s and that practice was


12 Interestingly Osiatynski argues that in Europe hostility to the idea of constitutional rights increased as a result of *Lochner*, because that case was read to suggest that rights were a way to trump social justice. Osiatynski, “Paradoxes,” 247 (suggesting this was particularly true in France).
increasingly compared to, and condemned as, slavery in Hong Kong and by Western observers. Meanwhile, the Chinese complained that Chinese working as laborers in Cuba, Jamaica, and other parts of the Americas were treated as if they were slaves, and those Chinese who had worked in the Americas in the middle of the nineteenth century brought memories of laboring beside enslaved Blacks back to China when they returned.13 Perhaps because of that immediacy, slavery was also an important metaphor in Chinese constitutional debates from 1895, when Yan Fu compared the Chinese people to slaves, through 1924, when Sun once again talked of slavery in his lectures in Guangzhou and a manifesto put out by Chinese anarchists compared Chinese laborers to slaves.14

References to slavery in turn-of-the-century China came in several forms. Most often the idea was evoked with phrases based on the character 奴 (nu, slave): 奴婢 (nubi, slave) or 奴隶 (nuli, slave). At the same time, the idea could also be suggested by claims that China, or the Chinese people, were 亡国 (wangguo, a subjugated country).15 At first glance, it appears that Chinese activists used this rhetoric of slavery to express one of two concerns. On one hand, it

---


14 Shen Sung-chiao, “Discourse on guomin (‘the citizen’) in Late Qing China, 1895-1911,” *Inter-Asia Cultural Studies* 7 (2006): 2, 7 (Yan Fu’s comment); Arif Dirlik, *Anarchism in the Chinese Revolution* (1991), 241 (quoting the manifesto). References to slavery were not unique to the constitution-makers of China, the revolutionary and founding generations in the United States also employed the term with abandon. Peter Onuf, “To Declare Them a Free and Independent People: Race, Slavery, and National Identity in Jeffersonian Thought,” *Journal of the Early Republic* 18 91998): 1, 7.

15 While the terms for slave were used as synonyms, they actually had slightly different meanings which were sometimes deliberately evoked. 奴 (nu) meant slave or bond servant and was a term used by women or girls to describe themselves. 奴婢 (nubi) generally meant slave, but was also the term used by eunuchs to refer to themselves when dealing with the court. 奴隶 (nuli) slave, was used in compounds referring to the sale and purchase of slaves. For “wangguo” see Rebecca Karl, “Slavery, Citizenship and Gender in Late Qing China’s Global Context,” *Rethinking the 1898 Reform Period: Political and Cultural Change in Late Qing China*, Rebecca E. Karl and Peter Zarrow, ed. (2002), 212, 217-218 (wangguo).
was used to indicate a concern about national subordination: In the international context, talk of *wangguo* and references to some variation of *nu* were used to describe China’s inability to thwart the imperial ambitions of those countries (the West and Japan) that wanted to bring China under colonial control.\(^\text{16}\) Domestically, the same images were used to characterize the invasion of China by the Manchus and their subsequent subordination of the Chinese people (particularly the 汉, or Han, Chinese) under their Qing Dynasty.\(^\text{17}\) On the other, the image of slavery was used to help describe the constitutional idea of the 国民 (*guomin*, national people or citizens), who were in all respects the antithesis of slaves.\(^\text{18}\) Mai Menghua captured this second aspect of the image in 1900, writing:

> Slave is the shameful term for someone who is the exact opposite of a guomin, someone undeserving to be amongst human beings. A guomin has the ability to self govern, the right to participate in politics, and enjoy the joy of freedom…. A slave is someone who has neither the ability to self-govern, nor the will to become independent, and in all facets of life is completely enslaved by his master….”\(^\text{19}\)

The contrast between the slave and the *guomin* was often strengthened by piling other images on to the reference to the slave. Rebecca Karl has pointed out that discussions of slaves were often gendered, using standard assumptions about women to suggest the particular weakness of the non-citizen or the depth of the non-citizen’s subordination.\(^\text{20}\) Several turn-of-the-century activists


\(^{17}\) Zou, *geming jun*, 56/1; Karl, “Slavery, Citizenship and Gender,” 221.

\(^{18}\) Shen, “Discourse on guomin.”


\(^{20}\) Karl, “Slavery, Citizenship.”
compared slaves to animals, as Liang Qichao did in a syllogism he published in 1902: those without rights are animals, slaves have no rights, thus slaves are animals.\(^{21}\) In addition to drawing attention to the non-citizen’s lack of rights, the comparison of slaves to animals (and the Chinese people to slaves) was used to suggest the Chinese people possessed a sort of brutish passivity. And, as Sun’s 1905 statement reveals, slavery could also take on a racial aspect through an association with the “Black slavery” (黑奴, hei nu) of the United States.\(^{22}\)

If slaves were the opposite of citizens, what exactly did that proposition mean? Most obviously, it meant that non-citizens were subordinated to someone else’s control, while citizens were not, which suggested that slavery was the opposite of freedom. That association is plainly behind Sun’s statement in 1905 that the hei nu of the United States became ziyou min or free people when their slavery ended. But if the repeated comparisons to slavery made it clear that freedom was an important element of citizenship that was not the entire story. In a recent article, Shen Sung-chaio suggested that slavery described a psychological condition as much as a physical one: slaves were people who lacked a sense of identity and community, or any sense of rights. Citizens, in contrast, had a sense of themselves as rights bearing people who were part of a larger community.\(^{23}\)

Although, as I noted above, the slave-citizen pairing appeared to express two separate ideas, one about the Chinese people and one about the Chinese nation, recent scholarship

---

\(^{21}\) Liang Qichao, 论权利思想 (lun quanli sixiang, About Rights Consciousness) (1902), excerpted in Angle and Svensson, Human rights Reader, 5, 6. See also Sun, fulu, 8 (Sun asserted that before they were freed the slaves of the United States were蠢(chun), stupid or dull, like animals.

\(^{22}\) Sun, zhongguo ying yianshe, 5. See also Zou, geming jun, 72/12-13, ibid. 73/14 (complaining that slavishness made China’s literati class effeminate and charged that because the Chinese acted like slaves they were going to be conquered and subordinated like the Africans, an argument that equated race and slavery). Karl offers a gendered example of this melding of images—Liang Qichao’s statement that women were dependent because men kept them like they kept dogs or horses or slaves. Karl, “Slavery, Citizenship and Gender,”233.

\(^{23}\) Shen, “Discourse on guomin,” 8.
suggests that the two tracks were actually one. Shen, for example, argued that in the long term the aspects of citizenship conjured up by the image of slavery had the effect of subordinating the interests of the individual to the needs of the state.\footnote{Shen, “Discourse on guomin,” 6.} In contrast, in an article that looked at the effect of the rhetoric at the turn of the century, Rebecca Karl concluded that that the repeated references to slavery were intended to bring to mind the idea of national dependency.\footnote{Karl, “Slavery, Citizenship and Gender,” 217-218.} Karl notes that in the years between 1880 and 1930 imperialist discourse around the world excused colonization on the ground that the colonized countries were full of people who were so dependent they were effectively already enslaved.\footnote{Karl, “Slavery, Citizenship, and Gender,” 218; Nancy Fraser and Linda Gordon, “A Genealogy of Dependency: Tracing a Keyword of the U.S. Welfare State,” \textit{Signs} 19 (1994): 309, 316-319. Fraser and Gordon also show that that international discourse of dependency often used gendered and racial imagery. Ibid. 317-318.} Karl’s association of slavery and dependency captures a crucial element of at least some of the discourse of slavery in turn-of-the-century texts. Mai Menghua, in the passage quoted above, seemed to speak of citizenship in terms of dependency when he wrote “a slave is someone who has neither the ability to self-govern nor the will to become independent.”\footnote{Quoted in Shen, “Discourse on guomin,” 8.} And given the extent to which the fear of imperialism drove China’s constitutional debates in this period, it is hard to imagine that Chinese activists ignored the importance ideas of dependency played in arguments for imperialism or that they would have avoided engaging the issue.\footnote{Fraser and Gordon, “Genealogy,” 320.} So, while the discussion of slaves and citizens in turn-of-the-century China might appear to fit into two separate categories, scholars have typically concluded that fears about China’s sovereignty were so pervasive the issue of the Chinese nation’s status subsumed concerns about the state of the Chinese people.

There is no denying that turn-of-the-century China was concerned about national sovereignty; it had every reason to be, as article in the English-language *North China Herald* in 1903 made clear. The subject of the article was a pending trial in Shanghai’s Mixed Court, a tribunal specially created to try Chinese nationals for acts or crimes they had committed in the International Settlement, a district in Shanghai that was under foreign control.\(^{29}\) The Chinese government, though generally accepting of, if not enthused about, the Mixed Court, objected to the Mixed Court’s claim of jurisdiction in this particular trial on the ground that the defendants were accused of publishing seditious libel against the Chinese government.\(^{30}\) In an editorial, the *North China Herald* deplored the fact that a French newspaper had endorsed the Chinese position and called for the rendition of its defendants [of the defendants to China] upon the high ground of China’s sovereign rights, and invoking Chinese law; placing these above the claims of humanity, the dictates of reason, and the first principles of civilization. This is China, they say; these are Chinese subjects--ergo, if they offended against the Chinese government or if the Chinese government says they have offended, it is not within the rights of any of the foreign authorities interested to stand between these two men and their Heaven-sent rulers.\(^{31}\)

That was all well and good as an abstract principle of international law, as applied to a civilized nation; but, the *North China Herald* argued, it was simply not valid in the case of China. China was neither civilized nor entitled to the respect of other nations.\(^{32}\) So the question of whether


\(^{32}\) *Ibid*, (“Let us face the facts. The Chinese government is not a civilized government; its corruption is notorious, and the Powers of Europe do not regard it either in their Treatise or in their treatment as an
China was entitled to claim sovereignty was real, and while the North China Herald may have tied its doubts about China’s sovereignty to the failures of the Qing, others were clear that the nation’s weakness resulted from the traits of the Chinese people.33

So fears that China was being reduced to a dependent country were very real, and anxiety about China’s sovereignty played a major role in shaping the slave-citizen discussions in China. But some activists were interested in another aspect of sovereignty and used the slave-citizen discussion to advance that other point. These activists focused on the role citizens played in the government of their country, their concern was popular sovereignty a topic of much constitutional debate in the West around this time.34 And this was also an issue that arose in the context of imperialism: Western apologists for colonization did not simply assert that some countries were not sovereign, and could be colonized as a result, they also asserted that the people in some of those colonized countries were incapable of acting as citizens because they were naturally dependent and, as a result, lacked the key characteristics of a sovereign people.35 Because those people lacked the capacity to rule themselves, they could and should be ruled by other countries.36

33 Shen, “Discourse on guomin,” 7 (quoting Liang Qichao to this effect).

34 Osiatynski, “Paradoxes” (discussing the significance of popular sovereignty in nineteenth century Europe. Caldwell traces the rise of theories of popular sovereignty in turn-of-the-century German constitutional thought in Caldwell, Popular Sovereignty. For a discussion of contemporaneous efforts to create mechanisms that would enable the people to express their sovereign will in the United States, see Thomas Goebel, A Government by the People: Direct Democracy in America, 1890-1940 (2002).

35 Fraser and Gordon, “Genealogy,” 312. Fraser and Gordon collapse these two elements into one, asserting that dependency assumed a lack of “will power,” but their own examples suggest that the two ideas were seen as related, but separate. Ibid. 321.

36 Fraser and Gordon also show that this argument came up in debates over immigration and naturalization.
That was the sort of argument that Mai Menghua was responding to when he argued that citizens had the ability to self-govern and be independent. And that was what lay behind Zou Rong’s argument, in his revolutionary pamphlet 革命军 (geming jun, The Revolutionary Army), that citizens have a capacity for self rule, they are independent by nature, they have the right to participate in government, they enjoy freedom, and whatever their occupation, they can be complete and rounded human beings. Slaves, on the other hand, lack the strength to rule themselves, and they have no inclination towards independence.

Zou’s pamphlet tied his call for popular sovereignty back to the problem of national sovereignty. He called on the Chinese people to become sovereigns, to rise up, overthrow the government and create a republic “modeled on the principles of American revolutionary independence.” Then, he promised, China would be a free and independent nation, respected and granted equal rights by other countries.

So in turn-of-the-century China, talk of slavery related to issues of both national and popular sovereignty. But a problem of vocabulary complicated this discussion. China had a term that activists and government agents used to refer to sovereignty—主权 (zhuquan, sovereignty, sovereign power, or sovereign rights)—but that term was developed, and apparently used exclusively to refer to the sovereignty of the state. Another term 君主 (junzhu, sovereign)

---

37 Mai, shuo nubi, 8.
38 Zou, geming jun, 113/36.
39 Zou, geming jun, 123/42-43.
40 Zou, geming jun, 124/44-45.
41 See discussions in Liu, 109 (the word 主权 was created in 1864 when Henry Wheaton’s Elements of International Law (1836) was translated into classical Chinese; the term specifically referred to national claims of sovereignty).
referred to the sovereign in the sense of monarch. But there was no clear term to use to express the idea of popular sovereignty. Some, of course, tried to capture the idea in their descriptions of the concept of *guomin*, in effect by making citizens a synonym for sovereign people. Others used a compound: 自主之权 (*zizhu zhiquan*), which Angle and Svensson translate as “the *quan* [or right] of self-mastery” or “independence,” since that evoked the key element of the sovereign person—the capacity for self-rule. Some used the term 民权 (*minquan*, popular power or popular rights) to capture the concept of the sovereign people. In 1903, the radical pamphleteer Zou Rong used 自治 (*zi zhi*, autonomy or self government) to describe the constitutional condition that the Chinese people would achieve after they had overthrown the Qing and established their republic.

Still others used our long lost friend, 自由, apparently for the same reason that some equated “the *quan* of self-mastery” with “independence.” Zhang Zhidong, a high ranking Qing official, discussed this use of 自由 in a pamphlet he wrote in 1898. Zhang was no activist or an advocate for radical reform; his pamphlet was a sweeping attack on all calls for changes to the constitutional order. In it he mocked those advocates for a republic who believed that the idea of

---

42 See, e.g., Zhang Shizhao, 自觉 (*zijue, self-Awareness*) (1904), in Angle and Svensson, 57 (“Our conception of nation and sovereign (*zijue*) are very unclear. We believe the sovereign stands for the nation and that devotion to the nation is the same as devotion to the sovereign, that giving one’s life for the sovereign is no different from offering it for the nation.”).

43 Angle and Svensson, xv.

44 Marina Svensson, *Debating Human Rights in China* (2002), 83. Svensson concluded that by the early twentieth century *minquan* was most often used to describe rights, rather than popular power. *Ibid*. But see Joan Judge, *Print and Politics: ‘Shibao’ and the Culture of Reform in Late Qing China* (1996), 61-63 (suggesting that radical journalists used *minquan* as popular power, or popular sovereignty, in the period from 1905-1910). And see the discussion of Sun Yat Sen’s language, below.


46 Zhang, *quanzhe p’ien* (*quanzhe p’ien, Call for Learning*), (1898), 28-29/22. The *quanzhe p’ien* was translated by the Rev. S. I Woodbridge as “Learn!” throughout this paper references to the page numbers take the form quan/Learn!
“personal liberty” meant people in the West were free and participated actively in their own government. In fact, he said, in Western countries individual freedom was sharply limited by government and laws. Nor were reformers correct when they asserted that freedom in the West meant that the people actively participated in government; they were able to express their opinions to the government but only it had the sovereign power to act. Thus it was wrong, he argued, to equate liberty, in the Western sense, with 自由 or to understand it as describing some type of popular sovereignty. It was better to understand that all the people in the West had was 公论 (gonglun) or public opinion; that is, the right to express their views to the sovereign.

In his pamphlet, Zhang also ridiculed those who have only a smattering of Western ways, but who speak confidently of the ‘power of personal liberty.’ This is preposterous. The idea is derived from the books of the foreign religion, which say that shangti bestows upon each individual certain mental and spiritual faculties, and that every man in consequence possesses intelligence and knowledge which enables him to act freely. This means, say the translators, that every human being has personal liberty.

That was a pretty accurate description of how Sun Yat Sen used 自由 in 1905.

**Sun Yat Sen and Popular Sovereignty**

**自由 as Sovereignty, 1905**

Speaking about revolution to a group of Chinese students studying in Japan in 1905, Sun attacked the oft repeated argument that the Chinese could not create a republican government.

---

47 Zhang, 29/22.
46 Zhang apparently believed that Western parliaments and legislatures acted in a merely advisory capacity. See discussion below.
49 Zhang, 30/23.
50 Zhang, 29/22. It is interesting that Woodbridge, who was not slow to criticize Zhang’s arguments in his translation, does not question this assertion that the idea popular sovereignty has a theological basis.
like those established in the United States or Europe because China had not passed through the necessary stages of political development.\(^{51}\) As a result, went the argument of those who criticized Sun’s call for revolution, China needed to have a constitutional monarchy before it could create a republic. But Sun argued that history demonstrated that this was not true: in Hawaii, the people had gone from a monarchy to a republic without a preliminary constitutional step in between. And in the United States, when the Southern states rebelled because they wanted to continue to enslave Blacks, their defeat at the hands of the Northern states meant the Blacks became 自由民 (zi you min, free people).

Later that month, Sun returned to this point in another statement directed to the radical Chinese students in Japan.\(^{52}\) Once again he noted that there were those who argued that the Chinese people were not yet ready to create a republic. In response, he noted the example of Philippines, who had revolted first against the Spanish and then against the Americans, and had created their own republic in 1898. Then he observed that while they were enslaved, the Blacks in the United States were believed to be like animals, stupid and passive. But now (after the Civil War), they were 自由民. And he argued that these examples demonstrated that the critics were wrong, and that the Chinese could establish a republic.

Sun’s remarks relied on a number of assumptions that would have been less cryptic to his audience than they are today. The examples of Hawaii and the Philippines were fairly common tropes used to evoke the image of an oppressed people overthrowing their ruler in order to create a republican government that would let them rule themselves.\(^{53}\) By equating the freed American

\(^{51}\) Sun, *zhongguo ying jianshe*, 5. According to Sun, the stages of political development that critics insisted were part of the natural development of nations were: barbarism, despotism, constitutionalism, and finally a republic. *Ibid.*

\(^{52}\) Sun, *fulu*, 8.

slaves with the republics created in Hawaii and the Philippines Sun suggested that 自由 (zi you, in the sense here of freedom) meant one had the ability to exercise self rule. In that respect, Sun was making precisely the argument that Zhang Zhidong complained about when he ridiculed the Westerner notion that once freed from despotism people were naturally capable of governing themselves. 54 Read together, Sun’s references to slavery in 1905 become a theory of popular sovereignty: Slavery (whether literal enslavement or virtual slavery under despotic rule) made people stupid and passive; freedom released them from those limits, enabling them exercise their natural sovereign powers.

In some respects, Sun’s argument resembled the claim made by Zou, but there was a crucial difference. For Zou, it took the act of revolution to make a sovereign people out of slaves; for Sun, the process was more immediate—it did not matter how slavery ended and freedom was achieved, the mere fact of freedom was enough to unleash the people’s ability to rule themselves. 55 That was the point of his discussion of the American slaves, notwithstanding the fact that they had not engaged in revolution, they had become 自由. That was the crucial point for Chinese people who sought to create a republican government: a free people were a sovereign people.

---

54 Sun’s argument may resemble the one that Zhang mocked in another way as well. Sun had an extended, if opaque, relationship to Christianity. He was educated in Christian schools in Hawaii as a child, befriended by Christian missionaries as a young man, and aided by Christian groups across the course of his political career. Whether his beliefs were sincere, or pragmatic, of some combination of the two is unclear. See generally Marie Bergère, Sun Yat Sen (English trans. 1998).

自由 and Sovereignty, 1924

In 1905, with the Manchus still governing China, it was easy enough to assert that the ability to govern was innate and that freedom would unleash the Chinese people’s natural potential for self-rule. By 1924, after a series of abortive coups and counter revolutions, at least one failed attempt to restore imperial rule, power struggles within the fragile Chinese government, and continued encroachment by foreign powers into China’s territory and political economy, that notion had become much harder to sustain.

The increasingly complex and sometimes conflicting ideas captured by the term 自由 in the years after 1905 helped to confuse the issue. For Xu Yucheng, 自由 supported the demand that women be freed from their position of subordination to men.\(^{56}\) While she saw freedom as a step towards equality between people, Ma Weilong, writing in 1908, and Li Dazhao writing in 1916, equated 自由 with freedom of speech, press, and thought, which they perceived to be the means by which people might influence government.\(^{57}\) Ma and Li saw those freedoms as means of participation, a type of popular sovereignty; though Ma saw freedom of expression as a way of helping people gain the ability to exercise sovereign power and Li thought of it as a right that had to be enshrined in a constitution in order to preserve the people’s ability to influence government. In contrast, for Hu Shi, Jiang Menglin, and others in 1920, freedoms of speech,

---

\(^{56}\) Xu Yucheng, (jinkui xu yucheng nushi duiyu nujie diyici yanshuogao, First Speech of Miss Xu Yucheng from Jinui to the Women’s World (1907)), in Angle and Svensson, 42.

\(^{57}\) Ma Weilong, (lun guomin yu tuo zhuanzhi emo yi ju zhengzhi zhi shili, If the Citizens Want to Rid Themselves of the Evils of Autocracy They Must Have Political Power (1908)), in Angle and Svensson, 49; Li Dazhao, (xianfa yu xiangzi ziyou, The Constitution and Freedom of Thought (1916)), in Angle and Svensson, 76.
publication, assembly and association were rights that limited the power of the government over the people, not a means by which people exercised their sovereign power.\textsuperscript{58}

In his lectures in 1924 Sun reacted to both those challenges and undertook to limit the scope of 自由 in two related ways: He revised and modified his earlier discussion of the term by offering a far different interpretation of the history of the American slaves. And he re-examined the place of liberty in Western constitutional history. In the first discussion, he equated 自由 much more precisely with liberty, and suggested that the fact of liberty alone was not enough to make a people sovereign. In the second, he distinguished liberty from popular sovereignty and declared the latter more important than the former.

\textbf{Slavery and 自由:} In 1905 when Sun equated the freedom obtained by the American Slaves with the republican form of government that had been briefly established in Hawaii and the Philippines, he did not mention that the American slaves had neither freed themselves nor created their own government upon achieving freedom. So far as he was concerned, the fact of their freedom, which released them from the conditions that made them unable to act as members of the sovereign people, was more important than the means by which they had achieved it.

In his April 1, 1924 lecture Sun told a different tale. His treatment of American slavery began on a familiar note; as he had in 1905 he argued that the Civil War began when tensions between the Northern and Southern states broke out into fighting. But he added that the Black slaves “were not the ones who realized the importance of the struggle” for their liberty and equality, with the result that the struggle was not a “personal awakening” for the Blacks.\textsuperscript{59}


\textsuperscript{59} Triple Demism, April 1, 1924, 290.
he noted that after the Civil War, when many of the newly freed people wanted for food, clothes, and housing, they began to resent the people and the government that had freed them.\textsuperscript{60} At first glance, this seems to be a variation on Zou’s argument that it took an act of revolution to make citizens and sovereigns out of slaves. But Sun denied that was the case, noting that as a result of the Civil War Blacks were “freed from the authority of the whites,” “obtained their liberty, became citizens of the American Republic, and entertained great hopes about political equality and liberty.”\textsuperscript{61} So the condition of freedom was not enough to turn the former slaves into sovereigns, but neither was the status—which they had—of citizenship. Instead, the crucial element that made people ready to be sovereign was something else. Once again, Sun used the history of American Blacks to reveal this necessary factor, noting that the educated Blacks in the United States appreciated what the war had won for them and sought to build on that.\textsuperscript{62} By 1924, Sun had concluded that education, not freedom, was necessary to make it possible for a person to act as a member of the sovereign people.\textsuperscript{63}

**自由 in the West:** The conclusion that 自由 was not enough to turn a people into sovereigns was reinforced and amplified in an extended discussion of the constitutional history of liberty in the West, which Sun began in his March 16 lecture and continued in three lectures he gave in April. In Sun’s telling of that history, three different misunderstandings had given rise to the belief that

\textsuperscript{60} Ibid, at 290-291.

\textsuperscript{61} Ibid. 290-291.

\textsuperscript{62} Ibid., 291-292.

\textsuperscript{63} This is a position that had been previously associated with conservatives like Zhang Zhidong or moderate reformers like Liang Qichao. It formed the basis of Sun’s theory that the Chinese people needed a period of political tutelage before they could assume sovereign power. De Bary and Lufrano, *Sources of Chinese Tradition*, 330-337 (excerpts from documents advocating and criticizing Sun’s theory of tutelage).
personal liberty had been fundamental to those Western revolutions. The first arose during the revolutions themselves, when Westerners smarting under despotic rule concluded that they took up arms against their governments to achieve liberty.64 As a result of that mistake, Sun added, some scholars in the West concluded that liberty and popular sovereignty were inextricably connected and that a revolution to achieve the latter had to emphasize the former.65 And that (second) misunderstanding, Sun concluded, led to the third when it influenced the Chinese students and scholars who called for more and greater liberty in China in hopes that more liberty would make the people truly sovereign.66

Having set out that series of misinterpretations in his March 16 lecture, Sun made the point with which this paper began, telling his audience that the Chinese already had too much liberty and should move beyond a focus on obtaining more.67 Then, in his lectures in April, Sun offered a more elaborate reinterpretation of the history of Western revolutions to demonstrate that liberty was not as central to those revolutions as many in the West and China believed.68 First, he argued that while Europeans and Americans may have begun their revolutions in the name of liberty, they ultimately realized that they needed popular sovereignty more.69 But even then, he observed, not everyone understood this or agreed, with the result that it took the people in the West years, sometimes even decades or centuries, to achieve a working understanding of popular sovereignty. In support of this, he pointed to the fact that in the United States the precise scope of popular sovereignty had to be hashed out in a series of political debates during the first part of the nineteenth century, while in France, an early

---

64 Triple Demism (March 16, 1924), 260, 262, 268-269.
65 Triple Demism (March 16, 1924), 254.
66 Ibid. at 256, 269-270.
67 Ibid. at 263-264, 271-272.
68 Trible Demism (April 13, 1924), 306.
69 This idea was introduced in the March 16, 1924 lecture. Triple Demism, 265-266. Sun then elaborated it in his April 1, 1924 lecture. Ibid. at 276-303, and his April 13, 1924 lecture, ibid. at 204-332, ibid. 317-318 (the revolutions in the United States and Europe were “primarily for obtaining” min quan).
effort after the revolution to give the people power that reflected an expansive idea of liberty and equality caused a disaster that prompted a reaction. As a result it took France many years to strike a proper balance. And it was here he made the point alluded to earlier—in the case of the uneducated Blacks of America, the process of making a free people sovereign was ongoing.

In his lectures on April 13 and April 20, Sun argued that the lessons that history offered to China were clear. The Chinese people should learn from the reality of the Western revolutions, not the misinterpretations offered by others. In particular, they should realize that popular sovereignty had been the focus of their revolution, but that no revolution could establish popular sovereignty immediately. Instead, it had to be developed slowly while the country stabilized after revolution, the government developed, and the people became more politically sophisticated.

From 自由 to 民权: By 1924, Sun had changed his mind about how freedom related to popular sovereignty, and had changed his vocabulary as well. In 1905 自由 was what made it possible for people to create a republic, and so Sun seemed to equate it with popular sovereignty. But over time, perhaps because 自由 took on a wider range of meanings, Sun needed a new way to explain his ideas of popular sovereignty to the people he wanted to rally to his cause. He began

---

70 Triple Demism (April 13, 1924), 318 (struggle between the follows of Jefferson and their opponents to define the scope of popular sovereignty in the United States). See also ibid. at 308-311. At another point, Sun also noted that popular sovereignty had taken a very long time to develop in England: it first appeared with the execution of Charles I, but then there was backlash, and it was not until the reforms of the mid 19th century that popular sovereignty became a reality in England. Ibid. (April 1, 1924) 286 (English experience).

71 Ibid. at 318-319 (initial policies in France give rise to the Terror and backlash).

72 Triple Demism (April 1, 1924), 291-292.

73 Triple Demism (April 13), 304-332; id. (April 20), 333-365.

74 Triple Demism, 360-365.
that shift as early as November 1905, when he used 民权, *minquan*, a word that others had used in the 1890s to capture some idea of popular power, to describe the condition of the Chinese people after revolution.\(^{75}\) But he left it at that, and did not explain what *minquan* entailed. In a statement from 1906, Sun elaborated, explaining that 民权 was the “foundation of our political revolution.” \(^{76}\) By 1924, Sun’s explanation of 民权 was far more elaborate. In his April 20 lecture he posed the question: “What is this thing known as 民权?” and answered: “to put it precisely *minquan* is when the people manage the political system.” A few sentences later, he added, “In a republican political system, the people come to act as emperor.”\(^{77}\)

The shift to 民权 avoided some of the problems posed by using 自由 as shorthand for popular sovereignty. But as the translation of Sun’s 1924 lectures offered by Pascal D’Elia in *Triple Demism* suggests, it created new ones. D’Elia rendered 民权 as democracy in his translation of the March 16, 1924 lecture, but cast the same term as political rights in his translation of the April 13, 1924 lecture, and then switched back to translating it as democracy for the April 20 lecture. As a result, his translation of Sun’s lectures suggest that Sun’s entire argument shifted enormously in the space of less than a month. And D’Elia is not the only scholar to be confounded by 民权. The standard reader on Chinese debates on human rights notes that Sun appeared to use the term differently than his contemporaries, arguing that Sun intended the phrase to mean “people’s power” (which is not the same as popular sovereignty), which others who wrote at the turn of the century typically used the term to mean “civil rights.”\(^{78}\)


\(^{76}\) Sun, *san min zhu yi yu zhongguo*, 9.

\(^{77}\) *Triple Demism*, 357, 358 (the translations are my own).

\(^{78}\) Angle and Svensson, xvii-xviii.
But other scholars disagree, suggesting that the use of 民权 to mean something other than rights was more widespread.⁷⁹ And so we, and Sun, are back where we started, with words that Sun intends to use to convey one thing, but which carry with them a confusing array of other meanings.

Conclusion

The answer to the question with which this paper began depends a bit on what one is trying to determine. If the issue is whether Sun wavered from his basic constitutional premise in the twenty years between 1905 and 1924, the answer is surely no, he remained committed to the idea of popular sovereignty though he modified that commitment to reflect his recognition that people were not innately ready to act as sovereigns. If, on the other hand, the question is whether Sun Yat Sen’s view of 自由 changed between 1905 and 1924, the answer is clearly yes. It went from being the condition that made people capable of ruling themselves, to being one of the conditions that created the possibility of self-rule.

The problem for historians, of course, is how to understand those shifts. Was the problem that Sun tried to borrow a constitutional idea—popular sovereignty—from the West, confused it with another idea, liberty, and in the process committed what Wiktor Osiatynski has called a “constitutional misunderstanding,” the act of borrowing a constitutional practice, doctrine, or concept without understanding it?⁸⁰ That is what Zhang Zhidong thought activists who equated 自由 with popular political power were doing, of course and modern scholarship often seems to echo that view, suggesting that the confusion of Sun’s language reflected his own constitutional

⁷⁹ Judge, Print and Politics, 61.
confusion or underlying indifference to constitutional theory.\(^{81}\) But in her study of language and international law in turn-of-the-century China, Linda Liu argued against that approach, noting that it “would be futile to search for an ideal pairing of meanings when the matching of meanings is itself a historical phenomenon under investigation.”\(^{82}\) She noted that in circumstances of that sort, particularly when we try “to consider how meaning becomes possible between languages that had had limited contact before and most learn to speak in each other’s political discourse for the first time,” it was best to recall that the act of translating involves several steps and trace them out.\(^{83}\)

Liu described a three stage process: The act of understanding the concept to be described, the act of finding (or creating) a word that came closest to capturing that concept, and the act of then attaching that meaning to the word so that others understand the point.\(^{84}\) Perhaps the way to think about Sun’s effort to find a word to capture the idea of popular sovereignty is to see it as an example of that process. At first he simply assigned a word 自由 to the concept and offered examples to try to support his preferred meaning. When that failed, he adopted a second word, 民权, and, over time, offered increasingly specific explanations of what he understood that new word (and the underlying concept of popular sovereignty) to mean. But in the end the definitions others gave both terms interfered with his efforts to fix their meaning for his constitutional system.

---

\(^{81}\) Zhang’s own efforts at constitutional analysis and interpretation did not fare much better. After translating the place in Zhang’s pamphlet where Zhang argued that the English word liberty ought not be translated by 自由, but by 公论, Woodbridge indulged in a bit of sarcasm: “The Viceroy,” he wrote, “is fairly adrift at this point, but it is refreshing to know that His Excellency, who speaks little English, is trying his hand at translation.” Zhang, 30 n. *.


\(^{84}\) *Ibid.* 110.
That seems closer to what happened, but it leaves out another, important actor: the scholars who try to translate the constitutional arguments, to get at the meanings obscured behind the borrowed terms. And here, again, there are several layers in play. At one level the problem is simply one of vocabulary, of trying to figure out how to tell whether a word means what the dictionary suggests, what the context implies, or something else, very different. But at another level, the problem is not simply one of vocabulary, but of concepts. When discussing “constitutional misunderstandings,” Wiktor Osiatynski offered the example of a misunderstanding uncovered by Andrzej Rapaczynski. Rapaczynski demonstrated, according to Osiatynski, that French constitutionalists in the late eighteenth and nineteenth century failed to understand that the purpose of the US Constitution was to limit sovereignty and instead concluded, in error, that the constitution enshrined popular sovereignty. The problem, of course, is that it is not so clear the French were wrong about the role of popular sovereignty in the American constitutional order. Perhaps they were; but then again, maybe not. And so, in the end, perhaps the problem is not simply, as Liu suggests, with the process of naming, but with the underlying constitutional and legal concepts themselves.


Appendix: Chinese History Timeline

1644: Qing Dynasty established after the Manchu people from the north of China invaded the country and defeated the reigning Ming Dynasty.

1838-1842: Opium Wars between China and Britain after China tried to ban the sale of opium in China. Britain defeated China, forced China to open Chinese ports to European ships, acquired a long term lease on Hong Kong, and forced the Chinese government to pay significant reparations.

1854: The second Opium War between Britain and China after China refused to renegotiate the treaty ending the first war. China was once again defeated and forced to make significant concessions about trade, British access to China and its waterways, and political relations between the two countries.

1850-1870s: A series of rebellions in southern (Tai Ping Rebellion) and northern China (Dungan Revolt) were put down by the Chinese army after much fighting and some assistance from the British Army. These experiences, and the defeats during the Opium Wars, led Chinese reformers to call for changes in the Chinese military and educational system.

1894: Sun Yat Sen, a young man who had been educated as a youth in Hawaii and in Hong Kong as a young man, decided to forego a medical career and founded a movement called Xing Zhong Hui (Revive China Society) in Hawaii. Initially the group sought the overthrow of the foreign Manchu and the creation of a united government (its nature undefined) under the Chinese. Within a few years, the movement’s goal had shifted to the overthrow of the Qing and the creation of a republican government in China.

1895: China lost the Sino-Japanese War and was forced to give land to Japan. In the aftermath of that loss Kang Youwei, a Chinese scholar, organized other scholars to sign a petition calling on the Qing Dynasty to reform the government. Meanwhile, Sun Yat Sen’s group tried to take over Guangzhou, in hope of using that as a base to use for a larger attack on the Qing. The attempt failed, and Sun was forced into a fifteen year exile.

1898: Kang and another Chinese scholar, Liang Qichao, continue Kang’s push for reforms and briefly attract the attention of the Emperor. This marks the period of the so-called Hundred Days Reform, which briefly hints at the possibility of both social (educational) and political reform.
The efforts are blocked, however, by a palace coup led by the Dowager Empress, who strips the Emperor of power and stops reformers. Some activists associated with Kang and Liang are executed, others, including Kang and Liang, are forced into exile.

1899-1910: Kang and Liang create the Baohuanghui (Protect the Emperor Society) in exile in Canada in 1899. The two of them, especially Liang, travel around the US, Canada, Hawaii, and Japan, trying to rally support for their cause—creating a constitutional monarchy in China. In this same period, Sun travelled a similar path, trying to rally support for his movement (which would become known as the Tongmenghui, United Alliance Society).

1900: The Boxer Rebellion, which began in Shandong Province moved to Beijing and other major Chinese cities. Boxers attacked missionaries, Chinese Christian converts and foreign enclaves. After initially opposing the Boxers, the Qing decided to support them. Foreign forces, organized as the Eight Nation Alliance, entered China to protect foreign businesses and citizens. The Qing declared war on the Eight Nation Alliance, but the Alliance quickly defeated the Boxers and briefly held Beijing and the Forbidden City (the Qing compound). In the aftermath of the Boxer Rebellion, the members of the Alliance forced further concessions on the Chinese government and demanded further reparations, effectively bankrupting the Chinese government.

1901: The Qing Dynasty began a period of reforms, which were to culminate in the creation of a constitutional government (headed by a monarch) after several preliminary steps. A delegation of officials was sent out by the Qing to study constitutional systems in other countries, and, after it returns a series of reforms to education and local government (including electing local officials) were implemented.

1905: US debates over renewing the Exclusionary Rules (which set drastic limits on Chinese immigration) prompt activists, including the Bauhuanghui, to launch the Anti-American Boycott of 1905, a boycott that united members of China’s diaspora. Sun Yat Sen founds the Tongmenghui in Hawaii.

1907: Sun attempted another attack in South China, as the first step in the revolution, it once again failed.

1908: The Dowager Empress and the deposed, but still living, Emperor died within days of one another and a new Emperor, a boy of __, assumed control of China.

1911: A rebellion in Wuchang led the army to surrender. Within days the Qing Dynasty had been deposed. On January 1, 1911 Sun Yat Sen became the first President of the Republic of China. In April Sun resigned and was replaced by the former Qing general Yuan Shikai.

1912: After trying to lead a failed second rebellion against Yuan, Sun left China for Japan. Liang Qichao, having embraced republican ideas, helped draft the first, temporary constitution for China.

1913: Kang Youwei worked to bring back constitutional monarchy.

1915-1921: New Culture Movement in China

1916: Yuan Shikai tried to declare himself Emperor of China, but the legislature refused to go along. Yuan died later that year.

1917: Sun returned to China.

1919: Authors of the Treaty of Versailles refused to honor China’s demands that the Treaty
abolish all extraterritoriality in China; cancel the Twenty-One Demands (which had given Japan rights and territories in China), and return the Shandong Province, which had been under German control until Japan had captured it during World War I, to Chinese control. On May 4, 1919, Chinese students met to protest the Treaty and foreign imperialism. The students’ demands were followed by months of popular protests, boycotts and strikes.

1921: Communist Party founded in Shanghai. Sun proclaimed that Guangzhou was ruled by a military government under the control of the GMD (Guomindang, the party that had formed out of the Tongmenghui). He was promptly elected president and generalissimo of that area.

1924: Sun gave sixteen lectures on his constitutional ideas in Guangzhou.

1925: Sun died

1927: Kang Youwei died.

1928: After victories in the North, the GMD, the party that had been founded by Sun claimed control of China and implemented a constitution modeled on Sun’s ideas.

1929: Liang Qichao died.