

ORIGINAL ARTICLE

# Carsun Chang's Jefferson: A Lost Era of Transnational Sino-American Constitutional Imagination

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## Abstract

This article recovers a lost era of Sino-American constitutional imagination surrounding the drafting of the 1946 Republic of China Constitution. It examines the transnational dynamics that led the Constitution's initial drafter, Zhang Junmai or Carsun Chang, to travel to the U.S. in 1945 to ostensibly study the ideas of Thomas Jefferson then ascendant in New Deal constitutional rhetoric. Recovering this episode recontextualizes Chang's early and late life as one of China's cosmopolitan intellectuals emerging from its contentious post-1911 dynastic politics who shaped China's engagement with evolving institutions of the modern international legal order. This recontextualization broadens and revises extant accounts of Chang's engagement with the 1946 constitutional drafting process by challenging accepted understandings of Chang's personal and intellectual trajectory and illuminating how the geopolitics of the Chinese Civil War intersected with presumptions about the overseas projection of American constitutional values increasingly embedded in twentieth-century American internationalism. Herein, Chang's long-standing interest in Jefferson's constitutional ideals was reshaped by the strategic considerations he faced situated between his consistent criticism of Guomindang leader Chiang-Kai Shek and Chang's suddenly heightened status among American political leaders. His near year-long stay in the U.S. before the 1946 drafting process involved many little known but determinative turns, including the role of a subset of Roosevelt and Truman Administration officials actively enamored with Jefferson's own study of Confucianism. The article also details the telling contours of Chang's post-1949 life as a political exile in the United States. Ultimately, this recovered episode demonstrates the pervasive and impactful nature of transnational dynamics in modern Sino-American relations which blur the line between national and international legal history. Most broadly, the fallout from the 1946 drafting process and the varied Chinese interpretations of thinkers like Jefferson reflect the mid-twentieth century transition of America from a global symbol of constitutional revolution to a global

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symbol of racialized empire. Recapturing this era thus also has implications for originalist-styled constitutional arguments made in contemporary Taiwan as well as for evaluating the international dimensions of Jefferson's problematic domestic legacy.

In 1946, the Republic of China (RoC) began drafting a new constitution. Like many such twentieth-century projects, this process was implicated in complex domestic struggles and crosscut by multiple international influences. Then-President of the Republic, Chiang Kai-shek (CKS) saw a new constitution both as a means to solidify the contested rule of his Guomindang Party (GMD) and as a signal to the various international interests concerned with China's factional politics. In the 1940s, key audiences for Chiang were the Roosevelt and Truman Administrations which embraced a similar, yet inverted, dual-sided constitutional discourse. Democratic New Deal constitutional rhetoric sought to legitimize wide-ranging domestic reform while also placing the promotion of American constitutional ideas abroad as a cornerstone of the country's foreign policy. And, as it had since the fall of the Qing Dynasty in 1911, China continued to be a central symbolic site for this imagination of American constitutional export abroad.<sup>1</sup>

The ultimate product of the 1946 constitutional undertaking did little to settle the internecine struggle over Chinese governance. Ultimately, CKS and the GMD would lose the Chinese Civil War in 1949 and flee to Taiwan. However, the newly drafted constitution was not discarded as a failed project of national integration and international demonstration. It continued on as the foundational legal document of the government established by the GMD in Taiwan up until today. Moreover, while the victory of the Chinese Communist Party (CCP) in 1949 would send shockwaves through the U.S., the 1946 Constitution continued to be heralded as a product of American constitutional inspiration and as a symbol of U.S. benevolent internationalism.

Modern attempts in Taiwan to extract singular historical meanings from the 1946 drafting process face a challenge: the domestic and international complexity of the event allows emphasis on a wide range of transnational legal and political influence.<sup>2</sup> Nevertheless, Taiwan is still portrayed in American foreign policy as a critical node of American influence and interest in Asia. As such, it serves as an enduring example of how concern with constitutional pasts has become transnationally recursive—evaluations of foreign constitutional history become integral to debates about the nature of any new and ongoing constitutional project. It is this depth and complexity of transnational

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<sup>1</sup> Paul Carrington, "Writing Other Peoples' Constitutions," *North Carolina Journal of International Law & Commercial Regulation* 33 (2007): 167–217; Jedidiah Kroncke, "An Early Tragedy of Comparative Constitutionalism: Frank Goodnow and the Chinese Republic," *Washington International Law Journal* 21 (2012): 533–90. Jedidiah Kroncke, "Roscoe Pound in China," *Brooklyn Journal of International Law* 38 (2012): 77–143.

<sup>2</sup> Wen-Chen Chang, "Comparative Discourse in Constitution Making," in *Legal Thoughts Between the East and the West in the Multilevel Legal Order*, eds. Chang-Fa Lo, Nigel Li, and Tsai-yu Lin (Singapore: Springer, 2016), 93–104.

constitutional history that leads even well-studied moments in long-standing constitutional histories to continually yield new and surprising insights.<sup>3</sup>

This article recovers one facet of exactly such transnational complexity in the Sino-American discourse surrounding the 1946 RoC Constitution. It does so by re-examining an underappreciated episode in the life of Zhang Junmai, popularly known as Carsun Chang in the English-speaking world. Chang has often been attributed the status of the leading “founding father” of the 1946 RoC Constitution in both Taiwan and in the larger international world. In recent decades, Chang’s life has been the subject of several published and unpublished biographies—each emphasizing different phases or aspects of his capaciously cosmopolitan life<sup>4</sup> and predominately centering one of his many European influences.<sup>5</sup>

The desire to extract some coherent trajectory leading up to Chang’s role as constitutional drafter has led existing accounts to almost exclusively emphasize Chang’s life prior to 1946.<sup>6</sup> In doing so, most have missed the stark American re-orientation of his world in the years immediately before 1946, or explored how Chang spent the entirety of his post-1949 life in the United States.<sup>7</sup> An exile lived out while *persona non grata* of both the GMD and the CCP.

Chang’s choice to live out his later years in the U.S. coincided with a notable shift in the framing of his post-1946 writings. Herein, Chang sidelined his European influences to foreground the impact of American political history and thinkers on his own syncretic Sino-Western thought and, in tandem, his work on the 1946 Constitution. Most specifically, he recurrently placed Thomas Jefferson at the heart of this influence. Unraveling this Jeffersonian shift reveals that much of what has been understood about Chang’s life before, during, and after the 1946 RoC drafting process has been incomplete.

The material key to understanding this Jeffersonian turn is a so far neglected episode in Chang’s life: his invitation by the Roosevelt Administration to study at the Library of Congress for the year prior to 1946 constitutional drafting process. During this time, Chang traveled throughout the U.S. and participated in seminal moments for the international legal institutions emerging from the U.S.-led post-World War II global order.

Excavating the origins of this invitation is the first step in recapturing the transnational constitutional dynamics in both China and the U.S. that made it

<sup>3</sup> For the renewed transnational study of the U.S. constitutional drafting process, see Mary Bilder, *The Transatlantic Constitution: Colonial Legal Culture and the Empire* (Cambridge, MA: Harvard University Press, 2004).

<sup>4</sup> Yang Yung-Chien, *Zhonghua Minguo Xianfa Zhi Fu: Zhang Jun-Mai Zhuan* (Taipei: Tonsan Press, 1993); Roger Jeans, *Democracy and Socialism in Republic of China* (Lanham, MD: Rowman & Littlefield, 1997); Weng Hekai, “Liberal Nationalism in Modern China: Zhang Junmai’s Thoughts on National Building” (diss., Hong Kong University of Science and Technology, 2006).

<sup>5</sup> Kenneth Yung, *Chinese Émigré Intellectuals and Their Quest for Liberal Values in the Cold War* (Leiden: Brill, 2021), 4–5; Lifang Peng, “Carsun Chang on Democratic Socialism,” *American Journal of Chinese Studies* 26 (2019): 107–27.

<sup>6</sup> Huang Zhaoyong, “On Zhang Junmai’s Proposition of Constitutional Conditions” (MA thesis, National Chengchi University, 2018).

<sup>7</sup> Jiang Qing, *A Confucian Constitutional Order* (Princeton: Princeton University Press, 2012), 44–45; David Huang and Nigel Li, “A Lesson for Constitutionalism from the Republic of China,” *Journal of Comparative Law* 15 (2020): 223, 228.

attractive for Chang to newly foreground an interest in Jefferson. For while in recent decades his American intellectual and popular reputation has dramatically declined, Jefferson was pivotally important to the Roosevelt and Truman administrations' New Deal constitutional rhetoric. In turn, this Jeffersonian emphasis became intertwined with these administrations' attempts to project and promote American constitutionalism in China and elsewhere. Moreover, in a most surprising but crucial manner, Chang's American encounter was facilitated by a vibrant transnational discourse on the direct historical impact of Confucianism on Jefferson himself—including avid enthusiasts within both American administrations.

Reciprocally, it was undeniably true that many outside the U.S. still looked to the American constitutional experience for inspiration at this time. Up through the late 1940s, even CCP leaders still embraced their own inspirational versions of the American "Founders" such as Jefferson. This attraction was grounded in a then-common global view of the American Revolution as the first, and violent, post-colonial precedent. Concurrently, Chang's life in exile reflects how this was also a pivotal era when this interpretation of the Founders was increasingly undermined by the international rise of the U.S.—whose formal and informal empire came to eclipse the ambit and force of European colonialism.

While these larger geopolitical factors help make sense of why Chang began using Jefferson to frame his constitutional arguments and promotion after 1946, upon close inspection it did not reflect a studied interest in Jefferson's thought. Instead, it was part of Chang's response to the demands of a new global legal order—one of the selective and opportunistic strategies often constructed by constitutional and other transnational legal actors enmeshed in such complex landscapes.

This article thus recontextualizes Chang's life as constitutional drafter as one caught up in a web of dense strategic considerations between the GMD, the CCP, and the U.S. which stimulated his repurposing of Jefferson as a constitutional symbol. Doing so resituates the 1946 RoC Constitution's transnational origins and gives further insight into how both American administrations misread domestic Chinese developments in the 1940s by relying on actors who knew how to strategically frame their communication in terms that resonated with mainstream American political discourse. Ultimately, this study provokes difficult questions about the implications of the internationalized legacy of American constitutionalism, specifically for a Founder like Jefferson, which has undergone such trenchant criticism and revisionism today.

### **The Transnational Dynamism of Early Twentieth-Century Chinese Constitutional Thought**

Zhang Junmai, hereafter referred to as Carsun Chang, was born in 1887 to an elite upper-class Shanghai family.<sup>8</sup> As a teenager, he passed the first level of the hyper-competitive governmental civil examination system, and shortly

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<sup>8</sup> The diverse details of Chang's early life between Europe, Japan, and China are well explored by his extant biographers. See e.g. Kent Peterson, "A Political Biography of Zhang Junmai (1887–1949)" (diss., Princeton University, 1999).

thereafter traveled to Japan for his undergraduate education in 1906. The subsequent collapse of the dynastic system in 1911 led him to pursue postgraduate training in Germany in law and political science.

Chang was emblematic of many Chinese intellectuals of this era who sought to interrogate the relevance of European intellectual history for China's socio-political challenges. His initial national fame stemmed from his participation in heated debates over the modern value of the traditional Confucian ideals which Chang still embraced.<sup>9</sup> Throughout his career, Chang's insistence on compatibility of liberal and Confucian ideals was an on-going and evolving project to "[select] what is suitable to our conditions that the West has to offer us."<sup>10</sup> This eclecticism has led various interpreters to label his work using syncretic metaphors such as "fused, hybrid, or mixed."<sup>11</sup>

For most of his early life, Chang directed his efforts to developing China's early twentieth-century educational and intellectual infrastructure by founding a variety of academic institutes and societies.<sup>12</sup> He used his wide-ranging transnational network to bring notable thinkers to China, including Driesch, Russell, and Tagore.<sup>13</sup> To help re-tool ideals of liberal constitutionalism for his domestic context, he began a pioneering practice of translating key Western figures' texts into Chinese.

Over these early decades, Chang's intermediary intellectual position led to an equally intermediate, if marginal, political position. He found himself at odds with the increasingly authoritarian practices of the GMD that had risen to, if ever incomplete, dominance over national politics in China after 1927. In tandem, Chang was stridently critical of the CCP which had developed as the primary alternative to the GMD.<sup>14</sup> Chang thus worked to establish a variety of what came to be called "third way" political parties which rejected formal affiliation with either the GMD or the CCP—most notably the China National Socialist Party in 1932. By the mid-1940s, he had become a leading figure in larger minority party umbrella groups such as the China Democratic League.<sup>15</sup>

It is through these early decades of Chang's intellectual and political work as a "third way" leader that most extant studies seek to dissect his various intellectual influences. This has largely involved emphasizing his relationship with

<sup>9</sup> Hsin-Chuan Ho, "The Enlightenment Project of Carsun Chang's Neo-Confucianism," *Taiwan Journal of East Asian Civilizations* 8 (2011): 209–34; Philippe Major, *Confucian Iconoclasm: Textual Authority, Modern Confucianism, and the Politics of Anti-Tradition in Republican China* (Albany, NY: SUNY Press, 2023).

<sup>10</sup> Carsun Chang, "National Renaissance Historically Considered," *The China Critic* (July 19, 1934).

<sup>11</sup> Eric Nelson, "Zhang Junmai's Early Political Philosophy and the Paradoxes of Chinese Modernity," *Asian Studies* 8 (2020): 183, 202.

<sup>12</sup> "Reports of the Association," *The Chinese Social & Political Science Review* 18 (1934): 423, 447.

<sup>13</sup> Zheng Shiqu, "The Renowned Foreign Philosophers' China Lectures," *Journal of Modern Chinese History* 5 (2011): 183, 184.

<sup>14</sup> Zhang Junmai, "Ruijin Zhan Zai Jingshenshang Fanggong Diyi Xian," in Youke Hua Jiangxi, ed. Gesheng Shigan Zhengzhi Yanjiuhui (Shanghai: Hanxue Shudia, 1937), 11.

<sup>15</sup> There was diversity range of minority parties in China during this era, including those that would not affiliate with Chang's umbrella groups. Nagatomi Hirayama, *The Making and Unmaking of the Chinese Radical Right* (Cambridge: Cambridge University Press, 2022).

German intellectuals and institutions,<sup>16</sup> notably Rudolf Eucken,<sup>17</sup> and Chang produced the first Chinese translation of the Weimar Constitution.<sup>18</sup> The predominant companion influence explored in these studies is that of British liberalism and then socialist thought,<sup>19</sup> notably that of Harold Laski.<sup>20</sup> He continued to produce translations of British texts up through his 1944 translation of the *Magna Carta*.

There are numerous other of Chang's influences that could be studied.<sup>21</sup> As critical as he was of Chinese communism, Chang also devoted considerable effort to studying Russian thinkers, and at one point claimed that some Soviet models were superior to those he found in Germany.<sup>22</sup> He was the original translator of the first 1919 Soviet constitution into Chinese.<sup>23</sup> Perhaps the least studied influence is his engagement with Pan-Asianism, and his numerous visits to South and Southeast Asia.<sup>24</sup>

A survey of Chang's multi-lingual writings prior to 1946 thus reveals a dynamic and evolving intellectual praxis tethered to his desire to faithfully reconcile traditional Chinese and foreign political ideas. And much the same can be said of the broader movements in Chinese constitutional thought which helped shape the 1946 RoC Constitution drafting process. The RoC under the GMD had produced a series of provisional and draft constitutions after 1911 whose promulgation and revision served as flash points for ongoing tensions and controversies in Chinese politics.<sup>25</sup> The decision in 1945 to produce a new constitution was no different.<sup>26</sup>

At this point, CKS and the GMD had been emboldened by the end of World War II as they gained the general support of the world's emergent superpower—the United States. CKS knew that the creation of a new constitution would be a process fully observed and analyzed by the international community. Most decisively, he sought to further burnish foreign perceptions that he was committed to political pluralism and only exercised dictatorial

<sup>16</sup> Daniel Stumm, "Revitalizing the Nation: Vitalist Philosophy in the Chinese Nationalist Party," *Parrhesia* 36 (2022): 201, 202.

<sup>17</sup> See e.g. Rudolf Eucken and Carsun Chang, *Das Lebensproblem in China und in Europa* (Leipzig: Quelle Meyer, 1922).

<sup>18</sup> Peterson, "A Political Biography of Zhang Junmai," 34.

<sup>19</sup> Xu Xi, "British Left-Wing Writers and China: Harold Laski, W.H. Auden and Joseph Needham" (diss., The University of Hong Kong, 2013).

<sup>20</sup> Xu Ting, "Harold Laski and His Chinese Disciples," *Amicus Curiae* 2 (2020): 116–21.

<sup>21</sup> Weng Hekai, *Xiandai Zhongguo de Ziyou Minzu Zhuyi: Zhang Junmai Minzu Jianguo Sixiang Pingzhuan* (Beijing: Falv Press, 2010).

<sup>22</sup> Zhang Junmai and Zhang Dongsun, "Zhongguo Zhi Qiantu: Deguo? Eguo?" *Jiefang Yu Gaizao* 2 (1920): 1–17.

<sup>23</sup> Dayuan Han, "The Human Rights Discourse and Its Changes during the Early Establishment of the Communist Party of China," *Journal of Human Rights* 20 (2021): 251, 257.

<sup>24</sup> Brian Tsui, "The Mutations of Pan-Asianism: Zhang Junmai's Cold War," *Twentieth-Century China* 42 (2017): 176, 177.

<sup>25</sup> Chien-Chih Lin, "The Birth of the Constitution of the Republic of China," in *Constitutional Foundings in Northeast Asia*, eds. Kevin Tan and Michael Ng (London: Bloomsbury, 2022), 97–128.

<sup>26</sup> Albert Chen, "Constitutions and Constitutionalism: China," in *Constitutionalism in Context*, ed. David Law (Cambridge: Cambridge University Press, 2022), 61, 71.

power as a matter of acute political emergency.<sup>27</sup> He thus worked to organize a new constitutional writing process early in 1946 that formally included representatives from a wide range of political parties and civil society groups.<sup>28</sup> The CCP was invited as CKS had hoped to sideline Communist opposition as a minority party in a nominally representative government.<sup>29</sup>

It is notable that for all the credit given to Chang as a “founding father” for the 1946 constitution, he was only one of many involved in the drafting process. Of the others commonly ascribed leading roles in the process, all were equally fascinating transnational legal intellectuals who came to the project after decades of grappling with the same complexities as had Chang.<sup>30</sup>

Still, Chang’s imprint on the initial draft constitution is undeniable, especially as it attempted to break with several long-standing elements of GMD founder Sun Yat-sen’s constitutional vision.<sup>31</sup> It did include elements that would seem to evidence a more traditionally liberal democratic orientation. It adopted a clear tri-partite division of governmental power, introduced popular elections for the President as well as local and provincial political bodies, included federalist devolutions of power to provinces, and routinized limitations on emergency powers assumed by the executive.

It is in evaluating the connection between Chang’s diverse intellectual influences and the content of the 1946 RoC Constitution where most pre-existing studies place their terminal focus. The most common theme is to connect the initial draft to Chang’s admiration for the Weimar Constitution,<sup>32</sup> or his varied British legal influences.<sup>33</sup> Other scholars claim the document is marked by the influence of a state-centric understanding of the French and Soviet traditions.<sup>34</sup> By contrast, the public framing that emerged most forcefully in the mid-1940s was the impact of the U.S. constitutional tradition.<sup>35</sup> Commentators,

<sup>27</sup> E.g. Chiang Kai-shek, *Generalissimo Chiang Speaks* (Hong Kong: The Pacific Publishing Company, 1939), 23.

<sup>28</sup> The internal history of the 1946 drafting process has been adroitly explored by several scholars. See Chang, “Comparative Discourse in Constitution Making”; Lin, “The Birth of the Constitution.”

<sup>29</sup> The intellectual commonalities among the relevant actors make their joint participation in the drafting process more legible than contemporary intuition might suggest. Edmund Fung and Kenneth Yung, “Zhang Junmai: The Political and Cultural Thought of a New Confucian,” in *Dao Companion to Contemporary Confucian Philosophy*, ed. David Elstein (New York: Springer, 2020), 105, 113.

<sup>30</sup> Xin Nie, “The Origin and Transformation of Judicial Yuan,” *Frontiers of Law in China* 12 (2017): 384, 392.

<sup>31</sup> Zhang Junmai, *Zhonghua Minguo Minzhu Xianfa Shijiang* (Beijing: The Commercial Press, 2015), 1; Yao Zhongqiu, “Zai Si Zhang Junmai, Qian Mu Zhi Zheng: Wenming Yu Xian Zhi Zhi Bian” (2018), <https://www.rccp.pku.edu.cn/mzyt/81405.htm> (last visited January 20, 2023).

<sup>32</sup> E.g. Lin Tengyao, *Zhonghua Minguo Xianfa* (Taipei: Sanmin Shuju, 2000), 1, 481; Chen Xinmin, *Zhonghua Minguo Xian Fa Shi Lun* (Taipei: Sanmin Shuju, 2001), 44.

<sup>33</sup> Xie Zhengdao, *Zhonghua Minguo Xiuxianshi* (New Taipei City: Yangzhi Wenhua, 2001), 30–31; Michael To, *China’s Quest for a Modern Constitutional Polity* (Independent, 2017), 88.

<sup>34</sup> Shiping Hua, *Chinese Legal Culture and Constitutional Order* (Milton, OX: Routledge, 2019), 56.

<sup>35</sup> Gao Like, *Wusi De Sixiang Shijie* (Shanghai: Xuelin Press, 2003), 272.

especially those in the U.S. and Taiwan, came to point to the U.S. as the *primary* influence on the 1946 Constitution.<sup>36</sup>

It is true that Chang's draft constitution had a mixture of elements pertaining to the executive branch that more closely parallel those of an American president than a British prime minister,<sup>37</sup> and the language in the RoC Constitution regarding habeas corpus is directly transferred from Article I of the U.S. Constitution.<sup>38</sup>

At first blush, establishing that Chang had taken such a decisive turn towards the American tradition is difficult to verify in his writings of the years preceding the drafting. He had continued to resist the idea that any foreign model should be copied uncritically into the Chinese context.<sup>39</sup> He was also recurrently critical of adopting American constitutional elements,<sup>40</sup> arguing that "We need to closely examine that whether our current political problem is similar to the political problems facing the Americans during their founding period, and, whether their solution of the problem, namely, their constitutionalism is entirely useful for solving our current problem."<sup>41</sup>

Such claims would seem at odds with the more confident proclamations of American influence made by scholars in later decades. Yet, Chang's promotion of the constitution did quickly shift during and immediately after its drafting to include this American framing. He wrote his immediate public defense of the 1946 constitution, titled the "Ten Lectures," based on the structure of the *Federalist Papers*. Moreover, Chang would spend the rest of his life actively making this claim with a decided emphasis on his inspiration by Thomas Jefferson.<sup>42</sup>

Understanding this shift, and the disconnect between earlier studies asserting his largely European and British influences, requires exploring the place of American revolutionary thinkers in Chang's early life, a lost transnational episode in Chang's life immediately before 1946, and his post-1949 life in the United States.

<sup>36</sup> Herbert Ma, "The Influence of the U.S. Constitution on the 1947 Republic of China Constitution," in *The US Constitution and the Development of Constitutionalism in China*, eds. Ray Cline and Hungdah Chiu (Washington, DC: U.S. Global Strategy Council, in cooperation with University of Maryland Law School East Asian Legal Studies Program, 1988), 46; Huang Kuan Chuan, "Judicial Supremacy in Taiwan: Strategic Models and the Judicial Yuan, 1990-1999." (diss., SOAS University of London, 2018).

<sup>37</sup> Hsieh Kwan-Sheng, *A Brief Survey of the Chinese Constitution* (Taipei: China Cultural Service, 1970), 33; Howard Feldman and Andrew Nathan, eds., *Constitutional Reform and the Future of the Republic of China* (Armonk: Sharpe, 1991), 13-14.

<sup>38</sup> George Billias, *American Constitutionalism Heard Round the World* (New York: NYU Press, 2009), 310.

<sup>39</sup> "The UK and US political model, cannot entirely solve the specific Chinese problem, so the ROC should adopt 'a third pathway' which is between the UK/US Westernized model and the USSR model, to try to combine the good elements and valuable traits from both sides." Zhang, *Zhonghua Minguo Minzhu Xianfa Shijiang*, at 116-18.

<sup>40</sup> Zhang Junmai, *Xianzheng Zhi Dao* (Beijing: Tsinghua University Press, 2006), 130-31.

<sup>41</sup> Zhang, *Zhonghua Minguo Minzhu Xianfa Shijiang*, at 60-62.

<sup>42</sup> Carsun Chang, "U.S. Constitution is Model for Republic of China," *Chinese World* (September 14, 1955): 1; Charlotte Brooks, "The Chinese Third Force in the United States," *Journal of American Ethnic History* 34 (2014): 53-85.

## Chang's Jefferson as Cosmopolitan Constitutional Revolutionary

A complete examination of Carsun Chang's lifetime of work demonstrates that his awareness and engagement with early American political thought is indeed underappreciated. Moreover, his affinity for Thomas Jefferson's general positions within revolutionary-era American constitutional discourse is clear and consistent. It is further evident that Chang's particular invocation of Jefferson helps remind contemporary readers how widespread admiration was for American revolutionary actors across the globe in the early to mid-twentieth-century.

From the outset of his intellectual formation, Chang was familiar with all the leading figures of the Revolution and their attendant debates.<sup>43</sup> It is, in fact, difficult to find a period in his life where there is an absence of admiration for early American political thinkers, starting with his reading of the *Federalist Papers* during his undergraduate training in Japan.<sup>44</sup> But in contrast to more congratulatory versions of American constitutional influence abroad, it is equally clear that this admiration was quite distinct from any sustained engagement with actual American constitutional debates from the nineteenth and twentieth-centuries. This disconnect can be seen throughout Chang's life as he routinely cited and referenced his admiration for the Founders but rarely, if ever, mentioned contemporary American political affairs or constitutional scholars working on exactly the same issues.

This form of engagement was quite common for Chinese intellectuals in Chang's era.<sup>45</sup> It was the fundamental questions of constitutional governance from the revolutionary era which consistently drew in the interest of Chinese thinkers as they imagined the revitalization of Chinese society. By contrast, a recurrent trope in Chinese visits to the U.S. after the American Civil War is one of shock and disappointment that modern American politics had fallen so short of the lofty aspirations underlying the Founder's debates.<sup>46</sup>

As such, it was Jefferson's status as a virtuous statesman to which Chang most consistently referred. Many of his statements regarding Jefferson were accompanied by similar praise for other Founders: "If there was no Hamilton and Jefferson, the USA might not be able to exist till today as an intact, independent country."<sup>47</sup> Moreover, Chang would continually use Jefferson and Hamilton as comparators to express enthusiasm for the accomplishments of his non-American influences.<sup>48</sup>

Herein, Chang's specific attraction to Thomas Jefferson's preference for decentralized governance was evident in his earliest debates with the bulk of

<sup>43</sup> Peterson, "A Political Biography of Zhang Junmai," at 106.

<sup>44</sup> Zhang, *Xianzheng Zhi Dao*, 5.

<sup>45</sup> Zhang Yufa, *Minguo Chunian de Zhengdang* (Taipei: Academia Sinica, 2002), 344–45.

<sup>46</sup> Li Hongshan and Zhaohui Hong, eds., *Image, Perception, and the Making of US-China Relations* (Lanham, MD: University Press of America, 1998).

<sup>47</sup> Carsun Chang, *Xin Deguo Shehui Minzhu Zhengxiangji* (Shanghai: The Commercial Press, 1922).

<sup>48</sup> "Germany's new Constitution was mainly drafted by Dr. Preuss, his contribution to this new constitution was definitely comparable with Hirobumi Itō's contribution to the Japanese constitution, and Hamilton and Jefferson's contribution to the American constitution." Zhang Junmai, *Guo Xian Yi* (Shanghai: Shishi Xinbaoguan, 1922).

his contemporaries who were instead drawn to Alexander Hamilton's vision of a strong centralized state<sup>49</sup>—most critically Sun Yat-sen.<sup>50</sup> Chang consistently cited with approval the Declaration of Independence, state's rights, localism, and other general ideas associated with Jefferson,<sup>51</sup> as well as his particular accomplishments as President.<sup>52</sup> Thus, at the time he was set to draft the 1946 constitution, it could be argued that Chang had praised no other individual statesman more consistently throughout his life than he had Jefferson.

Yet, what came to be the most important element of this intellectual confluence was Jefferson's own historical engagement with Confucianism. In recent decades, increased attention has been given to the broader cosmopolitan ambit of the revolutionary era's own intellectual horizons. One facet of this revisionist appreciation emerged from unearthing the impact of Chinese ideas on European enlightenment thinkers,<sup>53</sup> and in turn interpretations of Confucianism and Chinese political thought and culture in colonial America onwards.<sup>54</sup>

Scholars have highlighted how Jefferson was the Founder most interested in acquiring writings on China,<sup>55</sup> and sought to learn from its practice of civil service meritocracy, (presumed) foreign policy isolationism, and general social stability.<sup>56</sup> Multiple books on China are still preserved in Jefferson's personal library,<sup>57</sup> and mentions of China are made in his notes in other works, including his own *Legal Commonplace Book*,<sup>58</sup> his personal letters,<sup>59</sup> and various scrapbooks.<sup>60</sup> Comparative political philosophers have noted the consonances in Jefferson's thought and Confucianism on a number of grounds, from their

<sup>49</sup> Weili Ye, *Seeking Modernity in China's Name* (Redwood City, CA: Stanford University Press, 2002); Qing Cao, *The Language of Nation-State Building* (Milton, OX: Routledge, 2023), 63–64.

<sup>50</sup> David Lorenzo, *Conceptions of Chinese Democracy* (Baltimore: John Hopkins University Press, 2013), 56–57, 71–72; Sang Bing, *Sun Zhongshan de Huodong Yu Sixiang* (Beijing: Beijing Normal University Press, 2015), 223–24.

<sup>51</sup> Zhang Junmai, *Zhongguo Jindai Sixiangjia Wenku: Zhang Junmai Juan* (Beijing: Renmin University Press, 2014), 520–21.

<sup>52</sup> Zhang Junmai, *Zhonghua Minguo Minzhu Xianfa Shijiang* (Beijing: The Commercial Press, 2014), 54, 125. See also Zhang, *Xianzheng Zhi Dao*, at 23, 188, 320, 322, 284, 57; Zhang Junmai, *Zhenglun: Guoji Wenti*, Vol. II (Taipei: Daoxiang Press, 1989), 1.

<sup>53</sup> Yung, *Chinese Émigre Intellectuals*, at 142.

<sup>54</sup> Alfred Aldridge, *The Dragon and the Eagle* (Detroit: Wayne State University Press, 1993), 95; John Kuo Wei Tchen, *New York Before Chinatown* (Baltimore: JHU Press, 2001), 17–18.

<sup>55</sup> Kevin Hayes, *The Road to Monticello* (Oxford: Oxford University Press, 2012), 130–31.

<sup>56</sup> Dave Wang, *China and the Founding of the United States* (Lanham, MD: Lexington, 2021). Also see John Pomfret, *The Beautiful Country and the Middle Kingdom: America and China, 1776 to the Present* (New York: Henry Holt, 2016).

<sup>57</sup> Jefferson Looney, ed., *The Papers of Thomas Jefferson* Vol. XIII (Princeton: Princeton University Press, 2016), 142.

<sup>58</sup> David Konig and Michael Zuckert, eds., *Jefferson's Legal Commonplace Book* (Princeton: Princeton University Press, 2019), 440–41.

<sup>59</sup> Wilson Moses, *Thomas Jefferson* (Cambridge: Cambridge University Press, 2019), 71.

<sup>60</sup> Alfred Hornung, "Confucius and America," in *The Routledge Companion to Transnational American Studies*, eds. Alfred Hornung, Nina Morgan and Takayuku Tatsumi (Milton, OX: Routledge, 2019), 77.

common embrace of tradition,<sup>61</sup> government-inspired private virtue,<sup>62</sup> and public education.<sup>63</sup> It was now well-established that Jefferson engaged with Confucian ideas and frequently considered Chinese affairs as did many of his revolutionary era peers.<sup>64</sup>

Chang was aware of Jefferson's engagement with China, and this understanding had a deep impact on Chang's own optimism about forging a cosmopolitan intellectual space in which Chinese and foreign ideas could be in respectful and productive conversation.<sup>65</sup> Representatively, when Chang began actively publishing essays on human rights in the mid-1940s he confidently asserted that the very idea of human rights which had begun to grip the world was part of a historical interchange between China and Europe in which Jefferson had been an active participant.<sup>66</sup>

At the same time, compared to his European and British influences it is decidedly difficult to find any sustained engagement by Chang with Jefferson's particular writings—even when Chang increasingly came to invoke Jefferson's study of Confucianism. His praise for the personal virtues of Jefferson stands in contrast to mention of Jeffersonian proposals concerning presidential term limits, religious freedom, or any other positions which Jefferson consistently maintained throughout his life.<sup>67</sup>

Earlier in his life, Chang made exactly this differentiation between admiring the Founders as virtuous statesmen and emulating their ideas and institutions: "Alas!! People all tend to highly evaluate and recommend the political system of federalism, so that people generally tend to view Jefferson and Hamilton as great men, however, today's most urgent and needed formula to rescue China's fate, is probably not at all linked with the Jefferson and Hamilton, but rather they are closely linked to Carl Freiherr von Stein and Carl August von Hardenberg."<sup>68</sup>

Moreover, over time Chang's writings began to exhibit increasingly stark mistakes about many particulars of Jefferson's life and thought—which reflected a use of Jefferson more as a constitutional symbol than as a subject of the serious studies Chang made of thinkers like Eucken or Laski. Some of

<sup>61</sup> Peter Chang, "Confucian China and Jeffersonian America," *Asian Studies Review* 35 (2011): 43–62.

<sup>62</sup> Ralph Ketcham, "Aristotle, Confucius, and Jefferson and the Problem of Good Government," *Global Economic Review* 14 (1985): 127–42.

<sup>63</sup> Xiaodong Niu, *Education East and West* (San Francisco: International Scholars Publications, 1994), 165.

<sup>64</sup> Ralph Ketcham, *The Idea of Democracy in the Modern Era* (Lawrence, KS: University Press of Kansas, 2004), 49. See generally, Jedidiah Kroncke, *The Futility of Law and Development: China and the Dangers of Exporting American Law* (New York: Oxford University Press, 2016), Ch. 1.

<sup>65</sup> Zhang Junmai, *The Development of Neo-Confucian Thought* (New York: Bookman Associates, 1957), 336.

<sup>66</sup> Zhang Junmai, "Renquan Wei Xianzheng Jiben," *Zaisheng* 125 (1946): 3–8. Also see Weng Hekai, "Zhang Junmai's Mature Thoughts on Constitutionalism and Democracy," *Journal of Jiangsu Administration Institute* 9 (2009): 132–36.

<sup>67</sup> David Mayer, *The Constitutional Thought of Thomas Jefferson* (Charlottesville, VA: University of Virginia Press, 1994), 155.

<sup>68</sup> Zhang Junmai, *Shengzhi Tiaoyi* (Shanghai: The Commercial Press, 1916), 23–24.

these mistakes were more general about the revolutionary era, such as the Founders like Washington all not being “military men,”<sup>69</sup> or that Jefferson’s ideas were the “mainstream of American political thought.”<sup>70</sup>

More decisive were mistakes basic to the question of constitutional emulation. Most notable was Chang’s lifelong reference to Jefferson’s direct involvement in the writing of the U.S. Constitution. Chang also seemed either unaware of, or wanted to avoid, Jefferson’s many criticisms of the 1776 document,<sup>71</sup> veneration of its authors,<sup>72</sup> and the process by which it was drafted.<sup>73</sup> He also did not seem compelled to explore the contradictions between Jefferson’s ideals and his own aggressive exercise of executive power as President—which Chang often lauded. Most oddly, he came to consistently reorganize the chronology of Jefferson’s life to enable an argument that Jefferson brought Confucian ideas from Europe to inspire the rights expressed in the Declaration of Independence.<sup>74</sup>

Reviewing the place of Jefferson in Chang’s decades of writings does recover an engagement with American revolutionary thinkers less highlighted by existing studies. But such omission in part reflects the largely symbolic nature of this engagement based on Chang’s general sympathies for the decentralization of executive power Jefferson represented in the abstract.<sup>75</sup> Such an understanding at first seems unable to provide a coherent answer as to why Chang turned so decisively in the mid-1940s to elevate Jefferson as a constitutional influence. However, even his particular “mistakes” become legible once they are viewed against the shifting transnational landscape which had come to reshape Chang’s later life in and outside of China.

### The Americanizing Transnational Order of Chang’s Constitutional Gambit

Prior to 1944, Carsun Chang had never traveled to the United States. As much as he may have engaged with early American political thought, his transnational network was largely focused elsewhere. Instead, Chang’s early twentieth century intellectual engagements were shaped by a world marked by the global preeminence of German universities and the impact of civil law traditions on late Qing and early Republican-era Chinese legal reform.

<sup>69</sup> “Over the entire globe, if military men being selected/elevated as the president, the chaos will come very quick. The US is the only exception. George Washington contributed a lot.” Zhang, *Guo Xian Yi*, at 12.

<sup>70</sup> Zhang, *Zhongguo Jindai Sixiangjia Wenku*, at 520–21.

<sup>71</sup> George Tucker, *The Life of Thomas Jefferson, Third President of the United States* Vol. I (London: Charles Knight, 1837), 280–81.

<sup>72</sup> Dustin Gish and Daniel Klinghard, *Thomas Jefferson and the Science of Republican Government* (Cambridge: Cambridge University Press, 2017), 313.

<sup>73</sup> John Kaminski, *Thomas Jefferson: Philosopher and Politician* (Madison, WI: Parallel Press, 2005), 46–47.

<sup>74</sup> Zhang Junmai, *Rujia Zhexue Zhi Fuxing* (Beijing: Renmin University Press, 2009), 140.

<sup>75</sup> Paul Draper, “Chang Chun-Mai: A Moral Conservative in an Immoral Age” (diss., University of British Columbia, 1985).

This lack of American experience raises the central question as to why CKS would allow Chang so much influence over a constitutional project whose primary international audience was the United States. Especially when there were numerous other legal luminaries with similarly prestigious Western academic pedigrees—some from the United States itself.

Such a choice is even more initially inexplicable if we consider that Chang and his “third way” parties were not simply marginal in Chinese national politics but had also been routinely suppressed by the GMD. Chang had never relented from his critiques of the GMD even when trying to collaborate on select projects—including openly criticizing CKS.<sup>76</sup> Chang’s himself had already been famously abducted by GMD agents in 1929 after one such episode of public critique.<sup>77</sup>

Recent research in Taiwanese archives by Zhang Weida has reconstructed the stark pendulum-like swings in CKS’s attitude toward Chang over his career as a “third way” political leader by uncovering their correspondence from the late 1930s through the early 1940s.<sup>78</sup> After the Japanese invasion of China in 1937, some members of Chang’s minority oppositional parties were accused of aiding the Japanese occupation and outlawed. Yet, Chang’s consistently strong anti-Communism warmed CKS to his potential, and CKS endorsed several of Chang’s educational projects.

It is through Zhang’s research that one underappreciated but dominant thread of Chang’s late life emerges: the role of his younger brother Zhang Jia’ao. Just as he is lauded as a “founding father” of the RoC Constitution, Chang’s brother is routinely cited as the father of China’s modern banking system.<sup>79</sup> His brother was a similarly prolific writer and important figure in developing numerous early twentieth-century Chinese educational and financial institutions. Moreover, Jia’ao had long engaged more directly with the GMD, even though the relationship was similarly uneasy. In turn, Chang was routinely assisted by his brother in managing his relationship with CKS from the late 1930s onward.

<sup>76</sup> Brian Tsui, *China’s Conservative Revolution: The Quest for a New Order, 1927–1949* (Cambridge: Cambridge University Press, 2018), 156; Hu Kuo-Tai, “The Struggle Between Kuomintang and the Chinese Communist Party on Campus During the War of Resistance,” *China Quarterly* 118 (1989): 300, 311.

<sup>77</sup> Yan Lu, “The Third Force and America’s Mediation of the Chinese Civil War” (diss., Michigan State University, 1989), 12.

<sup>78</sup> Zhang Weida, “Quanmian Kangzhan Shiqi Zhangjunmai he Jiangjieshi Guanxi Tanwei” (Paper Presented at the Symposium ‘Research on Archives and History of the Republic of China,’ 2022). The specific correspondence cited by Zhang is drawn from his work at the National History Museum in Taipei, under the archives “President” for Chiang Kai-shek—encompassing their internal records from 002-080114-00021-049 to 002-080200-00622-035. Zhang’s study draws on numerous other sources to corroborate these claims, notably the letters of GMD General Xiong Shihui who acted as an intermediary between Chang and CKS for approving his trip to study in the United States. These letters are held at the National History Museum’s archives “Nationalist Government” starting at the internal records 001-060200-00007-005.

<sup>79</sup> Zhang Jia’ao, *Last Chance in Manchuria: The Diary of Chang Kia-ngau* (Stanford: Hoover Institution Press, 1989).

Yet, China's deepening conflict with Japan in the early 1940s led to growing GMD discontent with Chang's criticisms. He was accused of receiving funding from the Nazis—a claim made easier by Chang's deep ties to Germany.<sup>80</sup> It was these charges that led CKS to then order Chang's house arrest for 18 months between 1942 and 1943. It would take this entire period for Zhang Jia'ao and Chang's other supporters to convince CKS of his innocence and lead to his release.

The decisive role of Zhang Jia'ao would continue in what would come to be the defining shift in Chang's transnational orientation. Jia'ao not only worked on rehabilitating Chang's relationship with CKS, but in doing so convinced CKS to allow Chang to accept a 1944 invitation from the Roosevelt Administration to visit the Library of Congress—cast as an opportunity to improve CKS's image in the United States.<sup>81</sup>

It is in unpacking this invitation that Chang's admiration of Jefferson becomes pivotal, as well as ultimately explanatory of the personal trajectory of his later life. It would also be the event that provides broader transnational context for existing explanations of Chang's participation in the 1946 drafting process as an element of CKS's newly American-oriented international audience.

Prior to the 1940s, the GMD's relationship to various U.S. administrations had waxed and waned for decades. Popular American invocations of the new Chinese Republic as evidence of America's non-colonial foreign influence were redolent in this era, but the material substance of Sino-American relations varied considerably in political and economic terms.<sup>82</sup> However, the outbreak of World War II recentered the U.S. as the GMD's key foreign ally and placed the U.S. at the heart of CKS's diplomatic priorities. In tandem, after World War II America's main geopolitical rival had become the Soviet Union and Soviet interest in supporting the CCP rapidly turned China into an early Cold War geopolitical flashpoint.

As a result, CKS felt compelled to devote new resources in the international arena to promoting the GMD's image as a harbinger of Chinese liberalism and as an eager participant in the new institutions of the American-led post-war international legal order. Herein, individuals like Chang took on new relevance in the GMD's struggle in this intensely transnationalized context.<sup>83</sup>

Thus, when Chang and his brother appealed to CKS for Chang to take up a trip to the U.S. the strategic consonance for both men was clear. CKS could turn a domestic political liability into an international diplomatic asset at a time when his relationship with the U.S. was preeminent. Chang would enjoy a reprieve from domestic Chinese politics and an opportunity to build up his personal capital as a singular intermediary for American domestic

<sup>80</sup> Xu Jilin, *Wuqiong de Kunhuo* (Beijing: Sanlian Press, 2018), 174–75; Wang Yangwen, “Zhang Junmai Xianzheng Sixiang de Yanbian,” *Lanzhou Xuekan* 28 (2007): 111–15.

<sup>81</sup> Weida, “Quanmian Kangzhan Shiqi Zhangjunmai he Jiangjieshi Guanxi Tanwei,” at 78.

<sup>82</sup> Kroncke, *The Futility of Law and Development*, at Ch. 7.

<sup>83</sup> For a general study of this and earlier generations of Chinese intellectual engaging with Western international law, see Ryan Mitchell, *Recentering the World: China and the Transformation of International Law* (Cambridge: Cambridge University Press, 2022).

and international institutions—and in a manner that distanced Chang from any association with German fascism or European communism.

The specific context of Chang's trip to the U.S. was an invitation he secured to study at the Library of Congress by then Vice-President Harry Truman.<sup>84</sup> The specific genesis of the invitation has to date been elusive. Here again Zhang Jia'ao emerges as the lynchpin in Chang's transition.

In 1942, Jia'ao had been sent to the U.S. on various economic missions, and by 1943 had already published one of his multiple English-language books on Chinese development. There is abundant evidence that Jia'ao became well-known to American politicians, no less Truman himself, before Chang's visit.<sup>85</sup> It was thus not coincidental that Chang's first trip to the U.S. was to join his brother in attending a conference held by the Institute of Pacific Relations late in December 1944. Notably, the Institute was emblematic of the new mid-twentieth-century hybrid private–public international organizations dedicated to liberal internationalism, and those that specifically promoted American leadership therein. More decisively, in Chang's first meeting with U.S. State Department officials in January 1945 his specific introduction by Jia'ao is cited.<sup>86</sup>

While the complete details of Chang's entire trip are still elusive,<sup>87</sup> almost all formal descriptions of his stay cited the idea that Chang would use his time to study U.S. constitutional law for its application to China's new constitutional project.<sup>88</sup> However, Chang's trip was much more than just a scholarly sabbatical. Most prominently, Chang attended the April 1945 signing of the United Nations Charter as a representative of China.<sup>89</sup> He was active in giving speeches to a range of local and state bodies, which often cited his role as a political leader in China.<sup>90</sup> He also had personal meetings with state political figures, such as New York Governor Thomas E. Dewey, and national political figures, such as Joseph William Martin, Jr.—then Republican National Convention Chairman.<sup>91</sup> Chang also began to establish relationships with American academics and think tanks.<sup>92</sup> Over the course of his stay until

<sup>84</sup> “A study room was provided in the Congress and a secretary also was assigned to accompany him.” Cline and Chiu, *Constitutionalism in China*, 67.

<sup>85</sup> Beyond his frequent presence in State Department memorandums of the era, Zhang Jia'ao's picture hangs in the Truman Library. <https://www.trumanlibrary.gov/taxonomy/term/5559> (last visited January 20, 2023).

<sup>86</sup> Memorandum of Conversation, Under Secretary of State (Grew) (January 4, 1945) Foreign Relations of the United States, 1945, The Far East, China, Vol. VII, 893.00/1-445).

<sup>87</sup> Archives from Johns Hopkins University reveal that Chang corresponded with several American universities during this trip. He claimed to be carrying out a survey of American educational institutions for the GMD. JHU Special Collections, Bowman Papers (MS 58, Series 002, Box 010, Folder 009).

<sup>88</sup> Li Guizhong, *Zhang Junmai Nianpu Changbian* (Beijing: Zhongguo Shehui Kexue Press, 2016), 169–71.

<sup>89</sup> Winberg Chai, “China and the United Nations,” *Asian Survey* 10 (1970): 397–409.

<sup>90</sup> *Journal of the Assembly of the State of New York* 1945, Vol. I. (February 6, 1945), 407.

<sup>91</sup> Li, *Nianpu Changbian*, 166, 168.

<sup>92</sup> Memorandum of Conversation, Under Secretary of State (Grew) (January 4, 1945) Foreign Relations of the United States, 1945, The Far East, China, Vol. VII, 893.00/1-44.

January of 1946,<sup>93</sup> a shift in Chang's transnational orientation began with the U.S. as both a strategic benefactor and as the audience for much of his future writing.

While it might now be more legible how Chang came to be invited to the U.S., it still begs the question of how he navigated such unfamiliar foreign ground, intellectually and politically. Moreover, why were American interlocutors so interested in his engagement? The answers to these questions are thoroughly crosscut by Chang's pre-existing knowledge of Jefferson but most concretely by his ability to link Jefferson to China's intellectual and constitutional development, both past and present.

Chang's switch from acknowledging Jefferson as one of many influences to centering him in his work is itself difficult to fully understand without considering the larger arc of Democratic politics of the era. The essential, reciprocal transnational element required was that FDR and Truman had both worked since the 1930s to ground the New Deal in an aggressive campaign of Jeffersonian revivalism. Caroline Heller has recently produced a definitive study of the New Deal project to use Jefferson as a unifying figure to co-opt the very anti-centralization Jeffersonian rhetoric of FDR's critics.<sup>94</sup> While many objected to this appropriation,<sup>95</sup> it was nonetheless true that a wide swath of New Deal intellectuals<sup>96</sup> and politicians<sup>97</sup> embraced this new Jeffersonian rhetoric.

FDR publicly spearheaded this campaign, representatively claiming that a "modern Jefferson" was needed to use "Hamiltonian means" to "achieve Jeffersonian ends."<sup>98</sup> For Truman in particular, Jefferson had long been a political hero throughout his career.<sup>99</sup> From Jefferson's version of ethnical humanism to his agrarian utopianism,<sup>100</sup> Truman promoted Jefferson throughout his early career and Presidency.<sup>101</sup> Roosevelt's and Truman's Jeffersonian revivalism was then fused with the genre of benevolent humanitarianism which modern American administrations had been using to contextualize rising American

<sup>93</sup> Li, *Nianpu Changbian*, 164.

<sup>94</sup> Caroline Heller, *Appropriating Thomas Jefferson, 1929-1945* (Lausanne, Switzerland: Peter Lang, 2019). Also see Sidney Milkis, "Franklin Roosevelt and The Transcendence of Partisan Politics," *Political Science Quarterly* 100 (1985): 479-504.

<sup>95</sup> Staughton Lynd, *Intellectual Origins of American Radicalism* (Cambridge: Cambridge University Press, 2009), 7-8.

<sup>96</sup> See Felix Frankfurter, "The Permanence of Jefferson," (April 13, 1943), <https://www.loc.gov/item/mff000165/> (last visited January 20, 2023).

<sup>97</sup> Congressional Record, Congress, Vol. 93, Part 11 (U.S. Government Printing Office, 1947), Page A-1779.

<sup>98</sup> Sean Savage, *Truman and the Democratic Party* (Lexington, KY: University Press of Kentucky, 2014), 6-7.

<sup>99</sup> David Bodenhamer, *The Revolutionary Constitution* (Oxford: Oxford University Press, 2012), 92-93.

<sup>100</sup> Richard Miller, *Truman: The Rise to Power* (New York: McGraw-Hill, 1986), 73; Savage, *Truman and the Democratic Party*, 2.

<sup>101</sup> Francis Cogliano, *Thomas Jefferson* (Charlottesville, VA: University of Virginia Press, 2006), 91; Jeffrey Pasley, "Politics and the Misadventures of Thomas Jefferson's Modern Reputation," *The Journal of Southern History* 72 (2006): 871-908.

overseas power. In their foreign policy framings, Jefferson became a world citizen set on spreading liberty abroad.<sup>102</sup>

Thus, while other GMD-affiliated scholars may have earned degrees or spent time in the U.S., Chang was able to communicate a Chinese story about Jefferson that resonated with the commitments of the Americans who were at the center of CKS's new foreign policy calculus. Chang's invitation thus fell squarely within the international aspects of this systemic re-appropriation of Jefferson. Chang was able to take advantage of this vision of American foreign policy which sought to cast the spread democracy, to China and elsewhere, as a "Jeffersonian revolution."<sup>103</sup>

Thus, when Chang signed the UN Charter he was acting out the culmination of a process which FDR had sold as part of this Jeffersonian international legacy fighting for the "rights of man" across the world.<sup>104</sup> Even Republican critics of Roosevelt and Truman embraced the use of Jeffersonian rhetoric when framing American interest in China.<sup>105</sup> Such context illuminates why Chang took every opportunity to declare throughout his trip that Chinese leaders were interested in learning about American political thought and with consistent emphasis on Jefferson.<sup>106</sup> Chang's previous study of German or other thinkers was never made a public issue, if anyone on the U.S. side was particularly aware of it.

In this way, Chang was but one of many who had since 1911 attempted to gain American support for the GMD by portraying post-1911 Chinese leaders as following in the footsteps of figures like Jefferson.<sup>107</sup> Such a tactic was most famously used by media titan Henry Luce.<sup>108</sup> It was also used by CKS's wife Mei-ling Soong had emphasized Jefferson's inspirational role in China starting in the early 1940s,<sup>109</sup> and was highly popular in the United States.

But there was one other crucial transnational element at play. And one that would be the most decisive in charting Chang's life after 1949—while also explaining why Chang himself seemed to find a new intellectual and physical home in the United States. This would be the dedicated subset of American intellectuals who had developed a decided interest in China through scholarship which explicitly argued for exactly the same consonance between

<sup>102</sup> Merrill Peterson, *The Jefferson Image in the American Mind* (Charlottesville, VA: University of Virginia Press, 1998), 437–38; Franklin Roosevelt, "Address to Commonwealth Club Address" (September 23, 1932), <https://images2.americanprogress.org/campus/email/FDRCommonwealthClubAddress.pdf> (last visited January 20, 2023).

<sup>103</sup> Heller, *Appropriating Thomas Jefferson*, at 182–85.

<sup>104</sup> *Ibid.*, at 368–69. Also see Franklin D. Roosevelt, "Undelivered Address Prepared for Jefferson Day," (April 13, 1945), <https://www.presidency.ucsb.edu/documents/undelivered-address-prepared-for-jefferson-day> (last visited January 20, 2023).

<sup>105</sup> Tony Ladd, "Mission to Capitol Hill," in *United States Policies and Attitudes Toward China*, ed. Patricia Neils (Milton, OX: Routledge, 1990), 271.

<sup>106</sup> Memorandum of the Conversation, By Director of the Office of Far Eastern Affairs (Stanton) Foreign Relations of the US, 1945, *The Far East, China*, Volume VII, 893.00/6–645.

<sup>107</sup> Zhang Junmai, "Minzhu Shehuidang Zhenggang Shiyi Yinyan," *Zaisheng Zhoukan* 131 (1946): 2–3.

<sup>108</sup> Robert Herzstein, *Henry R. Luce, Time, and the American Crusade in Asia* (Cambridge: Cambridge University Press, 2005).

<sup>109</sup> May-ling Soong Chiang, "Speech at the Chicago Stadium" (March 22, 1943).

Jeffersonian and Confucian ideals which Chang so fervently embraced.<sup>110</sup> Following this trip, this specific confluence of interests in China and Jefferson would be centered in Chang's writings for the rest of his life.

Consider how Chang's personal concern with Jefferson's interest in Confucianism resonated with whom Truman had originally assigned to help Chang during his visit—then Librarian of Congress Archibald MacLeish. MacLeish was himself a personal admirer of Jefferson.<sup>111</sup> Moreover, MacLeish was an ardent supporter of the figure most associated with the position from this era arguing for the immediate relationship between Jefferson and Confucius—controversial poet Ezra Pound.<sup>112</sup> MacLeish worked with a group of American politicians who sought to popularize this position and used it for promoting Sino-American political cooperation.<sup>113</sup> Though MacLeish left his position at the Library of Congress early in Chang's visit, both men became involved as founding members of UNESCO in 1945, and stay connected to those mutually invested in Pound's thought.

In terms of gaining the specific attention and trust of the Truman Administration, Chang's trip was a success. Chang established himself as an important actor in Chinese politics, and a reliable arbitrator whose own "third way" position could navigate the often contentious debates over U.S. support for the GMD and the CCP in the late 1940s.<sup>114</sup> In governmental memorandums of his meetings with American officials, he is routinely cited as a "Delegate of China." His correspondence with Eleanor Roosevelt indicates that he was seen as a leading source on issues regarding Chinese constitutionalism, international law, and human rights.<sup>115</sup> All of which was consonant with Truman's statement that the U.S. was committed to "fair and effective representation" of all political parties in the new democratic Chinese government that Chang's constitutional project would help usher in.<sup>116</sup>

Such success was immediately evident when General Marshall was sent to China in late 1945 to broker a settlement between the GMD and CCP. Marshall engaged Chang as a mediator believing he could help provide a genuine counterweight in Chinese politics. A perception—then common among many in U.S. foreign policy circles—with little to no supporting evidence beyond Chang's assertions and Marshall's hopes.<sup>117</sup> As later events would demonstrate, Chang's success indicates how partial many U.S. officials'

<sup>110</sup> Archibald MacLeish, "A Chinese Ars Poetica," *The Kenyon Review* 14 (1952): 524–29.

<sup>111</sup> R. H. Winnick, ed., *Letters of Archibald MacLeish* (Boston: Houghton Mifflin, 1983), 332; Scott Donaldson, *Archibald MacLeish* (New York: Open Road Media, 2016).

<sup>112</sup> Laura Egendorf, *Harry Truman* (New York: Greenhaven, 2002), 61.

<sup>113</sup> Elbert Thomas, *Thomas Jefferson: World Citizen* (New York: Modern Age, 1942).

<sup>114</sup> Memorandum of the Conversation, By Director of the Office of Far Eastern Affairs (Stanton) Foreign Relations of the US, 1945, *The Far East, China*, Volume VII, 893.00/6-645.

<sup>115</sup> *The Papers of Eleanor Roosevelt, 1945–1962*, Reel 4—1946 (Folder Serial/Frame No. 0879).

<sup>116</sup> "United States Policy Toward China," *The Department of State Bulletin*, Vol. 13, No. 338, Pub. 2444, 16.12.1945 (945–46).

<sup>117</sup> Notes on Meeting Between General Marshall and Mr. Hon Yeh-chun (December 16, 1946), *Foreign Relations of the United States, 1946, The Far East: China*, Vol. X, Marshall Mission Files, Lot 54–D270.

understandings of China were, and how easily they could come to rely on figures that learned to speak in ways that affirmed their own pre-commitments, both general and comparatively esoteric.

### The Mutual Misreadings of American Constitutional Projection

Delving into Chang's 1945 trip provides a great deal of context for both why CKS asked an apparent political enemy to serve such a prominent role in his constitutional drafting project, and for why Chang's citation of Jefferson took on such new heights in subsequent years. Allowing Chang to serve in such a symbolically high stakes role already evidenced a recognition by CKS that Chang's time in the U.S. could help him secure a great deal of reputational capital with CKS's now primary foreign interlocutor.

However prominent a position Chang had managed to secure in CKS's constitutional project, he also knew that any influence he wielded during the process was highly contingent on navigating the domestic and international arenas which informed CKS's own strategic evaluations. Chang could not have avoided the knowledge that his hope to restrain CKS through the new constitution was matched by CKS's own gambit that the constitution would further legitimize, and thus entrench, his rule.<sup>118</sup> By 1946, Chang and CKS had both convinced the Truman administration that Chang would be a principal drafter of the new constitution and that this evidenced CKS's commitment to political pluralism.<sup>119</sup>

Whatever long-term understanding existed between CKS and Chang about his U.S. trip as prelude to his drafting assignment, after Chang's return to China he clearly tried to navigate his image as an independent authority from CKS.<sup>120</sup> It was also still true that CKS sought to secure the participation of non-GMD parties, most critically the CCP. Several recent works note that Chang's formal nomination to the drafting project was endorsed early on by Zhou Enlai.<sup>121</sup> No doubt this was facilitated by belief in Chang's independence. While Chang had done little to cultivate relations with Mao Zedong and the CCP during his early career, his long-standing criticism of the GMD and his imprisonment in the early 1940s had earned him a genuine reputation as a principled outsider. And though the 1946 drafting convention was rife with discussion of the Soviet constitution, there is no evidence that Chang played up any communist sympathies to gain favor with Zhou or any other CCP figures.

In this context, Chang's strategic invocation of Jefferson had a receptive audience beyond the U.S.—the CCP itself. One intriguing implication of

<sup>118</sup> Graham Hutchings, *China 1949: Year of Revolution* (London: Bloomsbury, 2021), 69; Jilin, *Wuqiong de Kunhuo*, 241–43.

<sup>119</sup> Telegram, Ambassador Stuart to Secretary of State (November 29, 1946) Foreign Relations of the United States, *The Far East: China, 1946*, Vol. X, 893.00/11–2946.

<sup>120</sup> Edmund Fung, "Socialism, Capitalism, and Democracy in Republican China," *Modern China* 28 (2002): 399, 421. Chang's role in such a clearly self-interested project of the GMD was not uncontroversial among his supporters. He ultimately lost the co-operation of one of his longest running "third way" allies and friends, Zhang Dongsun, over his decision to participate.

<sup>121</sup> Lei Chen, *Zhonghua Minguo Zhi Xian Shi* (Taipei: Daw Shiang, 2010), 104–11.

Chang's new transnational stratagem was how compatible his heightened Jeffersonian rhetoric was with CCP sensibilities at the time. Perhaps contrary to some modern instincts, Mao openly wrote of his admiration for Jefferson throughout his life and would favorably compare CCP ambitions with the American Revolution up through the 1950s.<sup>122</sup> Even today, some argue that the CCP had a "Jeffersonian" view of constitutionalism guided by constant plebiscite change.<sup>123</sup>

In the years surrounding the production of the 1946 Constitution, numerous CCP outlets published articles praising the U.S. Founders,<sup>124</sup> and even claimed that Jefferson's "magnanimity and sincerity" were known by all the country's school children.<sup>125</sup> Numerous similar writings in the 1940s attempted to tie together Jefferson with CCP admiration for Sun Yat-sen and Marx.<sup>126</sup> Positive comparison, at least of Jefferson, remained permissible for at least the decade after the CCP victory in 1949.<sup>127</sup> The most direct link we have between Chang's use of Jefferson and the CCP's embrace of Jefferson is a CCP reprint of one Chang's speeches in the *Xinhua Daily* in which Chang ties Jefferson to the notion of human rights.<sup>128</sup>

The use of this rhetoric, while consistent throughout the pre-1949 era, also evidences that the CCP then still hoped that it could still convince the U.S. to support it against the feudal authoritarianism of the GMD.<sup>129</sup> While CCP openness to relations with the U.S. later became a point of controversy in American politics, the historical evidence is materially hard to ignore.<sup>130</sup> Though largely ineffective in gaining American sympathy during this era, such CCP invocations were cited by contemporary proponents of the New Deal Jeffersonian revival as evidence for the lasting significance of Jefferson's thought abroad.<sup>131</sup> And at

<sup>122</sup> Mao Zedong, "The Bankruptcy of Historical Idealism" (September 16, 1949), [http://www.qsttheory.cn/books/2019-07/31/c\\_1119479873\\_70.htm](http://www.qsttheory.cn/books/2019-07/31/c_1119479873_70.htm) (last visited January 20, 2023).

<sup>123</sup> Chien-Chih Lin, "Constitutions and Courts in Chinese Authoritarian Regimes," *International Journal of Constitutional Law* 14 (2016): 351–77.

<sup>124</sup> "What we, the Chinese Communists are currently doing, is basically the work which had already been done by Washington, Jefferson and Lincoln in United States, therefore, it will definitely receive the sympathy and empathy from the democratic United States of America." Chen Jinlong, *Zhongguo Gonchandang Jinian Huodongshi* (Beijing: Shehui Kexue Wenxian Press, 2017), 12–14. Also see Yan Xuetong, *Meiguo Baquan yu Zhongguo Anquan* (Tianjin: Tianjin Renmin Press, 2000), 205.

<sup>125</sup> "Salute to Democracy—Dedicated to the American Independence Day" (July 4, 1943) *Xinhua Newspaper*.

<sup>126</sup> Xia Yande, "Dule Zhang Dongsun Xiansheng Xinzhu Minzhu Zhuyi yu Shehui Zhuyi Zhihou," *Shiji Pinglun* 4 (1948): 13–14.

<sup>127</sup> Ba Jin, "Fasite de Beiju," *Wenyi Bao* 8 (1958): 28.

<sup>128</sup> Li, *Nianpu Changbian*, 158.

<sup>129</sup> Jinlong, *Zhongguo Gonchandang Jinian Huodongshi*, 12–14; Xuetong, *Meiguo Baquan yu Zhongguo Anquan*, 205.

<sup>130</sup> Warren Tozer, "Last Bridge to China," *Diplomatic History* 1 (1977): 64–78; Giuseppe Paparella, "Losing China? Truman's Nationalist Beliefs and the American Strategic Approach to China, 1948–1949," *The International History Review* 44 (2021): 1306–26.

<sup>131</sup> Heller, *Appropriating Thomas Jefferson*, at 328.

the time, American communist rhetoric similarly embraced a valorizing post-colonial image of the American Founders.<sup>132</sup>

This discourse was fully concurrent with the CCP's active criticism of American empire as inherently racist and its consistent public support for various critics of domestic American racism.<sup>133</sup> While CCP invocation of the American Founders would fade in the 1950s, we see in the 1940s the purest form of the shifting disconnect between invocations of America as pioneering post-colonial rebel and its rise as a global empire—bifurcating a transhistorical “Founders” from modern American global ambitions.

Ultimately, Chang was able to win the conditional approval of the CCP representatives for his draft constitution in 1946<sup>134</sup> even though CKS was wary of devolving too much autonomy to local governments given the CCP's strength in many rural areas.<sup>135</sup> Considering the role of the CCP thus further blurs the line between what Chang may have thought of as an ideal constitutional system himself, and the reality that a mixed parliamentary and presidential system was in itself an attempt to balance the objectives of the key political actors who were initially sought to endorse it.<sup>136</sup>

Yet, whatever success Chang managed to initially achieve in this regard was rendered moot when the larger negotiations between the GMD and CCP collapsed. CKS was deeply upset by the aspects of Chang's draft which sought to limit the GMD's power,<sup>137</sup> and CKS moved to unilaterally adopt a new draft which rolled back Chang's less executive-friendly contributions.<sup>138</sup> As in many similar projects, the fate of the 1946 Constitution would be driven by the relative power of the parties involved, rather than any reasoned debate over constitutional principles.<sup>139</sup>

For all of Chang's success in initially securing an influential place in CKS's constitutional stratagem, the nature of his transnational currency was highly contingent on GMD political stratagems. In the late 1940s, the GMD grew increasingly assertive in their relationship with the U.S., and the popular image of the U.S. in China had suffered from a number of critical setbacks.<sup>140</sup> The larger failure of the aforementioned Marshall mission to mediate between the GMD and the CCP led to a great deal of dissonance within the Truman administration in which views of the GMD became ever more polarized.<sup>141</sup>

<sup>132</sup> Report to the Tenth National Convention of the Communist Party of the U.S.A. (May 28, 1938), <https://stars.library.ucf.edu/prism/248/> (last visited January 20, 2023), 89–90.

<sup>133</sup> Xilao Li, “I Know Why the Caged Bird Sings!” *African American Review* 41 (2007): 387–93.

<sup>134</sup> Wen-Shun Chi, *Ideological Conflicts in Modern China* (New Brunswick and Oxford: Transaction Books, 1992), 159.

<sup>135</sup> Zhen Dahua, “Carsun Zhang and the 1946 Constitution of the Republic of China,” *Huai Yin Normal College Journal* (2003): 213–19, 238.

<sup>136</sup> Huang and Li, “A Lesson for Constitutionalism,” at 225.

<sup>137</sup> Lin, “The Birth of the Constitution,” at 102.

<sup>138</sup> William Tung, *The Political Institutions of Modern China* (New York: Springer, 2012), 202.

<sup>139</sup> Lin, “The Birth of the Constitution,” at 124.

<sup>140</sup> Robert Shaffer, “A Rape in Beijing, December 1946,” *Pacific Historical Review* 69 (2000): 31–64.

<sup>141</sup> Joseph Yick, “The Communist-Nationalist Political Struggle in Beijing-Tianjin During the Marshall Mission Period,” in *George C. Marshall's Mediation to China*, ed. Larry Bland (Lexington, VA: Marshall Foundation, 1998), 357–89.

After his draft was revamped, Chang renewed his distance from the GMD and abandoned any active role in public politics. He remained in close contact with his American interlocutors, and for some time was still offered positions within the new GMD-dominated government. In his continued correspondence with American officials, Chang tried to play down their expectations that he take over the presidency of the GMD judiciary.<sup>142</sup> He did so while claiming that his retreat from the government was motivated by his desire to act in other ways to promote the new Constitution's appreciation by the Chinese populace.<sup>143</sup> Over time, his correspondence provided various rationales for his distance from the GMD, including fear of reprisal from the CCP or those within his own party.<sup>144</sup>

While Chang would write publicly that all parties in China were committed to "democracy and socialism," less than a year after the Constitution's adoption he privately told American officials that any democratic progress would only be brought about through the overt conditioning of aid to the GMD on specific reforms.<sup>145</sup> He began to clearly label himself a "Chinese liberal" whose only hope for "a democratic life" in China was American intervention.<sup>146</sup> Chang still tried for several years to maintain American perceptions that he could personally impact Chinese politics, and use the new Constitution to help promote legal restraints on CKS.<sup>147</sup>

Still, Chang lauded the new Constitution at every turn as a victory for the Chinese people in the American scholarly and popular forums he had previously connected with during his Truman visit.<sup>148</sup> Here he made the claim that the draft Constitution was widely popular in China,<sup>149</sup> and cited the central comparative impact of American constitutional precedents.<sup>150</sup> Chang's work on the 1946 draft received praise from perhaps the most notable figure involved in Sino-American legal relations at the time, famed legal scholar

<sup>142</sup> U.S. Ambassador John Leighton Stuart wrote as late as 1947 to Secretary of State George Marshall that: "Dr. Carson Chang...was chiefly responsible for the draft of the Constitution adopted last November. He has been offered the headship of the Judicial Yuan, a post for which he would be admirably suited." The Ambassador in China (Stuart) to the Secretary of State (March 19, 1947), Foreign Relations of the United States, 1947, The Far East: China, Volume VII, 893.00/3-1947.

<sup>143</sup> Telegram The Ambassador in China (Stuart) to the Secretary of State (January 23, 1947), Foreign Relations of the United States, 1947, The Far East: China, Volume VII, 893.00/1-2347.

<sup>144</sup> Telegram The Ambassador in China (Stuart) to the Secretary of State (April 19, 1947), Foreign Relations of the United States, 1947, The Far East: China, Volume VII, 893.00/4-1947.

<sup>145</sup> Mr. Carsun Chang, Chairman of the Chinese Democratic Socialist Party, to the Secretary of State 88 (November 1, 1947), Foreign Relations of the United States, 1947, The Far East: China, Volume VII, 893.0011-447.

<sup>146</sup> *Ibid.*

<sup>147</sup> The Ambassador in China (Stuart) to the Secretary of State (April 15, 1948), Foreign Relations of the United States, 1948, The Far East: China, Volume XII, 893.00/4-1548.

<sup>148</sup> Carsun Chang, "Political Structure in the Chinese Draft Constitution," *Annals American Academy of Politics & Social Science* 243 (1946): 67-76.

<sup>149</sup> "It has given the millions of Chinese a personal dignity and a resilience that neither the daily erosion of extreme want nor the bombs of the Japanese could destroy." *Ibid.*, 66, 67.

<sup>150</sup> "This would be a copy of the American presidential system; and if we adopt this system there must be constitutional provision for a congress as powerful as the American Congress, for only then will there be any control over the executive power." *Ibid.*, at 72.

and former Harvard Law Dean Roscoe Pound.<sup>151</sup> In the 1940s, Pound had been hired by the GMD to serve as a legal adviser as another aspect of their engagement with the U.S., and he similarly acted to promote the GMD stateside as a liberal vanguard in China.<sup>152</sup> Chang's rhetorical success is further evident in the statements of American luminaries such as political scientist Arthur Holcombe that not only was the draft Constitution a success, but also that it "followed the Founding Father's vision."<sup>153</sup>

Chang's strategy of inserting himself between the GMD and the Truman administration ultimately bore little direct fruit for his life in China. He did return to the U.S. from December 1947 to April 1948, when he met with both Marshall and General Albert Coady Wedemeyer<sup>154</sup>—then highly placed but opposing figures on U.S. policy towards CKS. Chang's frustrations led him to make increasingly critical public statements about CKS, and in late 1948 he wrote to CKS telling him that he should resign and leave China.<sup>155</sup> At this point, whatever leverage Chang's American connections had once earned him had fully dissipated.

### Chang's Neo-Jeffersonian and Neo-Confucian American Exile

When the Chinese Civil War ended in 1949, Chang found himself between the proverbial rock and a hard place. The GMD had fled to Taiwan, and the CCP had gained uncontested control over Mainland China. Chang refused to move to Taiwan even though many of his political colleagues did so, and he would not participate in efforts to convince the U.S. that the GMD could plausibly re-take the mainland. Chang became deeply unpopular in Taiwan and received repeated death threats from GMD agents.<sup>156</sup> Whatever goodwill he had temporarily won with the CCP did not prevent him from being singled out by Mao as a war criminal.

Shortly thereafter, Chang left for Macau and then Hong Kong. He initially tried to gain support for his renewed "third way" politics by convincing elements of the American government that he could help organize armed (non-GMD) resistance to the CCP.<sup>157</sup> Such claims only found some receptivity because of deep-seated denial in the U.S. over the "loss of China" to the CCP. After some time in South and Southeast Asia, he eventually left for the U.S. where he would spend the rest of his life. Notably, he was joined by his brother Jia'ao four years later.<sup>158</sup>

<sup>151</sup> Roscoe Pound, "Development of a Chinese Constitutional Law," *NYU Law Quarterly Review* 23 (1948): 375, 384.

<sup>152</sup> Kroncke, "Roscoe Pound in China."

<sup>153</sup> Arthur Holcombe, "Chinese Political Thought and the Proposed New Constitution," *The Journal of Politics* 8 (1946): 1–23.

<sup>154</sup> Li, *Nianpu Changbian*, at 243–45.

<sup>155</sup> Hutchings, *China 1949*, at 61.

<sup>156</sup> Roger Jeans, *The CIA and Third Force Movements in China during the Early Cold War* (Lanham, MD: Lexington 2017), 174.

<sup>157</sup> *Ibid.*, at 81–82.

<sup>158</sup> Jia'ao continued to serve in high level positions within the GMD, including as President of the Central Bank, up until his final resignation in 1948. Subsequently, he first taught in Australia for

For the rest of his life, Chang remained doggedly committed to his vision of a liberal China, finding a publisher for his widely read *The Third Force in China* shortly after his American relocation.<sup>159</sup> He became unrestrained in his criticism of CKS, who he cast as fully “totalitarian.” His writings were published in leading American forums,<sup>160</sup> and no less than leading luminary of Chinese studies John Fairbank supported Chang’s role as an intermediary for understanding Chinese liberalism.<sup>161</sup> Early in his storied academic and foreign policy career, Allen Whiting noted Chang’s “fervent embrace of Jeffersonian democracy which neither the GMD nor CCP truly endorsed.”<sup>162</sup> Roscoe Pound, himself straining for redemption after long dismissing predictions of the CCP’s rise, continued to praise Chang and his constitutional efforts after 1949.<sup>163</sup> Yet, Chang’s political visibility soon faded as the Cold War swallowed up any lingering sympathy for his “third way” position, as well as earned him the ire of those in American politics who still ardently rejected any criticism of CKS or the GMD.<sup>164</sup>

Ironically, while Chang’s strategic embrace of Jefferson had only won him temporary transnational relevance at the end of his career in Chinese politics, it would play a foundational role in the intellectual life he forged for himself after 1949. It was at this time that Chang shifted to produce his more blanket assertions that his constitutional project for the GMD was centrally influenced by the American experience and was a concrete attempt to bring Jeffersonian thought to China—portrayals that were again absorbed by receptive American readers.<sup>165</sup>

Here Chang’s strategic appropriation of Jefferson would play out following the same pattern of generalized praise strategically deployed to promote his specific projects. His detailed account of the 1946 constitutional drafting in *The Third Force* evidenced this dynamic. For while he repeatedly mentioned Jefferson,<sup>166</sup> he at no point specifically mentioned any Jeffersonian elements in what was a “consensus document.”<sup>167</sup> It is quite striking that in this account, Chang himself completely omits any reference to his 1945 trip to the U.S. or any of the specific American political or intellectual figures he engaged with during that era. Instead, he chose to present the narrative now found in other studies that he was selected solely for his independence and comparative legal expertise, and by anyone but CKS.

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several years before joining his older brother in the United States. His primary institutional home became the Hoover Institute at Stanford, and he wrote three additional books on modern finance. Zhang, *Last Chance in Manchuria*.

<sup>159</sup> Carsun Chang, *The Third Force in China* (New York: Bookman Associates, 1952). Chang wrote most of this text during his stay in India. [Hereinafter, *Third Force*]

<sup>160</sup> Carsun Chang, “The Third Way,” *Foreign Affairs* 31 (1953): 675, 690.

<sup>161</sup> Ilnyun Kim, “The Vital Center for United States-China Relations in the 1950s,” *Diplomatic History* 44 (2020): 609–35.

<sup>162</sup> Allen Whiting, “Review of *The Third Force in China*,” *Political Science Quarterly* 68 (1953): 306–8.

<sup>163</sup> “Constitutionalism in China,” *The New Leader* 36 (1953), 28.

<sup>164</sup> Floyd Goodno, “Walter H. Judd: Spokesman for China in the United States House of Representatives” (diss., Oklahoma State University, 1970), 222–23.

<sup>165</sup> James Roach, “Review of *The Third Force in China*,” *The Southwestern Social Science Quarterly* 34 (1953): 75–77.

<sup>166</sup> *Third Force*, at 45, 55.

<sup>167</sup> *Ibid.*, at 221.

It was in *The Third Force* that Chang's invocation of Jefferson would manifest in what would preoccupy his later life—the development of Neo-Confucian thought outside of China.<sup>168</sup>

Chang began to make increasingly assertive claims about the compatibility of, even historical precedence for, many liberal ideals with traditional Chinese culture and Confucianism. He again claimed symmetry between Jefferson's general ideals and Chinese philosophy.<sup>169</sup> Chang cited his familiarity with American figures like Senator Elbert Thomas who shared MacLeish's belief in the same consonance of Confucian and Jeffersonian ideals.<sup>170</sup>

It was also here that Chang's strategic appropriation of Jefferson transitioned to distortion.<sup>171</sup> Chang re-organized the chronology of Jefferson's life to bolster the argument that he brought Confucian ideals back from Europe to inspire the rights expressed in the Declaration of Independence—even though Jefferson did not travel to France until 1784.<sup>172</sup>

This twist allowed Chang to sustain his argument, merged again with an overstatement of Jefferson's impact on American governance, that a Neo-Confucian revival would lay the groundwork for China's democratization. He concludes *The Third Force* with the statement “If Jefferson, with what I conceive to be Chinese influences, laid the philosophical foundation for the government of the U.S., then why should not the traditional philosophy of China be revived to strengthen modern democracy in that country?”<sup>173</sup>

As the 1950s progressed, Chang would preferentially emphasize this argument, rather than Jefferson's impact on the RoC Constitution, as he took on a leading role in promoting Confucian thought outside of China.<sup>174</sup> His late life lectures returned to the debates about Confucianism which had marked his early rise to prominence in Chinese intellectual circles during the 1920s.<sup>175</sup> He would continue to repeat the same claims that liberal ideas were “an old possession of ours that we left overseas”<sup>176</sup> or his reworked chronology of Jefferson's life.<sup>177</sup> Such continued citation evidences how arguments about the American Founder's popularity abroad still resonated in the U.S.,

<sup>168</sup> Yung, *Chinese Émigré Intellectuals*, at 127.

<sup>169</sup> *Third Force*, at 325, 336.

<sup>170</sup> *Ibid.*, at 332, 335. Ironically, in Chang's longest citation of Jefferson he admits: “Jefferson may therefore have had some knowledge of Eastern thought, though there is no proof of this.”

<sup>171</sup> “It was unlikely that Confucianism had such a great impact as Zhang claimed. Moreover, there was no evidence to show that Jefferson had ever read Mencius. Zhang fabricated the story probably because he would like to make his claim more convincing.” Yung, *Chinese Émigré Intellectuals*, at 143.

<sup>172</sup> Zhang, *Rujia Zhexue Zhi Fuxing*, at 140.

<sup>173</sup> *Third Force*, at 336.

<sup>174</sup> Zhang, *The Development of Neo-Confucian Thought*; Tang Junyi, Mou Zongsan, Xu Fuguan, and Carsun Chang, “A Manifesto for a Re-appraisal of Sinology and Reconstruction of Chinese Culture,” in *The Development of Neo-Confucian Thought* Vol. II, ed. Carsun Chang (New York: Bookman Associates, 1962).

<sup>175</sup> Zhang Junmai, *Shehui Zhuyi Sixiang Yundong Gaiguan* (Taipei: Daoxiang Press, 1988).

<sup>176</sup> Zhang Junmai, “Xinrujia Zhengzhi Zhexue,” *Ziyousheng* (1965), 386.

<sup>177</sup> Zhang Junmai, *Weima Xianfa* (Beijing: The Commercial Press, 2020), 106–7, 142–43.

even as they became progressively less popular with revolutionary movements abroad.

This preoccupation with Neo-Confucianism and the decline of any traction for his “third way” political project in the U.S. was evident when Chang finally met Ezra Pound in person in 1953. By this time, Pound had been committed to St. Elisabeths Hospital in Washington D.C. for seven years after he was accused of treason but deemed insane.<sup>178</sup> Pound’s charge was intertwined with his own particular fusion of Jefferson and Confucius with Mussolini.<sup>179</sup> Thus, while Pound had powerful friends like MacLeish who would later secure his release, if anything an association with Pound was a political liability for Chang.<sup>180</sup> However, during this meeting and later interactions with Pound, Chang primarily worked to convince Pound that Neo-Confucians were worthy of study as Pound wanted to exclusively focus on Confucius’s own writings.<sup>181</sup> Both men agreed on Jefferson’s direct Confucian roots,<sup>182</sup> and thus its foundational impact on American political thought.<sup>183</sup> But while they stayed in touch for several years later,<sup>184</sup> they could not reconcile their now different intellectual projects.<sup>185</sup>

While Chang would retrospectively be given credit for stimulating interest in Neo-Confucianism in the U.S., he never reclaimed the public American or international profile he had gained in the early 1950s. His alienation from Taiwan led his later writings to instead focus on the CCP and its then open rejection of Confucianism.<sup>186</sup> Still, the idea that he had written a Jeffersonian-inspired draft of the RoC Constitution would be repeated up through the present,<sup>187</sup> and his Jeffersonian vision for China cited with approval by American politicians whenever Sino-American relations made such claims convenient.<sup>188</sup>

<sup>178</sup> Mark Byron, “Between Apocalypse and Extinction,” *Studia Neophilologica* 88 (2016): 19–32.

<sup>179</sup> Tim Redman, *Ezra Pound and Italian Fascism* (Cambridge: Cambridge University Press, 1991), 111–12.

<sup>180</sup> Though interest in fascism was present in 1930s Chinese intellectual debates, Chang never expressed any support for these ideas. Ryan Mitchell, “Chinese Receptions of Carl Schmitt Since 1929,” *Penn State Journal of Law and International Affairs* 8 (2020): 181, 197–98. Also see Dandan Chen, “The State in the Shadow of War,” *Journal of Modern Chinese History* 9 (2015): 175–98.

<sup>181</sup> Qian Zhaoming and Chen Lizhen, “Returning to Confucianism,” *Comparative Literature in China* 25 (2015): 152, 154.

<sup>182</sup> Chungeng Zhu, “Ezra Pound’s Confucianism,” *Philosophy and Literature* 29 (2005): 57–72; Zhaoming Qian, *Ezra Pound’s Chinese Friends* (Oxford: Oxford University Press, 2008).

<sup>183</sup> Ira Nadel, *Ezra Pound: A Literary Life* (New York: Springer, 2004), 118.

<sup>184</sup> Qian, *Ezra Pound’s Chinese Friends*, at 103.

<sup>185</sup> *Ibid.*

<sup>186</sup> Carsun Chang, “Confucianism and Chinese Communism,” *The American Behavioral Scientist* 4 (1961): 15. The full complexities of Chang’s post-1949 life are yet to be fully documented, but it is notable that several members of Chang’s extended family in the United States and Asia contacted the authors to share details of his later life. Most notably, one of his grand-daughters provided a picture taken in San Francisco at Chang’s 80th birthday. The picture documents that both Chang Kai-Shek and his son Chiang Ching-Kuo attended. This suggests that the transnational complexities of his life continued up through his passing in 1969.

<sup>187</sup> Qian, *Ezra Pound’s Chinese Friends*; David Moody, *Ezra Pound: Poet* (Oxford: Oxford University Press, 2015).

<sup>188</sup> Hon. Frank J. Lausche of Ohio in the Senate of the United States (August 15, 1960), Congressional Record: Proceedings and Debates, Page A-6080.

## Conclusion: Sino-American Constitutional Imaginations Between Revolution and Empire

A cosmopolitan life like that led by Carsun Chang always leaves avenues unexplored and newly hinted at. The apparent contradictions or shifts in his thinking become more legible when deeper context is revealed about the tensions at play in the transnational worlds he inhabited. Like so many early twentieth-century Chinese intellectuals, his desire to contribute to China's future in a world rife with new ideas and modulating geopolitics makes distinguishing genuine commitments from strategic gambits unsure if evocative.<sup>189</sup> If charges of strategic appropriation were fatal for constitutional drafters, much less any legal reformers, few would survive unscathed.

Ultimately, the most interesting questions about Chang's relationship to Jefferson are not the traditional ones of divining some definitive conclusion about his psychology or intellectual commitments. It is clear that Chang knew of Jefferson's writings from the earliest days of his cross-cultural education, and that later in life this familiarity took on a strategic importance that Chang himself would likely never have predicted. The inconsistencies and errors present in his public writings on Jefferson notwithstanding, it was obvious that—often at the risk of serious reprisal—he had been seriously committed to contributing to what he saw as China's path to national revitalization.<sup>190</sup>

Perhaps such conclusions do little to assist with the modern life that Chang's constitutional contribution has taken on in modern Taiwan, even if attempts to do so are still understandable.<sup>191</sup> Those who look back to 1946 to discover some actionable history with which to press their contemporary legal arguments will find themselves staring into a strategic bricolage which Chang assembled to navigate his uncertain and contingent position in the larger geopolitics of the moment. Statements and writings produced in such transnational contexts have to be considered multi-vocal,<sup>192</sup> if not at points self-contradictory, and which defy the type of "useful history" often sought by participants in contemporary constitutional struggles.<sup>193</sup>

More compelling questions revolve around what this episode says about the way in which the complexities of transnational history can be worn down by

<sup>189</sup> In one of his final comments, Chang claimed his career followed the idiosyncratic blend of "Washington, Jefferson, Cavour and Joseph Mazzini's teachings and models." Zhang Junmai, *Yijiu Sijiu Nian Yihou Zhang Junmai Yanlunji* Vol. V (Taipei: Daoxiang, 1989), 233.

<sup>190</sup> Edmund Fung, "New Confucianism and Chinese Democratization," *Twentieth-Century China* 28 (2003): 41, 59.

<sup>191</sup> Jyh-pin Fa, famed professor at National Chengchi University and later Grand Justice of the Taiwan's Constitutional Court, had numerous connections with American legal institutions, including his graduate law degree from the University of Virginia. He gave this American-friendly version of Chang's experience: "The [draft] was accomplished within a few days with his American experience still fresh in mind. Chang himself attributed the infusion of strong American influence on his thinking during World War II. He said this made him realize the true value and full strength of American constitutionalism." Cline and Chiu, *Constitutionalism in China*, 67.

<sup>192</sup> Thomas Duve, "What is Global Legal History?" *Comparative Legal History* 8 (2020): 73–115.

<sup>193</sup> Yvonne Tew, "Originalism at Home and Abroad," *Columbia Journal of Transnational Law* 52 (2013): 780–850.

time and neglect—a common theme among contemporary historians of pre-1949 Sino-American history.<sup>194</sup>

Consider how, like much of Sino-American history, the blinders of American constitutional projection that were interwoven with Cold War politics only undermined, rather than facilitated, American influence in China. No one with any direct knowledge of Chinese politics in the era would have considered Chang the significant political actor which so many in the Truman Administration came to presume. At the same time, it is impossible to ignore that many in China were inspired by the idea of the Founders as postcolonial revolutionaries, if largely unconcerned with contemporary American constitutional development. Moreover, China's modern generations of transnationalized legal thinkers might have had some idealists, but they were rarely able to be so naïve about American power—especially after their early, generation-defining trauma when Woodrow Wilson failed to affirm full Chinese territorial sovereignty in the aftermath of World War I.<sup>195</sup>

Any normative evaluation of Jefferson and other Founder's international legacy is doubly complicated when considering a moment in American constitutional discourse like the New Deal which produced what some consider the most progressive political project and constitutional vision in recent history. However, such a moment concurrently venerated a constitutional vision that elevated Jefferson's now tarnished legacy. Most modern scholars of Jefferson confront his acute contradictions, even full-blown hypocrisies, and feel ethically bound to complicate his and the Founders' more mythological invocations in contemporary American society.<sup>196</sup>

Would it have mattered to Chang and other revolutionaries to confront the murkier, if not fully dark, arenas of Jefferson's life explored by contemporary historians?<sup>197</sup> Or if they fully appreciated Jefferson's own embrace of imperial constitutionalism,<sup>198</sup> or its legacies for so many populations within and without America's borders? Or should the inspiration Jefferson's writings offered to generations of non-American interpreters like Chang provide any rehabilitation to the ongoing invocation of his ideals?<sup>199</sup> If such questions seem inapt, consider how after China's "re-opening" to the world after 1978, many

<sup>194</sup> Philip Beidler, "China Magic," *Michigan Quarterly Review* 47 (2008): 151–65.

<sup>195</sup> Edmund Fung, "Nationalism and Modernity," *Modern Asian Studies* 43 (2009): 777, 812.

<sup>196</sup> Peter Onuf, *Jefferson's Empire* (Charlottesville, VA: University of Virginia Press, 2000); Matthew Crow, *Thomas Jefferson, Legal History, and the Art of Recollection* (Cambridge: Cambridge University Press, 2017).

<sup>197</sup> Annette Gordon-Reed and Peter Onuf, *Thomas Jefferson and the Empire of the Imagination* (New York: Liveright, 2016); Matthew Crow, "Habits of Mastery," *Reviews in American History* 45 (2017): 224, 227–28.

<sup>198</sup> Robert Rutland et al., eds., *The Papers of James Madison: Presidential Series Vol.1* (Charlottesville, VA: University of Virginia Press, 1984), 139–141.

<sup>199</sup> There are traces of Jeffersonian language throughout many modern constitutions, including those of Japan and South Korea. Wen-Chen Chang, Li-ann Thio, Kevin Tan and Jiunn-rong Yeh, eds., *Constitutionalism in Asia* (Oxford: Oxford University Press, 2014). Also see Gilbert Chinard, "Jefferson's Influence Abroad," *Journal of American History* 30 (1943): 171–86.

Chinese intellectuals again turned to cite Jefferson and other Founders with hope for a more liberal future for China.<sup>200</sup>

These difficulties only rearticulate the extraordinary shift which occurred over the course of the twentieth-century in which the ideal of the anti-colonial American revolutionary that was once near-universally embraced as an enemy of empire has near-completely given way to the reality of global American empire intertwined with deep racial injustice at home and abroad.<sup>201</sup>

Ultimately, such questions cannot be readily answered, but recovering this illustrative moment in Sino-American relations makes them uncomfortably unavoidable for fully understanding constitutional history on both sides of the Pacific.

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<sup>200</sup> Cline and Chiu, *Constitutionalism in China*, 27.

<sup>201</sup> Michael Hogan, *The End of the Cold War: Its Meanings and Complications* (Cambridge: Cambridge University Press, 1992), 119.

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