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In addition to the above conditions, authors give their consent for the digital copy of their work to be used subject to the conditions specified on the Library Thesis Consent Form and Deposit Licence.
THE PRC’S DOCTRINE OF NON-INTERVENTIONISM ASSESSED
IN COMPARISON WITH CLASSICAL CHINESE CONCEPTIONS OF
THE JUS AD BELLUM

by

Walter LEE

A thesis submitted in partial fulfilment of the requirements for the degree of
Doctor of Philosophy (Ph.D.) in Politics and International Relations
The University of Auckland, New Zealand
October 2015
For

Ms. Sy Choung-wai, my mother

and

Mr. Lee Chee-chong, my father
Abstract

This thesis aims to investigate, from a theoretical perspective, whether it is possible to reconcile or to reduce the conceptual divergence between the People’s Republic of China (PRC)’s declared doctrine of non-interventionism and Western norms of liberal internationalism on humanitarian intervention and the responsibility to protect (R2P). Instead of following the nearly fully-excavated path of analysing the post-1949 roots of non-interventionism in the PRC, this thesis concentrates on a careful examination of classical Chinese conceptions that are akin to Western principles of the *jus ad bellum*. Based on the substantial findings of recently flourished academic debates and publications on the reassessment and adoption of classical Chinese conceptions for the innovation of Chinese foreign relations thoughts, this thesis applies a summarised, self-coined methodology of “Knowledge Archaeology of Chinese International Relations” (KACIR) to analyse *The Chronicle of Zuo*, one of China’s most significant and earliest works of narrative history, and two Confucian texts of philosophy (*Mencius* and *Xunzi*) from the pre-Qin era (771-221 B.C.)—a period which demonstrates features comparable to those of modern system of states and international legal order—to see how these texts shed light on the legitimacy and legality *problematique* in the use of force for humanitarian purposes.

The thesis then goes on with a deeper level of analysis: Westphalian principles of sovereign equality, territorial integrity, self-determination and mutual non-interference are not the only factors that have shaped the PRC’s doctrine. Chinese non-interventionism has a deep structure in the intellectual history of China. It is part of the nexus between fundamentalist hermeneutics applied to the pre-Qin canons and the Confucian-Legalist grand narrative of orthodoxy, which has been steering the cognitive mapping of the Chinese in the three dimensions of international ethics—cosmology, worldview, and positive/negative state responsibility—presented through the classical texts. Drawing references from Hans-Georg
Gadamer’s theory, this thesis proposes a redefinition of the Chinese tradition and an emancipation of hermeneutics to classical Chinese canons. By replacing fundamentalism with a reinvented cosmopolitanism rooted in universal conscience, it is possible to develop classical Chinese conceptions of the *jus ad bellum* into an innovative norm or principle of humanitarian intervention and R2P that appears more acceptable than what the PRC views as “Western-imposed standards” but is still compatible with liberal internationalism.
Acknowledgements

Doctoral study is never a one-person’s journey. This thesis will not be made possible without the support from the innumerable people and institutions. Professor Gerald Chan, my main supervisor, has been incredibly generous and caring. I truly cherished the liberty he had given me to pursue my intellectual interests in China and global governance. He encouraged me to think out of the box, to look ahead and to push the boundaries—qualities that my thesis strives to demonstrate. I am greatly indebted to Associate Professor John Stephen Hoadley, my co-supervisor, for he prompted me to shift my focus to classical China, and hinted to me how to make a Chinese topic better understood by wider audiences. I also thank Dr. Jian Yang, my previous co-supervisor, for his concise and insightful advice offered.

I am deeply grateful to Treasa Dunworth for her suggestions on my legality chapter; to Greg Rublee for urging me to target on humanitarian intervention. I thank Lyndon Burford, Guy Charlton, Marcus Chu, Anita Lacey, Pak K. Lee, Maria R. Rublee, Sow Keat Tok, Corey Wallace, and Stephen Winter for challenging my research methodology and views on the *jus ad bellum* and humanitarian intervention. Sami Siddiq was successful in polishing my academic writing and in clarifying my thoughts. Hossein Aghapouri, Shahzad Akhtar, Tharwat Al-Amro, José Antonio Cantón Álvarez, Emma Blomkamp, Camille Boullenois, Sam Cao, Ben Capell, Brent Commerer, Zbigniew Dumienski, Sherif Elgebeily, Julia Famularo, Fang Zheng, Patrick Flamm, Celestyna Galicki, Gao Xiang, Samira Ghoreishi, Lina Gonzalez, Guo Yan, HM Latiff Haneefa, Jennifer Haskell, Ding Hui, Varisara Impithuksa, Malgorzata Jakimów, Behrooz Karami, Paul Kramer, Aleksandra Kubat, Li Sha, Suzanne Loughlin, Miguel Hidalgo Martinez, Pia McKay, Guillermo Merelo, Miao Tingting, Silvia Perin, Qi Weiquan, Qin Jianglin, Julia Ritirc, Jason Roberts, Shi Mingtao, Nicholas Smith, Narut Supawantananakul, Kohei Watanabe, and Xu Bijun have provided friendship and peer support in a global network of doctoral students. Ahmed Moslem, an ex-surgeon in
Tripoli Central Hospital, has urged me to reflect on the whole idea of the responsibility to protect (R2P) by sharing stories from Libya since 2011. My idea of reinventing Chinese cosmopolitanism was inspired by engaged Buddhism, which I learned from volunteering with Tzu Chi Collegiate Association. My gratitude also goes to my home department, Ph.D. advisers Jennifer Curtin and Geoff Kemp, Administrator Jane Kim, and the late Glenda Stenhouse.

Thanks to Anne Pelzel’s advice, I succeeded in obtaining the Faculty of Arts Doctoral Research Fund (DRF) for an eleven-month fieldwork in Hong Kong and Beijing. I tremendously appreciate the institutional support given by Centre for Comparative and Public Law (CCPL), Faculty of Law of the University of Hong Kong (HKU); also Division of International Politics Theory, Institute of World Economics and Politics (IWEIP) of Chinese Academy of Social Sciences (CASS). I thank the Department of Politics and Public Administration of HKU, Hong Kong Institute for the Humanities and Social Sciences (HKIHSS), Beijing International Society, Foreign Correspondences’ Club of China, and Legation Quarter. I am fortunate to have enjoyed intellectual stimulation and heart-warming hospitality offered by Stefan Auer, Kerstin Carlson, Anthony Carty, Albert Chen Hung-yee, Yvonne Chiu, Michael C. Davis, Alison Duxbury, James D. Fry, Peter Goodrich, Ho Chih-hsing, Ian Holliday, Puja Kapai, Karen Kong, Paul Lejot, Andreas Leutzsch, Jolene Lin, Michael Ng, Janne Nijman, Priscilla Roberts, Annemarelle van Schayik, Simon Shen, Sebastian Veg, Roland Vogt, Marco Wan, Odd Arne Westad, Xi Yanbin, Xu Jin, Xu Zhangrun, Yan Xuetong, Yap Po Jen, and Simon N. M. Young. Without advising by Joseph C. W. Chan, Jyrki Kallio, and Yu Kam-por, I could not have known the authentic approach to study classical Chinese texts of philosophy and history.

External examiners Professor Lo Ping-cheung and Professor He Baogang were passionately encouraging and constructively critical in pushing this research to a more rigorous academic level with promising potential to be published by a top international press.
I thank Gao Qi of the Universities Service Centre (USC), The Chinese University of Hong Kong (CUHK); Christian Reus-Smit of the Sixth Oceanic Conference on International Studies (OCIS) and New Zealand Political Studies Association (NZPSA) for allowing me to present four conference papers that are directly related to this thesis. Two of my articles published in International Journal of China Studies in December 2013 demonstrate some of my extended thoughts from this thesis. For this, I am beholden to Gerald Chan and Emile K-K Yeoh.

Ideational innovation may not be easily understood and accepted at home; while an alien land offers the intellectual émigré space and freedom to critique the world from unconventional perspectives, to nurture new ideas, and to free-think on his/her own feet. I humbly shared a similar kind of solitude that Sir Karl Popper experienced in New Zealand, a land of magnificent natural beauty, which he described as “cut away from the world” (abgeschnitten) (Hacohen, 2000, p. 336) and “out of the world” (Popper, 2008, p. 249). Auckland’s multicultural and hospitable environment inspired me to reflect on the possibility of a world society based on strong pluralism, egalitarianism, and moral common grounds.

My paramount gratitude must go to my parents for their immense sacrifice and love, despite our disagreement on politics and life. My cousins Agnes Tse and Vanessa Tse, also my cousin-in-law Olli Tuominen, generously lent their ears and offered emotional support. I was blessed to have Gerald’s wife Alice Chan to take care of me at the final stage of writing. For Lea Strobel, I have substantial reasons to say “Dankeschön” for the contribution she may never notice and acknowledge. Her idiosyncratic worldview, style, and attitude to life have influenced the trajectory of my thought.
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Note on Romanisation of Chinese Sources and Use of Simplified Characters

There are different ways to transliterate Chinese / Han characters into Roman / Latin alphabets. In order to minimise confusion, this thesis only adopts the Pinyin system, except when it comes to words that are more popularly recognised in Wade-Giles transcriptions in the English-speaking world. Examples include Sun Yat-sen, Chiang Kai-shek, Li Po, Tu Fu, Hong Kong, Macau, Taipei, etc. This thesis also adopts Wade-Giles words which people and organisations have been using to call themselves. Examples include Tu Wei-ming, Shih Chih-yu, Tzu Chi, etc.

The author understands that traditional form of Chinese characters (fantizi) has been the chief carrier of classical Chinese conceptions for millennia. It sounds completely reasonable to use traditional characters in any rigorous study of classical Chinese texts. Nevertheless, this thesis is primarily a study on contemporary Chinese IR, which scholars in the field apply simplified characters more commonly than traditional characters. For the sake of consistency, the author has adopted only the simplified Chinese characters (jiantizi) in the hope that a wide range of readers may find the thesis convenient to read and to understand.
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<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>AJIL</td>
<td>American Journal of International Law</td>
</tr>
<tr>
<td>ASEAN</td>
<td>Association of Southeast Asian Nations</td>
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<tr>
<td>AU</td>
<td>African Union</td>
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<tr>
<td>BICC</td>
<td>British Inter-University China Centre</td>
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<tr>
<td>BRICS</td>
<td>Brazil, Russia, India, China, South Africa</td>
</tr>
<tr>
<td>CASS</td>
<td>Chinese Academy of Social Sciences</td>
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<tr>
<td>CIIS</td>
<td>China Institute of International Studies</td>
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<tr>
<td>CIPT</td>
<td>Comparative international political theory/thought</td>
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<tr>
<td>CMC</td>
<td>Central Military Committee</td>
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<tr>
<td>CPC</td>
<td>Communist Party of China</td>
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<tr>
<td>CPPCG</td>
<td>Convention on the Prevention and Punishment of the Crime of Genocide</td>
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<tr>
<td>CPT</td>
<td>Comparative political thought</td>
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<tr>
<td>EU</td>
<td>European Union</td>
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<tr>
<td>FASLG</td>
<td>Foreign Affairs Small Leading Group</td>
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<tr>
<td>ICC</td>
<td>International Criminal Court</td>
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<tr>
<td>ICCPR</td>
<td>International Covenant on Civil and Political Rights</td>
</tr>
<tr>
<td>ICJ</td>
<td>International Court of Justice</td>
</tr>
<tr>
<td>ICTY</td>
<td>International Criminal Tribunal for the former Yugoslavia</td>
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<tr>
<td>IGO</td>
<td>Intergovernmental organisations</td>
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<tr>
<td>IHL</td>
<td>International humanitarian law</td>
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<tr>
<td>ILC</td>
<td>International Law Commission</td>
</tr>
<tr>
<td>IMTFE</td>
<td>International Military Tribunal for the Far East</td>
</tr>
<tr>
<td>IPT</td>
<td>International political theory</td>
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<tr>
<td>IR</td>
<td>International Relations</td>
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<tr>
<td>IS</td>
<td>Islamic State of Iraq and the Levant</td>
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<tr>
<td>KACIR</td>
<td>Knowledge Archaeology of Chinese International Relations</td>
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<tr>
<td>KLP</td>
<td>Keeping low profile</td>
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<tr>
<td>Acronym</td>
<td>Full Form</td>
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<tr>
<td>KMT</td>
<td>Kuomintang</td>
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<tr>
<td>MFA</td>
<td>Ministry of Foreign Affairs</td>
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<td>MND</td>
<td>Ministry of National Defense</td>
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<tr>
<td>NATO</td>
<td>North Atlantic Treaty Organisation</td>
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<tr>
<td>NGO</td>
<td>Non-governmental organisation</td>
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<tr>
<td>NTC</td>
<td>National Transitional Council</td>
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<tr>
<td>OMFAAC</td>
<td>Office for the Management of the Affairs of All Foreign Countries</td>
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<tr>
<td>P5</td>
<td>Permanent Five (at the United Nations Security Council)</td>
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<tr>
<td>PLA</td>
<td>People’s Liberation Army</td>
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<tr>
<td>PRC</td>
<td>People’s Republic of China</td>
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<tr>
<td>R2P</td>
<td>Responsibility to Protect</td>
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<tr>
<td>ROC</td>
<td>Republic of China</td>
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<tr>
<td>RP</td>
<td>Responsible Protection</td>
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<tr>
<td>RWP</td>
<td>Responsibility while Protecting</td>
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<tr>
<td>SFA</td>
<td>Striving for achievement</td>
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<tr>
<td>TWAIL</td>
<td>Third World Approaches to International Law</td>
</tr>
<tr>
<td>UDHR</td>
<td>Universal Declaration of Human Rights</td>
</tr>
<tr>
<td>UK</td>
<td>United Kingdom</td>
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<tr>
<td>UN</td>
<td>United Nations</td>
</tr>
<tr>
<td>UNGA</td>
<td>United Nations General Assembly</td>
</tr>
<tr>
<td>UNSC</td>
<td>United Nations Security Council</td>
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<tr>
<td>US</td>
<td>United States of America</td>
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<tr>
<td>USSR</td>
<td>Union of Soviet Socialist Republic</td>
</tr>
<tr>
<td>WMD</td>
<td>Weapons of Mass Destruction</td>
</tr>
</tbody>
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7.1: Two ways of looking at contemporary IR by using the Pre-Qin resources
Epigraph

It may be difficult to understand what is said in a foreign or ancient language, but it is still more difficult to let something be said to us even if we understand what is said right away … We cannot understand without wanting to understand, that is, without wanting to let something be said … For what is said is not something that presents itself as a kind of content of judgment, in the logical form of a judgment. Rather, it is what we want to say and what we will allow to be said to us. Understanding does not occur when we try to intercept what someone wants to say to us by claiming we already know it.

- Hans-Georg Gadamer (1900-2002)†

[The] endeavour to understand is the primary and the sole basis of virtue.

- Baruch Spinoza (1632-1677)‡

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† Gadamer, 1976, pp. 129-130.
‡ Spinoza, 2000, p. 244.
CHAPTER ONE
Introduction: Thesis Framework

I. The Research Problem

Humanitarian intervention and the subsequently derived norm of the responsibility to protect (R2P)\(^1\) have been increasingly contested topics in international politics since the 1990s. At the heart of the contention are the problems of legitimacy and legality—on what ground is it moral and legal for sovereign states and/or internationally authorised agents to threaten and to use military force within the territory of another sovereign state or non-sovereign entity for the purpose of protecting human rights and upholding humanitarian values? The People’s Republic of China (PRC), a rising great power, is one of the Permanent Five (P5) members of the United Nations Security Council (UNSC) that can veto any draft resolution on the use of force. The conceptual divergence between the PRC’s declared doctrine of non-interventionism and Western norms of liberal internationalism has contributed to diplomatic deadlocks at the UNSC in responding to humanitarian crisis and mass atrocities such as crimes against humanity, war crimes, genocide and ethnic cleansing. As a consequence, more lives have been lost or put at risk by the UN’s inaction or slow action. This thesis aims to investigate whether it is possible to reconcile or to reduce such divergence from a theoretical perspective.

\(^1\) “R to P” is another commonly used abbreviation for the “responsibility to protect.” Considering the need for consistency, this thesis will apply “R2P” only.
The core research question of this thesis asks: How is it possible to reconcile or to reduce the Sino-liberal Western conceptual divergence in humanitarian intervention and R2P by assessing the PRC’s doctrine of non-interventionism in light of comparison with classical Chinese conceptions of the *jus ad bellum*? Instead of following the nearly fully-excavated path of analysing the post-1949 roots of the PRC’s non-interventionism—proclaimed and exercised by the Communist Party of China (CPC), the State Council and the People’s Liberation Army (PLA)—this thesis concentrates on a careful examination of classical Chinese conceptions that are akin to Western principles of the *jus ad bellum*. The core research question is to be answered by way of seeking answers to the following three sub-questions: (Q1) What are classical Chinese conceptions of the *jus ad bellum*? How can they be applied to contemporary Chinese international relations (IR)? (Q2) How may *The Chronicle of Zuo* and the two Confucian texts of philosophy be interpreted to shed light on the legitimacy and legality of the use of force for humanitarian purposes? (Q3) Why is it difficult for the classical Chinese conceptions of the *jus ad bellum*, as understood in selected classical Chinese texts, to be developed into an innovative norm or principle of humanitarian intervention and R2P that is compatible to liberal internationalism? What is the solution?

Based on the substantial findings of recently flourished academic debates and publications on the reassessment and adoption of classical Chinese conceptions for the innovation of Chinese foreign relations thoughts, this thesis applies a summarised, self-coined methodology of “Knowledge Archaeology of Chinese International Relations”

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2 This thesis does not claim to be a work of post-structuralism. It does not systematically apply Michel Foucault’s idea of Archaeology of Knowledge (*L’archéologie du savoir*). However, the coinage of the term “Knowledge Archaeology of Chinese IR” somehow hints the author’s anti-foundationalist stance of ontology.
(KACIR) to analyse *The Chronicle of Zuo* (*Zuo Zhuan* 左传; aka *Zuo’s Interpretation of Chunqiu, Chunqiu Zuoshizhuan* 春秋左氏传), one of China’s most significant and earliest works of narrative history, and two Confucian texts of philosophy from the pre-Qin era (771-221 B.C.)—a period that demonstrates features comparable to those of modern system of states and international legal order—to see how these texts shed light on the legitimacy-legality *problematique* in the use of force for humanitarian purposes. There are some close parallels and overlaps between liberal internationalist norms and classical Chinese conceptions of the *jus ad bellum* that are embodied in the classical texts. These parallels and overlaps could be analysed, summarised and developed into a foundation for the construction of an innovative Chinese norm or principle of humanitarian intervention and R2P that appears more acceptable than what the PRC sees as “Western-imposed standards” but is still compatible with liberal internationalism.

This thesis takes the investigation into a deeper level. Westphalian principles of sovereign equality, territorial integrity, self-determination and mutual non-interference are not the only factors that have shaped the PRC’s non-interventionism—the doctrine has an indigenous origin in the intellectual history of China. It can be traced back to the Western Han dynasty’s application of fundamentalist 3 hermeneutics to pre-Qin Confucian classics and the construction of Confucian-Legalist grand narrative of orthodoxy (*zhengtong* 正统), which has been steering the cognitive mapping of the three dimensions of international ethics—cosmology; worldview; positive/negative state responsibility—presented through classical texts for two millennia. For this reason, this thesis proposes an emancipation of

3 The word “fundamentalist” is borrowed here to refer to a demand for strict adherence to the official Confucian-Legalist doctrine, which has been prevailing as a feature of the autocratic tradition of Chinese politics (Fu, 1993) from Western Han dynasty (206 B.C.-9 A.D.) till today’s PRC. This thesis has no intention to denote the word’s meaning to fundamentalism discussed in Theology, Religious Studies and Economics.
hermeneutics. It hypothesises: It is possible to reconcile or to reduce the Sino-liberal Western conceptual divergence in the use of force for humanitarian purposes by applying KACIR (the methodology) appropriately in the study of classical Chinese conceptions of the *jus ad bellum*—that is, to replace fundamentalist hermeneutics with a reinvented cosmopolitan hermeneutics. A reinvented Chinese cosmopolitanism is the key in the seven-step solution for the conundrum set by the PRC’s non-interventionism and liberal internationalism (Table 1).

<table>
<thead>
<tr>
<th>Step order</th>
<th>Function/Role</th>
<th>Description</th>
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<tbody>
<tr>
<td><strong>First</strong></td>
<td>The conundrum</td>
<td>The research problem is posed.</td>
</tr>
<tr>
<td><strong>Second</strong></td>
<td>The prelude</td>
<td>The need to turn to a “Third Way solution”—the classical Chinese <em>jus ad bellum</em>—is justified; limitation of its current studies is discussed.</td>
</tr>
<tr>
<td><strong>Third</strong></td>
<td>The foundation of solution</td>
<td>Getting focused: Selection of classical Chinese texts is justified. Close parallels and overlaps are found between liberal internationalist norms and classical Chinese conceptions of the <em>jus ad bellum</em> that are embodied in selected classical Chinese texts.</td>
</tr>
<tr>
<td><strong>Fourth</strong></td>
<td>The main obstacle to solution</td>
<td>The problem of hermeneutics in the methodology of KACIR is discussed.</td>
</tr>
<tr>
<td><strong>Fifth</strong></td>
<td>The key for solution</td>
<td>A reinvented cosmopolitan hermeneutics is applied to the interpretation of selected classical Chinese texts.</td>
</tr>
<tr>
<td><strong>Sixth</strong></td>
<td>The creation of new discourse</td>
<td>The construction of an innovative Chinese norm or principle of humanitarian intervention and R2P that appears more acceptable than what the PRC views as “Western-imposed standards” but is still compatible with liberal internationalism.</td>
</tr>
<tr>
<td><strong>Seventh</strong></td>
<td>The conundrum is solved</td>
<td>The Sino-liberal Western conceptual divergence in the use of force for humanitarian purposes is reconciled or reduced.</td>
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Table 1.1: Seven-step solution to the research problem
The Three-component Model

The sophisticated networks of elements presented in this research can always be reduced to a three-component model. The prototype is shown in Figure 1.1. It demonstrates the basic dynamics within the discussion of the use of classical Chinese resources for Chinese soft power (particularly normative discursive power) building in the background of the PRC as a rising great power vis-à-vis a challenged contemporary West that is hospitable and/or hostile to such rise. Classical China is the resource. It is up to the PRC and contemporary West how to utilise it (that is, to interpret and to give meaning to the texts) for their interests. They may explore classical China by themselves; they may cooperate in their exploration as well. It is intellectually intriguing to observe and to analyse different combinations of alignment between two components opposing the remaining one; though it is rather unlikely the PRC and contemporary West will cooperate in working against classical China.

Conundrums are observed in two pairs of relations: firstly between the PRC and contemporary West, on issues such as the cultural relativist-universalist debate on human
rights; secondly between the PRC and classical China, on issues such as the tradition and modernity (*chuantong*—*xiandai* 传统—现代) debate. The former is international; the latter domestic. Generally, there has been not much trouble between contemporary West and classical China. In such triangular structure, the PRC cannot free itself from being the (or part of) the puzzle; classical China provides raw resources for solution. How about contemporary West? Since the Self-Strengthening Movement (c 1861-1895), the difficult relations between modern and pre-modern China has given the West a special and flexible role to play (but it was also the West which stirred up the modern-pre-modern dispute in China). The relations between contemporary West and classical China are fascinating because today the West no longer functions only as the rigid role model of modernity, but increasingly a postmodern facilitator that is gradually able to understand, to accept, to absorb and to reinvent elements taken from an Other, such as classical China. It is the mutual visits between the pre-modern China and the postmodern West that fascinates us.

This thesis has no intention to arrogantly argue a domestic issue in the PRC is best to be solved by a Western interpretation of Chinese classics. Rather, it insists for any issues that involve the PRC and nations and people other than the PRC, it is inevitable to draw references from the West because many of our current global norms, values, rules, regulations and institutions have been built upon and maintained by that modern foundation which has a Western—largely European—origin. The making of new norms and principles from indigenous Chinese conceptions must build on the foundation of modernity and globalisation (Lee, 2013a, p. 481).

The relations among the PRC, classical China, and contemporary West can be understood as the conundrum, the solution resource provider, and the facilitator. When it comes to humanitarian intervention and R2P, however, the situation is more complicated because the conundrum is co-formed by the PRC and contemporary West. The creation of a new Chinese norm or principle can neither rely solely on the use of Western lens, nor by
applying Chinese exceptionalism. How classical China should be interpreted by contemporary China for a global—not domestic—audience is now an imminent challenge before us. Figure 1.2 shows an overview of this research in the structure of the three-component model. The core research question corresponds with sequence number 1, which is marked “Conceptual divergence: the conundrum.” Sub-question 1, which deals with the ontology of classical Chinese conceptions of the *jus ad bellum* and methodology, corresponds with sequence number 2. Sub-question 2, which searches for parallels and overlaps between liberal international norms and classical Chinese conceptions of the *jus ad bellum* embodied in selected classical texts, corresponds with sequence number 3. Sub-question 3, which refers to the problem of hermeneutics and the construction of an innovative Chinese norm or principle of humanitarian intervention and R2P, corresponds with sequence number 4.
Classical Chinese conceptions of the *jus ad bellum*

- Methodology: recent debates and publications on the reassessment and adoption of classical Chinese conceptions for thoughts in Chinese IR; Knowledge Archaeology of Chinese IR (KACIR); problem of hermeneutics

- Feasibility of developing and incorporating indigenous Chinese conceptions of the *jus ad bellum* for the construction of an innovative norms or principle which may appear more acceptable than what the PRC views as “Western-imposed standards,” but is still compatible with liberal internationalism.

Diagram key:

- Interrelations among three major components of this thesis
- Final steps to solution
- General order of discussion

Figure 1.2: Diagramatic overview of this thesis
The Scope of Analysis, Some Conceptual and Definition Problems

This thesis is by nature a multidisciplinary research. It anchors in Chinese IR. It puts international ethics (international political theory and military ethics) and public international law (the law of the use of force and comparative jurisprudence) in the context of Chinese Studies/China Studies. Humanitarian intervention and R2P are common topics in IR, but the author tends not to categorise this thesis as a work solely of IR. The heavy focus on the PRC and its relations with classical China indicate the Area Studies (East Asian Studies/Chinese Studies/China Studies) character of the thesis. This thesis inevitably has a touch on classical Chinese philosophy and Sinology (the study of classical Chinese texts) in the data analysis section, but these fields are not the focus of the research. Rather, it requires a critical examination on the intellectual history of China. The thesis also involves in East-West comparative studies, which has guided the thesis in its discussions of the *jus ad bellum*; humanitarian intervention and R2P; the legitimacy-legality *problematique*; the search for solution to the conundrum that is co-formed by the PRC’s doctrine and liberal internationalism (Figure 1.3).

Figure 1.3: Positioning this thesis among academic fields

- The legitimacy-legality *problematique* (Chinese perspective on)
- Humanitarian intervention and R2P (Chinese perspective on)
- The Classical Chinese *jus ad bellum*
- International ethics; public international law; intellectual history in the context of Chinese Studies/China Studies
- Chinese International Relations
This thesis focuses on theoretical rather than policy discussions of humanitarian intervention and R2P. It focuses on norms, values, principles and doctrines of interventionism and non-interventionism. Instead of offering policy analysis and suggestions, this thesis attempts to prove theoretically there is a possibility for the PRC and the liberal West to share a common ground in humanitarian intervention and R2P. This thesis does not prove links and connections between classical Chinese conceptions of the *jus ad bellum* and the PRC’s non-intervention policy and international behaviour. It does not prove how the classical conceptions have shaped and influenced the PRC’s policy and international behaviour. It does not make judgmental comparison between the two. It does not intend to offer policy prescription to the PRC’s authorities.

This thesis does not focus on the *jus in bello* (the limits to acceptable wartime conduct) and the *jus post bellum* (the justice after war). The *jus in bello* traditionally is absent in the political and military thought in China before the introduction of international humanitarian law (IHL) from the West (Graff, 2010, p. 196). The PRC is a latecomer as well in learning about the *jus post bellum*. IHL, international criminal law and the corresponding institutions such as the International Criminal Court (ICC) are not covered in great detail except in some discussions regarding the *jus post bellum’s* essential meaning to the *jus ad bellum*.

Since debates and even operations in humanitarian intervention and R2P are ongoing, there is a need to set a timeframe for all discussions. This thesis draws references, wherever the analysis demands, from the period between the end of the Cold War (1991) and the Crimean Crisis (2014). Any debates and events that took and will take place after July 2014 are not included.

Last but not least, the author would like to make it clear despite the fact that this thesis applies liberal internationalism as lens to examine classical Chinese conceptions of the *jus ad bellum* found in selected classical texts, the main intention is not to make a liberal internationalist critique on the PRC’s doctrine of non-interventionism—or worse, to
indoctrinate the PRC with Western teachings. The author rather demonstrates, from a hybrid (Western-Chinese) cosmopolitan perspective, an intellectual and moral discontent of the PRC’s self-restricted view of/stance on international ethics: an overemphasis on monism; unity; uniformity; monolith/linearity; exceptionalism; exclusionism; isolationism; positive state responsibility over pluralism; diversity; differences; fluidity; global/world engagement; negative state responsibility. This thesis does not aim to argue for liberal interventionism (non-interventionist’s word for liberal internationalism), but to propose there is a better way for the PRC to deal with the liberal West when the discussion comes to the suffering of the Other, the foreign, and the strangers. It has to do with a transformation in terms of value and stance in international ethics.

There are some important concepts and key terms that require clear definitions and explanation:

(a) On doctrine, theory and policy

A doctrine is neither a theory nor a policy, but it certainly shares some features of a theory and a policy. This is best explained by Roger Scruton (2007):

 Literally ‘teaching,’ the term ‘doctrine’ has been transferred from religious to political usage to denote any attempt to give system or coherence to political ideals and practice … It is to be distinguished from the theory which explains doctrine (if there be such), and also from the policy which puts it into practice, since it aims to provide a set of reasoned beliefs and attitudes, that will recommend itself through its own intrinsic qualities, and not because it is in anybody’s interest either to believe or to act as though he believed it (p. 190).

This thesis examines the PRC’s doctrine (in Scruton’s words, a set of reasoned beliefs and
attitudes, which are not necessarily tested and justified) of non-interventionism; while it strives to construct a norm or principle that may lead to the creation of a Chinese discourse and/or theory—not a doctrine—of humanitarian intervention and R2P. As Scruton argues, an opposition to a doctrine sometimes has a doctrinal character in itself—“an absolute truth about the human condition of universal application” (Ibid.). This thesis has no intention to take its stance to a dogmatic extreme, but to discover and to suggest new guidelines and recommendations of solving the Sino-liberal Western conundrum.

Scruton’s definition fits the theoretical approach adopted by this thesis. The meaning of the word “doctrine” has undergone some transformation in the past two decades. It has shifted from a more policy-oriented definition to a more neutral position that leans towards the theoretical side. The author is aware of the earlier definitions, though he found them too nostalgic with the Cold War mentality, thus look obsolete and not as relevant and useful as Scruton’s definition. Jay M. Shafritz, Phil Williams and Ronald S. Calinger (1993) defines doctrine as “a legal principle or rule”; “a foreign policy, such as the Brezhnev Doctrine, Carter Doctrine, Eisenhower Doctrine, Monroe Doctrine, Nixon Doctrine, Reagan Doctrine,

4 Heywood (2000) explains a discourse is “a specialist system of knowledge embodied in a particular language, a kind of mind-set that structures understanding and behaviour” (p. 87). Drawing reference from Michel Foucault, Heywood argues, “truth” is always a social construct (Ibid.). The author of this thesis is curious, though, which language (Chinese, English or other languages) should be used to create a new Chinese discourse on humanitarian intervention and R2P. How “Chinese” will the discourse be when the communist Chinese language is used? Will the discourse be more compatible with global norms when the English language is used? How much should modern Chinese be involved? How much should classical Chinese be involved? Should voices from Hong Kong, Macau, Taiwan and overseas Chinese be included or excluded? Why?

5 The difference between a doctrine and a dogma is, though, the former is systematic, the latter is ultimate (Ibid., p. 191).
or Truman Doctrine”; “the principles by which military leaders guide their actions in support of their goals” (pp. 225-226). William Safire (1993) defines doctrine as “policies that have hardened with acceptance” (p. 189).

Andrew Heywood (2000) defines theory as “anything from a plan to a piece of abstract knowledge … [an] explanatory proposition, an idea or set of ideas that in some way seeks to impose order or meaning upon phenomena” (p. 98). The processes of systematising classical Chinese conceptions of the *jus ad bellum*; the methodology of KACIR; a reinvented cosmopolitan hermeneutics can all be considered as effort made to impose order or meaning upon scattered intellectual pieces found in both classical texts and contemporary thought in Chinese IR, which makes this thesis a theoretical rather than a policy study. During the process of systematisation, norms and principles are discovered, reorganised and reinvented, which in return contribute to the completion of theory creation. “Norm” refers to “an ambiguous term, which can mean either that which is normal, or that which is normative, i.e. required, say, by an ideal, a standard, or a moral code” (Scruton, 2007, p. 482). “Principle,” according to *The Oxford Advanced Learner’s Dictionary* (Principle, 2014), is “a moral rule or a strong belief that influences your actions”; “a law, a rule or a theory that something is based on”; “a belief that is accepted as a reason for acting or thinking in a particular way”; “a general or scientific law that explains how something works or why something happens.”

The word “policy” derives from the Greek word “πολιτεία” (*politeia*), which means

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6 It is defined as “an understanding or a belief of what something is or what something should be” by *The Oxford Advanced Learner’s Dictionary* (Conception, 2014).

7 “Political thought includes the theories through which people attempt to explain each other’s political behaviour, the values by which they judge it, and the mechanisms (such as law) whereby they attempt to control it” (Scruton, 2007, p. 533). According to Scruton, “political thought” also refers to political theory and political philosophy (Ibid., pp. 533-534).
government. It is “the general principles which guide the making of laws, administration, and executive acts of government in domestic and international affairs” (Scruton, 2007, p. 529); “a plan of action adopted by, for example, an individual, group, business or government” (Heywood, 2000, p. 31). Policy-making implies formal decisions made; official sanction given to a particular course of action (Ibid.). According to Heywood, a policy has three levels: intentions, actions and results. The intentions level looks closest to doctrine, as “policy is reflected in the stance of government—what government says that it will do” (Ibid.).

If there is still any uncertainty whether “doctrine is policy,” Scruton’s explanation may help to clarify: “Policy has to be distinguished from doctrine—the system of beliefs and values which generate policy, and which purport to describe the ends to which policy is the means—and from philosophy, the underlying justification given for doctrine and policy together” (Scruton, 2007, p. 529). This explanation echoes with the definition given by *The Oxford Advanced Learner’s Dictionary* (2014): “[A doctrine is] a belief or set of beliefs held and taught by a Church, a political party, etc.”

(b) On humanitarian intervention and R2P

This thesis takes a narrow definition of the concept “intervention.” It focuses on the military aspect of intervention; therefore it excludes discussions of economic sanction and embargo, which can be imposed by sovereign states and international agents such as the UNSC. This thesis defines “humanitarian intervention” as the threat or use of force (that is, military operation) by sovereign states and/or internationally authorised agents within the territory of another sovereign state or non-sovereign entity for the purpose of protecting human rights and upholding humanitarian values. Instead of arbitrarily identifying intervention with neo-liberal and neo-colonial infiltration of “Western interests” (such as
liberal democracy promotion), this thesis focuses on intervention as a response to the more universally recognised mass atrocities, in particular crimes against humanity and genocide—two categories of crimes punishable under international law as stated in: first, the Nuremberg Principles, alongside crimes against peace and war crimes (Cassese, 2006, pp. 735-749); second, The Convention on the Prevention and Punishment of the Crime of Genocide (CPPCG, 1948); third, The Rome Statute of the International Criminal Court (1998).

This thesis believes so far there has been no humanitarian intervention operated by the PRC. The PRC’s military intervention and/or arms supply in the Korean Peninsula (1950-53); the Congo, Angola and Latin America (1950s-70s); Khmer Rouge and Vietnam (1970s-80s) were not for humanitarian and human rights purposes, but actions of guoji zhuyi 国际主义 (proletarian internationalism). In fact, the PRC’s patronage of Khmer Rouge behind the genocide of 1.5 to 3 million populations has made it embarrassing in front of international criminal justice.

The discussion in this thesis does not include peacekeeping operations, which the PRC has been increasingly active in its participation. The reason is: this thesis intends to concentrate on the most controversial aspect of intervention. Humanitarian intervention, as well as the third pillar of R2P 9, is morally and legally more contested compared to peacekeeping operations because of the coerciveness involved and actions taken against a

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8 This is not only a kind of escapist scepticism, but also moral nihilism. Many of the anti-intervention arguments provide no constructive solutions to the problems of mass atrocities, but only to cynically criticise whatever proposals based on negative state responsibility.

9 This refers to the “last resort” principle as stated in R2P: “The responsibility to react—with military coercion—can only be justified when the responsibility to prevent has been fully discharged” (ICISS, 2001, p. 36).
sovereign state’s or a non-sovereign entity’s will and without permission. Humanitarian intervention is commonly defined as the use of coercive force without the consent of the party being intervened (Holzgrefe, 2005, p. 18; ICISS, 2001, p. 8; Roberts, 2000, p. 5). It also involves the much disputed interpretation of and the authorisation given by Chapter VII of the UN Charter. The use of force, even for humanitarian purposes, could be considered as a kind of aggression, which may lead to accusation of crimes against peace and breach of international law. This is where the thesis locates the term “humanitarian intervention.” The only unresolved cases are proxy war and arm sells. They have weaker humanitarian purposes but are definitely military by nature.

(c) On the Chinese *jus ad bellum*

Apparent as its Latin presence, the *jus ad bellum* is a Roman-Medieval construct. The term does not have an origin in China but there are Chinese indigenous conceptions that are akin to components of the *jus ad bellum*—in which corresponding features can be found. Since this thesis borrows Western principles and norms as lens to examine classical Chinese conceptions, the term “*jus ad bellum*” is applied to describe classical Chinese conceptions. That is why “The *jus ad bellum* in China” and “The Chinese *jus ad bellum*” are used. It is worth to mention though, in history, the West has a more systematic way of categorisation for the analysis in war ethics. The *jus ad bellum* is one of the three components in just war doctrine / theory, alongside the *jus in bello* and the *jus post bellum*. However, in the Chinese language, *zhengyi zhanzheng* 正义战争 (just war and righteous war) and its acronym *yizhan* 义战 (also just war and righteous war) are used to describe both “just war” and “the *jus ad bellum*.” The current literature has shown that the *jus in bello* and the *just post bellum* are absent in the Chinese tradition.
“Liberal interventionism” is another word for liberal internationalism. Why has this thesis adopted the latter word but not the former? The reason is: This thesis does not place itself in a position of criticising liberal internationalism. Instead, it appreciates negative state responsibility and cosmopolitan humanitarianism that are found in liberal internationalism—these are exactly what the PRC’s doctrine lacks. Liberalism as a theoretical and practical paradigm in international relations has secured hegemonic position at the beginning of the after-Cold War period. The collapse of the Union of the Soviet Socialist Republic (USSR) and its satellite regimes in Eastern Europe has been read widely as a triumph and return of liberalism in Western developed world. R. N. Gardner called it a “comeback” (Gardner, 1990); Francis Fukuyama called it “the end of history” (Fukuyama, 1989); G. John Ikenberry argues liberalism is “exceptionally in tune with the ‘global development processes’ which had finally swept it to the top and led to a liberal hegemony in the international system” (Ikenberry, 2006, p. 146). Although liberal internationalism has experienced some challenges and setbacks—particularly in neoliberal economics, democracy promotion and humanitarian intervention—it is still a main driving force in today’s international relations. The “missionary” character of liberal internationalist foreign policies, as Beate Jahn (2013, p. 13) puts it, is still highly-debated.

Liberal interventionism, on the other hand, denotes anti-intervention and even support for non-liberal and isolationist doctrines and/or regimes. Those who use “liberal interventionism” are the critics of liberal internationalism. Party-affiliated academics in the PRC have even replaced the word “liberal” (“ziyou” 自由) with “international” (“guoji” 国际) and “new” (“xin” 新), so it becomes “international interventionism” (“guoji ganshe zhuyi” 国际干涉主义) and “new interventionism” (“xin ganshe zhuyi” 新干涉主义). After all, “internationalism” has another connotation in the PRC—the equivalent in the Chinese
language “guojizhuyi” 国际主义 refers more to the Marxist-Leninist and Maoist idea of proletarian internationalism. In the Chinese context, it is quite impossible to bring “liberal” and “internationalism” together to form a term, because those two words do not agree with each other ideologically.

“Liberal internationalism” has a more precise meaning than catch-all terms such as “The West,” “liberal West” and “Western liberal states,” which the thesis has tried to refrain as much as possible from using. There are developed states in Western Europe, Australasia and North America that practice liberal democracy and uphold liberal values such as the rule of law, universal human rights, civil and political liberty, etc. However, it does not mean every state in these regions is all-time supportive to humanitarian intervention and R2P. The author of this thesis is aware of this issue:

Which Western doctrine(s) or policy(ies) are we referring to? Doctrines and policies can be different even if they are generated in the same state and by the administration. For example, Barack Obama’s policies on Libyan Arab Jamahiriya, Syrian Arab Republic and Mali look different from the Clinton doctrine as implemented in Kosovo and Somalia.

Which actor(s) are we referring to? Western states do not necessarily act as one force. Different Western governments respond differently to different intervention cases happening in different periods and places. France’s policy on the Libyan Civil War was different from the US’s; similarly, the UK’s policy on the Iraq War was different from Germany’s ... Non-governmental organizations (NGOs), civil society groups, human right lawyers, and state governments may have very different positions on intervention issues. How about inter-governmental organizations (IGOs)? Should they be taken as Western? The North Atlantic Treaty Organisation (NATO) looks more Western, but what about the UN? (Lee, 2013a, pp. 473-474)
To what extent is a dichotomy between “China” and “The West” legitimate? The author of this thesis argues that the use of “The West” is flawed. It is impossible for the PRC to distinguish itself from “The West” because it has already immersed itself in globalisation and modernisation. The world is to a large extent Western because it has been operated by sets of global norms, values, rules, regulations and institutions originated in the West (Ibid., p. 475). If the PRC is part of the world, then it must have Western genes in itself, so why making such dichotomy?

(e) On China / The PRC

This thesis avoids using the term “China” unless when it indicates the Chinese nation in an ethno-cultural sense or as a civilisation in a historical sense. “Classical China” and “pre-modern China” refer to China as a political entity, society and civilisation before the arrival of Western imperialism in the mid-nineteenth century. “Pre-imperial China” refers to pre-Qin era, since Qin dynasty was the first empire of China. The term “ancient China” is commonly used by historians, but for the sake of consistency, this thesis will use “classical China” instead.

“The PRC,” when discussed with the doctrine of non-interventionism, refers to the political regime established by the CPC on 1\textsuperscript{st} October 1949 in mainland China (now covering its sovereignty over Hong Kong and Macau). It includes the CPC (the Party, which includes the Foreign Affairs Small Leading Group, FASLG; the Central Politburo; the Central Military Committee, CMC); the State Council (the government, which includes the Ministry of Foreign Affairs, MFA; the Permanent Mission to the United Nations; the Ministry of National Defense, MND); the PLA (the military); the quasi-official interlocutors (the official and semi-official agencies and the media), also the intellectuals and academics who are affiliated with the regime. That is to say, what we refer to as “the PRC’s non-intervention
“doctrines” in this research is a stance hold by both the institutional bodies and some individuals, though not all individuals are non-interventionists.

This thesis does not include the Republic of China (ROC, in some cases aka Taiwan) in the definition of the PRC for two reasons. First, the Beijing government and the Taipei government are co-existing but separate Chinese regimes/political entities; second, these two regimes/political entities may have different stances on humanitarian intervention and R2P. The sovereignty issue across the Taiwan Strait is not the focus of this thesis.

II. The Poverty of Chinese Theory of International Ethics

Every research begins with a question or a puzzle. This thesis is not an exception, but it is also motivated by a sense of discontent. The author of this thesis is dissatisfied with the inefficacy of thoughts in Chinese IR in response to injustice that is observed abroad, particularly on the suffering of an Other (that is, the strangers). In the study of general IR, humanitarian intervention and R2P fall into the sub-category of international ethics and public international law. The conundrum posed in this thesis, if it was addressed by a Western-oriented approach, would inevitably draw references from international political theory (IPT) and the jurisprudence of the law of the use of force—heatedly debated fields in international ethics and public international law, but rather neglected areas in the study of

10 A Chinese theory of international ethics is different from a theory of Chinese international ethics. The former emphasises on the global character of the theory—it is dialogical and commensurable with other theories of international ethics, which share the same meta-interpretative sphere with the Chinese theory. The latter refers to an international ethics theory that is indigenously rooted in China, representing the Chinese point of view, but is not necessarily able to be understood by a global audience and/or applicable to a foreign context.
Chinese IR. The moral discontent is then further complicated by a puzzle: the rise of China as a great power has been widely discussed in the recent two decades. The PRC is also engaging deeper in global affairs by participating in different levels of global governance. China, being a civilisation that enjoys an extensive continuum of cultural heritage, is sophisticatedly rich in its philosophical resources. What distinguishes the tradition of Chinese philosophy from its Western counterpart is that the Chinese tradition (Confucian-defined) focuses heavily on ethics. Yet, when it comes to norm formation, intellectual debate and the practice of international ethics, the PRC is autistic—it is not able to express itself well in a language that is commonly understood in the international community, thus to form meaningful connections with the norms, principles and theories created by and discussed in other parts of the world.

The moral discontent and the intellectual puzzle prompt us to reflect on some ontological and epistemological questions: Is there a Chinese theory of international ethics? Is there a theory of Chinese international ethics? If yes, what is it? How do we know there is such a theory? What are the ways to get to understand it? Is it well-structured and systematic or is it a collection of loose philosophical notes? Is it self-sufficient or refutable? What are its strengths and weaknesses? If there is no such theory, why? Should there be a theory like this? Why is it important? To whom is it important? What sources should it base upon? How should those sources be interpreted? How should the theory be related to and/or connected to other sections of Chinese IR and Chinese Studies? Where should it position itself in the global discussion of international ethics and mainstream IR? How should the Chinese theory contrast itself with the Western theory? Do they have common grounds? Is a dialogue possible? What are the challenges?

A review and a reflection on international ethics are crucial to the following discussions of this thesis because humanitarian intervention and R2P are topics embedded in international ethics. It is also helpful to put the research problem into perspective by connecting
international ethics with Chinese IR and global governance. The study of Chinese IR has evolved drastically since the end of the Second World War in 1945 and the establishment of the PRC in 1949. The 1950s witnessed a shift from Sinology (the traditional, British-Continental European way of studying China) to Chinese Studies, which was arguably founded by the American historian John K. Fairbank with the Center for East Asian Research at Harvard University in 1955. Since then, much of the research on China was not only historical, but there also began the application of social sciences methods. The prevalence of the Cold War atmosphere and the hostility between the Communist and the Nationalist regime across the Taiwan Strait to a certain extent politicised the purpose and style of research in Chinese foreign relations and Chinese foreign policy. The PRC’s replacement of the ROC at the UN in 1971 and the subsequent détente with the US stimulated discussions on the PRC’s relations with international organisations. The most prominent researcher perhaps was Samuel S. Kim of Columbia University. His monograph titled *China, the United Nations and World Order* (1979) is the first systematic IR study on the PRC’s relations with the UN. Up till this time, “international ethics” was unheard in the Western study of Chinese Studies.

*The Origin of Moral Awareness in Chinese IR*

Ethics is the essential language for the underprivileged. It appears that international ethics, as an academic discipline, has never been openly debated and structurally established in China. However, a moral concern for international affairs can be observed since the mid-nineteenth century, when the international system was introduced to China by the threat of Western and Japanese scramble for concessions. In China, general international studies can be traced back to 1839, when Lin Zexu ordered scholars to translate certain parts of international law into the Chinese language just before the First Anglo-Chinese War (aka, the
First Opium War, 1839-1842) (Chan, 1997, p. 44). The moral concern for international affairs has been strongly tied with the historical memory of “a century of humiliation” (bainian guochi 百年国耻) and a sense of patriotic worrying (youhuan 忧患). To be worried about China, thus, is to be moral. International injustice, for more than a century’s time, is identified by the Chinese authority, the intelligentsia and the public with imperialist and colonial aggression. The value and psychology of such awareness is two-fold, first, it can be expressed as: “I don’t want to be bullied, and I don’t want to see the weak being bullied.” Second, it connotes a utopian dream of having an ultimate authority to do justice. The former implies a support to the equality among nations and races. It finds an echo in Confucius’s saying: “Do not impose on others what you yourself do not desire” (己所不欲,勿施于人) (XII. 2). The latter is rooted in a kind of Chinese romanticism that features a personified “heaven” who will do justice for the weak.

Liberal Internationalism in the Republican Era

The Chinese interpretation of international relations was in fact quite liberal internationalist during the 1930s and 1940s under Kuomintang (KMT)’s rule. The moral concern for international affairs, as mentioned above, was very strong. Diplomats and jurists such as Wellington V. K. Koo, Wang Chung-hui, Wei Tao-ming, Hu Shi h, and Alfred Sze Sao-ke received elitist education in the Western academia. They were familiar with liberal norms as well as the Machiavellian side of international politics. They were keen to promote international peace and collective security. They advocated for the establishment of a “world federation of states.”

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11 This refers to a powerful intergovernmental organisation, as mentioned in the Chinese proposal to the Dumbarton Oaks Conference in 1944 (Chu, 1981, p. 164).
including the air force directed under the guidance of the UNSC. Compulsory jurisdiction should be practised by the International Court of Justice (ICJ) on all UN members. The UNSC, according to the Chinese delegates, should take action to deal with members who do not comply with the ICJ’s verdicts. The delegates also advocated for the abolishment of veto power at the UNSC; or in case a permanent member involves in a dispute, its veto power should be suspended—this was opposed by the Soviet delegates who defended the Yalta Formula of great power veto. The Chinese delegates also argued more power should be assigned to small states of the developing world under trusteeship (Craft, 2004, pp. 172, 174-175, 178, 180, 190-192; Chu, 1981, pp. 161-164). Notably, the successful drafting of *The Universal Declaration of Human Rights* (UDHR) in 1948 has to do with Chang Pang-chun, the Vice-chairman of the original UN Commission on Human Rights. He played an indispensable role in moderating views of different nations during the consultation period of The UDHR. He also synthesised the Confucian values with Western liberal norms of liberty and rights.

Koo was perhaps the most liberal internationalist among his fellows. He argued China has the responsibility to “rescue the weak, save the fallen” (Craft, p. 148). He wanted to see “freedom restored to the small and weak countries in Asia and the world … China had a duty to the world for freedom and equality of all nations in Asia and the world” (Ibid.). In a speech given to the League of Nations in 1937, he expressed his one-world view on collective security: “Any situation in which armed hostilities are in progress or threatened is a situation in which the rights and interests of all nations are or may be affected” (Koo, 1937, p. 117). The American delegates thought their Chinese counterparts “placed too much faith in international law. [Their] principles were extremely idealistic. [They] desire to create an organization with teeth in it” (Craft, pp. 175-176 and 180). Indeed, Koo insisted the UN should be guided by international law so it will not degenerate into an instrument of power politics. Koo believed that “China had given a moral tone to the plan [of setting up the UN]
by basing [it] in deciding disputes upon justice and law” (Ibid., p. 181). He also called for the control and prohibition of all weapons of mass destruction (WMDs). An international cultural office should be set up to prevent war; to encourage friendship, cultural cooperation and peace (Ibid., p. 180). Koo has shown by example that it is possible to be patriotic and cosmopolitan at the same time.

On the question of the use of force, Koo demanded an explicit definition of aggression to be inserted in the *The Charter of the United Nations* (The UN Charter), so as to “facilitate swift action” by the UNSC when there is a need (Ibid., p. 178 and 180). He also presented an amendment in a proposal for the insertion in Chapter VII of the Charter, which was strongly opposed by the United States (US), the United Kingdom (UK) and the USSR:

> If any party to a dispute fails to comply with the judgement of the International Court of Justice, the Security Council may, upon application by the other party or parties concerned, take such action as it may deem necessary to give effect to the judgement (Chu, p. 166).

In the case of a non-UN member being involved in a dispute, Koo suggested an amendment to Chapter VIII that non-members should be required to accept the obligations of pacific settlement provided in the Charter for the purpose of dispute settlement. Provisional measure can be taken by the UNSC to maintain and to restore international peace and security (Ibid.).

*Proletariat Internationalism and the Demise of Liberal Internationalism*

Much of this history has been buried and forgotten since the Communists came to power. The PRC adopted a Marxist-Leninist and Maoist approach to international relations from its early days till the beginning of the Dengist reform in the late 1970s. Liberal internationalism, which shortly thrived during the 1930s and 1940s, was replaced by proletarian
internationalism. The ethics of international relations, during Mao Zedong’s rule, was centred around the Five Principles of Peaceful Co-existence (1954). It features independent diplomacy; altruistic assistance given to the Third World; a steadfast support of decolonisation and the non-alignment movement; anti-great power hegemony (including military intervention), and anti-Soviet revisionism. Different from the KMT elites’ high regard of the international rule of law, the Communists believed justice in international relations has to be done by the proletariats through class struggle and world revolution.\textsuperscript{12} They were supportive to wars of national liberation through a united front (Van Ness, 1970). However, both the KMT and the CPC inherited the anti-imperialist and anti-colonial psychology of worrying from the “century of humiliation.” They were willing to speak up for the small and weak states in the developing world when they were bullied by great powers. One could argue the PRC’s firm stance on Westphalian sovereignty principle in fact has an ethical foundation that can be traced back to 1839.

The Dengist era witnessed the PRC’s transformation from an ideology-oriented state to a pragmatic-realist state. IR became a separate academic discipline in the PRC. Since the 1980s, the development of IR in the PRC has gradually become open and pluralistic. In Gerald Chan’s word, this is “a kind of pluralism within a milder form of authoritarianism” (Chan, 1997, p. 60). In their 2001 research, Wang Jisi and Alastair I. Johnston identified nine topics of new interests to Chinese IR scholars, only human rights diplomacy is related to international ethics. A survey on publications in leading IR journals from 1996 to 2001 shows

\textsuperscript{12} The Chinese style of proletarian internationalism in fact was morally charismatic to some developing countries and rebel groups, especially during the Sino-Soviet split. For example, Ernesto (Che) Guevara was considered as fervently pro-China. He believed the PRC, not the USSR, was the model to be studied, because they were making a genuine effort to sacrifice themselves in order to realise Communism. Guevara “expressed great admiration for the long struggle of the Chinese people to take power” (Anderson, 1997, pp. 136 and 608).
11% of the publications are related to sovereignty and humanitarian interventions. Otherwise, nothing is related to international ethics. (Shambaugh, 2011, p. 345). Among the thirteen studies crowned with the phrase “with Chinese characteristics,” none of them has to do with international ethics (Chan, 1998, pp. 3-4). The same result is observed with the six principles that the Chinese scholars believed the Chinese study of IR should have (Ibid., pp. 7-8). None of the three major debates on IR theory took place in the PRC has a touch on international ethics (Qin, 2011). International ethics being an independent subject for discussion is also absent in many recent publications on Chinese IR theory and non-Western IR theory (Acharya & Buzan, 2007; Acharya & Buzan, 2010; Chen, 2011; Cunningham-Cross & Kristensen, 2014; Horsburgh, Nordin & Breslin, 2014; Noesselt, 2012; Qin, 2010; Song, 2010; Su, 2005; Wang, 2009).

The Inefficacy of the Chinese Idealism

Politically speaking, the Dengist and post-Dengist era are neither liberal nor proletarian, but nihilistically pragmatic. The process of internationalisation has been deepening, but the internationalness that the PRC embraces is the one without a soul. In a seminar organised by the Division of International Politics Theory, Institute of World Economics and Politics at Chinese Academy of Social Sciences (CASS), the author of this thesis observed an overwhelmingly majority of the government and Party-affiliated academics agreed that modern China may share similar political characteristics with post-revolutionary (post-1789) France more than any other country in the world. They argued modern China has been swinging between radical and conservative politics. The ideological frenzy during Mao’s time was followed by a vacuum of moral values. China is, according to their view, still searching a way to balance between realism and idealism (Lee, 2013d).

It is in such a context we may know why any attempt to revitalise the idealistic side of
the Chinese tradition for contemporary use may look politically impotent, if not futile. Some Chinese scholars highlight the role of the Chinese tradition plays in the construction of Chinese IR theory, but their findings are exclusively domestic rather than global. For example, Zhao Tingyang’s conception of Tianxia argues, a “world institution” that serves as the centre to control the world “is not democratically elected but is legitimated through its compliance with moral and ethical values” (Noesselt, 2012, p. 20). “The ethical justification of political governance is the representation of the general heart of peoples” (quoted in Wang, 2009, p. 112). How do we know if the indigenously derived moral values and norms from China are legitimate and authentic enough to represent the general hearts of the people around the world? Zhao has never directly addressed this problem. Qin Yaqing (2010) argues the Confucian ideal of “Lizhi” 礼治 (rule by rites) contains the logic of appropriateness, ethical codes and morality, which are similar to Martha Finnemore’s idea, but he gives no further explanation on how such comparison is justifiable (Qin, p. 42).

Navigating Pluralism through Authoritarianism

Since the late 1980s, heated debates have been observed on “the rise of China”; “China threat”; the construction of a Chinese school of IR theory; China and global governance. Again, international ethics was not on the agenda. Why? Samuel Kim offers a hint:

Chinese international relations scholars are confronted with the task of formulating an integrated theory that meets the multiple requirements of Marxism, Leninism, and Mao Zedong Thought, national identity (Chinese characteristics), and utility and moulding them to fit [their perceptions of] the realities of the changing world situation (quoted in Chan, 1999a, p. 8).

In the Chinese political tradition, academics always serve the interests of the ruling class.
Realism—not idealism, or idealist realism or pragmatic idealism—is heavily led by the state (Chan, 2008, p. 89). If the authority never tries to perceive the world not only from a state-centric, domestic angle, but also from an angle of the Other and/or of the globe, most of the intellectuals will not be able to think outside the box—that is, to look at IR from a non-PRC or even non-Chinese angle. Politically, this assumption may sound ridiculous; but intellectually, it is creative, innovative and even ethical. Everyone sees the world from his/her angle. True, but this should not restrict us to put ourselves in other’s shoes from time to time. Such demand has become urging because first, globalisation is accelerating; second, the PRC is integrating deeper into the international society; third, ethical issues have become increasingly pressing. For this reason, Kim’s “multiple requirements” should include two more elements: globalism and cosmopolitanism.

Western IR theories can be used by all IR scholars in the world to explain all phenomena in international relations. Their power lies in universality. A Chinese IR theory will be doomed to lose its global applicability if it is moulded to fit the CPC’s perceptions of the world. It cannot go far if it is only meant to be understood within the Chinese context. This is especially true when it comes to international ethics; even more true with global constitutionalism, because intersubjective communication has a bigger role to play. The evolution of Chinese IR research (see Table 1.2) shows us pluralistic dialogue and cross-perspective understandings are becoming increasingly important.13

13 Chapter 6 has a more detailed discussion on intersubjective communication, dialogue, and understanding with reference to Hans-Georg Gadamer’s theory of hermeneutics.
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<td>China and the international community; the shift from Sinology to Chinese Studies and East Asian Studies</td>
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<tr>
<td>2</td>
<td>Since late 1970s</td>
<td>China and international organizations</td>
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<td>3</td>
<td>Since late 1980s</td>
<td>The rise of China and China threat</td>
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<td>4</td>
<td>Since early 1990s</td>
<td>Chinese IR theory / Non-Western IR theory from East Asia</td>
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<td>6</td>
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<td>7</td>
<td>Forthcoming?</td>
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Table 1.2: Evolution of Chinese IR research

It is nothing new to argue rhetorically that knowledge innovation in Chinese IR should keep a balance between the protection of the PRC’s national interests and the support for world peace and justice. However, in reality, the Chinese authority’s core questions (hexin wenti 核心问题) are solely determined by core interests (hexin liyi 核心利益). National interests can easily rule out the idealistic side of thought in IR. Chan precisely points out: “the main characteristic of China’s global governance is its realpolitik position in dealing with world affairs” (Chan, 2008, p. 89). Is this going to be sustainable in a globalising world? While scholars in the West have started to shift their focus to the multidisciplinary study of human empathy, altruism, violence, and ways to overcome Euro-centrism (as self-adjusting mechanism) through the lens of moral psychology, evolutionary biology and global history,15

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14 “China” refers to the PRC.

a majority of scholars in the PRC are still delusionally believe realpolitik, Marxist-Leninism an ethnocentrism will triumph some day with the rise of the Chinese material power. It could be healthier if the Chinese study on Chinese IR can shift from what Chan called “closed pluralism” (Chan, 1998, p. 1) to open pluralism:

It is when non-Western practice (experience) meets Western theory that an outsider may become an insider and that a one-world conceptualisation may become a many-worlds conceptualisation.

IR theorising thus becomes more interesting and challenging (Chan, 1999a, p. 180).

Chan’s view may find an echo in Su Changhe’s (2005) emphasis on the importance of global intellectual history for the better development of Chinese IR. Su argues, political thoughts and a concern for the humanity are crucial in the understanding of international relations. Philosophy is indispensable for the development of Chinese IR, as well as the development of any international ethics theory (Su, 2005, p. 30).

International ethics is not a core question for the current PRC authority because it touches not its core interests. However, a few academics in the PRC have paid attention to that and published some meaningful researches. Shi Bin (2003) of Nanjing University has an article, which to a certain extent represents the Chinese academics’ view on international ethics. Shi agrees international ethics is a multidisciplinary and cutting-edge field (qianyan lingyu 前沿领域). It has close relations to Western political philosophy (Shi, 2003, p. 8). He suggests Chinese scholars should understand more about the Western discourses of international ethics, but they should also critique it from the perspective of the developing world, because there is a deep divergence in the political root; economic root; cultural root; international status; development level; value system, and focus in international relations between the developed and the developing world (Ibid., p. 13). Shi takes a typical Chinese stance of state-centrism and argues:
Justice among nations is an important step for going on to justice among races and world justice. Before justice among nations is achieved, global justice and world justice will still have a long way to go, if they are not totally delusional. It is impossible to understand the destiny of the world and the human race if the historical fate of modern nation-state is not fully understood (Ibid., p. 24).

Notably though, the Center for Ethics and International Affairs Studies at Shanghai University of International Studies has published a series of books titled Review of Ethics and International Affairs (Lunli yu guoji shiwu pinglun 伦理与国际事务评论). Joel H. Rosenthal, the President of the Carnegie Council for Ethics and International Affairs, is one of the board members of the book series. In “China RedisCOVERS Ethics in Foreign Policy” (2009), Harry Harding tells a journey that the Carnegie Council sent a small delegation to Beijing in late 2008 to “identify and discuss the ethical principles that guide China’s international conduct” (Harding, 2009). The delegation also wanted to find out the normative similarities and differences between the PRC and the US in ethical thinking. Some of their Chinese counterparts were sceptical about their intention; regarding such discussion was just another way for the Americans to pressure the PRC to comply with the US foreign policy preferences (Ibid.). Harding was told the Chinese are a pragmatic people who are uninterested in and indifference to abstract, impractical discussions of ethics and normative considerations. Many Chinese believe there is a fundamental incompatibility between thinking ethically and acting pragmatically. Ethical considerations are a kind of luxury reserved for rich and powerful countries (Ibid.). Nevertheless, Harding also observed:

[There was] a growing interest in reconstructing an ethical foundation for Chinese society, drawing not only on China’s past ethical traditions, but also on socialist norms and on Western
ethical norms … Both Westphalian and non-Westphalian norms can easily be justified. Each set reflects a powerful ethical tradition. But they produce very different approaches to today’s international problems … As they gradually develop a normative structure to guide their intentional behavior, Chinese leaders will therefore have to find a balance between the traditional Westphalian norms and the newer norms associated with a globalized world (Ibid.).

That said, though scepticism and pragmatism has been prevailing, there is always a hope in the future for the PRC to become more flexible. Deng Yuwen, the deputy editor of the Central Party School’s Study Times (Xuexi Shibao 学习时报), has made it clear: “If China wants to become a leader, and not just a follower of the international system, it needs to provide the world with an acceptable and universal set of values and doctrines and refine its reform experience into values and paradigms that can be reproduced and promoted throughout the world” (Wyne, 2014).

Empathy as Soft Power

Continuing with her quote of Deng, Wyne Ali, in “Some Thoughts on the Ethics of China’s Rise” (2014) argues, “one of the principles that China may find difficult to universalize is non-interference” (Ibid.). On such difficulty, Joseph S. Nye argues, “The soft power of a country rests primarily on three resources: its culture (in places where it is attractive to others), its political values (when it lives up to them at home and abroad), and its foreign policies (when they are seen as legitimate and having moral authority)” (Nye, 2013). Nye is right to highlight the attractiveness should be “to others”; the political values should work “abroad” but not just at home; legitimacy and moral authority are “to be seen.” In other words, whether a country is moral and powerful depends on how others perceive its thought and action, rather than depending on its subjective will of how it desires to be evaluated.
Nye is also right to argue the PRC’s problem is with the authority’s misconception of making the government and the Party the main instrument of soft power:

[Attention] depends on credibility. Government propaganda is rarely credible. The best propaganda is not propaganda … So the government has taken to promoting ancient cultural icons whom it thinks might have global appeal. But soft power doesn't work that way. As Pang Zhongying of Renmin University put it, it highlights “a poverty of thought” among Chinese leaders … All countries can gain from finding each other attractive. [China] will need to match words and deeds in their policies, be self-critical, and unleash the full talents of their civil societies (Ibid.).

Empathy is a kind of soft power. Being able to read from the Other’s perspective is also soft power. Emilian Kavalski (2013) argues the core issue for a normative power is not whether it is a normative power or not, but whether it is recognised as one by others (Kavalski, p. 247). Recognition is the result of socialisation and interaction among actors in international relations. Successful normative powers are those able to engage others in shared practices. Normative powers socialise target states by taking repeated deliberate interaction that features “we-doing” (Ibid., p. 262). A dialogical norm-building in a community of practice and a credible commitment to shared practices are crucial to the success (Ibid.). Socialisation has a role to play in the ethical aspect of China and global governance (See Figure 1.4).
Chinese soft power may then be a myth rather than a reality. The PRC has been reluctant in socialising itself in the global debate on international ethics. Western IPT scholars should not feel threatened, because the PRC’s “challenge” to the current global norms is a “non-ideological challenge” (Givens, 2011). There have been plenty of academic discussions on how to utilise classical Chinese resources, particularly the Confucian values, in global ethics. Most of these discussions are philosophical and religious, but not based on IR.

Summary

Why is it difficult for the PRC to develop a set of norms or principles of international ethics from its tradition that are compatible to the current global norms? Perhaps we should ask in the first place: For anything crowned with the phrase “Chinese characteristics,” is it exclusively for the PRC or the world? Or for both? (Lee, 2014) Our world is moving to a stage that better accommodates multi-identities: co-existing identities that are mutually inclusive and compatible. Norms and principles also have identities. They should not be seen as “either my way or your way.” The poverty of Chinese theory of international ethics can be summarised into six dimensions:

Figure 1.4: International ethics in relation to global governance and socialisation of states
(1) International ethics is value-laden. It may not be easy for the PRC, which is burdened by realist pragmatism, defensive nationalism and ethnocentrism, to understand and to be motivated to engage with open debate and management of international ethics, which are Western-oriented (See Figure 1.5).

(2) Chinese idealism and utopianism have been hijacked by Chinese Legalism (Fa jia 法家)\(^\text{16}\) and obstructed by populist pragmatism.

(3) The metaphysical foundation of such theory is weak. The pluralistic intellectual world of classical China has to be emancipated from monolithic hermeneutics. The Chinese tradition needs redefinition.

(4) China is marginalised by the Western academia in international ethics.

(5) The current discussion on international ethics in the Chinese academic sphere is underdeveloped, obscure and unsystematic. It is too self-referencing and self-contained. It lacks an international and global perspective (it is not even able to distinguish between “international,” “global,”\(^\text{17}\) and “world”). It becomes almost a footnote of the CPC’s interpretation of the Confucian ethics.

\(^{16}\) “Legalism” here has nothing to do with Western jurisprudence or theology. Instead, it is a school of thought originated from the pre-Qin era in the Chinese history. It emphasises the strict use of law by an autocracy. It is often identified with Machiavellianism and realpolitik in Western political philosophy.

\(^{17}\) “Global justice” is a term often interchangeably used with “international ethics” in the West. Since the study of ethics in Chinese IR has not been substantially constructed as a discipline, this thesis applies “international ethics” only for the purpose of consistency.
(6) Negative state responsibility is neglected and even ignored. Cosmopolitanism; universal reason; the rule of law; the natural law tradition; international criminal justice, and a self-critique mechanism—essentials in Western IPT—may appear too inconvenient to be openly debated in the PRC.

Global governance and international ethics are increasingly intertwined in today’s Western IR. In the PRC, however, a significant intellectual gap exists between Chinese IR and international ethics; also between China and global governance and international ethics. “China” as an increasingly popular keyword, has now entered almost every realm of IR. It is too important to miss in international ethics. In “Rethinking Global Governance: A China Model in the Making?” (2008), Lai-ha Chan, Pak K. Lee and Gerald Chan argue: “in order not to play the part of the villain in global politics, China has to either occupy the moral high ground by performing the role of norm entrepreneur or to follow in the West’s footsteps in understanding, making and enforcing new rules and principles” (Chan, Lee & Chan, 2008, p. 16). In humanitarian intervention and R2P, norm entrepreneurship has to do with the contemporary interpretation of the classical Chinese conceptions of the jus ad bellum. The reinvention of such moral norm or principle will only be possible with the application of a global, rather than narrow-minded (nationalistic and ethnocentric) hermeneutics to classical Chinese canons. In the era of globalisation, the usefulness of any discourse in IR depends on whether the language is comprehensible by a global audience (Lee, 2014).
III. Some Methodological Questions

In respect of methodology, let us begin with what this thesis is not about: This thesis is not a policy study. It does not focus on the relations between (classical) history and (contemporary) policy. It is not about how history facilitates the understanding of the PRC’s foreign policy. It is not about how Chinese foreign policy utilises Chinese history. It avoids using words such as “influenced” or “shaped” because it does not aim to test the rigid validity of an “A has influenced / has shaped B” hypothesis. That being said, this thesis neither tests nor proves any existing causal linkages between classical Chinese thoughts and contemporary Chinese foreign policy; but to put in front of its readers a comparative study, firstly, between classical Chinese conceptions of the *jus ad bellum* found in selected texts from pre-Qin era and their liberal internationalist counterparts; secondly, between the fundamentalist interpretations and the reinvented cosmopolitan interpretations of the texts. These two sets of comparison may yield innovative results for consequential discussions on how to reconcile or to reduce the conceptual divergence between the PRC’s doctrine and liberal internationalism.
Readers of this thesis should not assume the author intends to ask how pre-Qin history and philosophy have shaped contemporary Chinese foreign policy; or how it is possible to prove pre-Qin history is readily relevant to the PRC’s foreign policy-making on humanitarian intervention and R2P. This thesis reiterates it does not aim to rigidly prove or test any existing causal linkages between classical history and contemporary policy in the PRC.

It is intellectually difficult and risky to use history in the study of Politics and International Relations. The main challenge there is how to “scientifically” test, prove or hypothesise the causality and correlation between the two. The author of this thesis is aware of such danger. John K. Fairbank pointed it out early in his article “China’s Foreign Policy in Historical Perspective” (1969) that to see the link between China’s history and its foreign policy is “easy in theory, difficult in practice” (p. 449). One may assume that since China has had two millennia of foreign relations, its behaviour must have shown uniformities—attitudes, customs and, in effect, policies. However, the Chinese empire had no modern institutions such as a foreign office, dynastic records of foreign policy, etc. so it has seldom been pulled together and studied as an intelligible whole (Ibid.). Four decades after Fairbank has made this remark, specialisation in academic disciplines has made it even more difficult to link up history and policy. This thesis certainly does not want to fall prey to the kind of criticism that Samuel Kim made in a book review to William A. Callahan’s *China: The Pessoptimist Nation* (2010):

William Callahan joins the contentious China debates by offering an ambitious but deeply convoluted and flawed analysis of the links between identity and security in China … Callahan’s methodology is unabashedly anti-empirical. [Although] well-written, with a large dose of poetic license, the book is chock full of mind-boggling assertions with no empirical leg to stand—let alone walk—on (Kim, 2011, pp. 324-325).
What has Callahan done with his book? He asserts that historical relic continues to serve as a model “for both domestic and international affairs” (Callahan, 2010, pp. 21) and it continues to “frame key issues for the Chinese leadership in the twenty-first century” (Ibid., p. 45). He tries hard to show, by adopting the “identity politics produces security politics of Chinese foreign policy” argument, that there are historical continuities between the imperial China, the Republican China and the PRC. Kim rejects this view. He argues: “[The PRC] itself has shown no interest in recycling or reproducing the traditional Sinocentric hierarchical world order redux” (Kim, 2011, p. 324). He also complains that key government documents, Chinese foreign policy pronouncements, and Chinese foreign policy behaviours are absent in Callahan’s works (Ibid., p. 325).

The author of this thesis does not intend to emulate Callahan’s model, but he doubts whether it is possible to obtain access to key government documents, as favoured by Kim, because freedom of press and free flow of information are still restricted in the PRC. Samuel Kim himself is not even a member of the CPC. It is doubtful if he, being a harsh critic of Callahan’s methodology, might himself be able to dig out something empirically convincing from the black box—the Politburo and the FASLG of the CPC Central Committee. Moreover, foreign policy pronouncements in the PRC are preoccupied by official rhetoric. How much can we take at face value? If government documents and policy pronouncements are not reliable, what else can we do? More interestingly, one of Samuel Kim’s prominent works, China, the United Nations, and World Order (1979), begins with a whole chapter on “The Traditional Chinese Image of World Order,” which gives a vivid discussion of the tribute system in classical China. Did Kim forget his early work when he was criticising Callahan?

These debates are the landmines that litter the terrain of Chinese IR research. The author of this thesis is well aware of them. He is also aware of the fact that even if we were to accept that pre-Qin history and philosophy still play a role in shaping the PRC’s foreign policy of the early decades of the 21st century, the latter may be subject to more compelling influence of
complex networks of globalising politics. There are a number of independent variables, of
which history is only one of them, so researchers may need to address or pay attention to
them in accounting for the PRC’s behaviour. For those who are more liberal-minded, history
is only one of the components of understanding foreign policy but it is nevertheless a
crucially important component. In his book *The Mind of Empire: China's History and
Modern Foreign Relations* (2010), Christopher A. Ford attempts to speculate what we can
learn from China’s legacy:

While to describe the past is not to predict the future, one can, nonetheless, often learn a great
deal from it—putting contemporary issues into a richer context, providing a basis for better
understanding certain dynamics … refining one’s grasp of the range of more or less likely
future possibilities, and augmenting policymakers’ conceptual tool kit as they help the rest of
the world live out its complex engagement with a rising China (Ford, 2010, p. xii).

Nevertheless, this thesis has chosen the safest path: it tries to skilfully sidestep all the
intellectual landmines discussed above by not concentrating on policy. So what is this thesis
about?

The non-policy, non-practice, and non-empirical nature of this thesis indicates that the
thesis has a theoretical character. The author of this thesis argues the research questions of
this thesis are best to be answered by applying ontological anti-foundationalism /

18 The author of this thesis knows no third possible option. “Theory” and “practice”; “theoretical” and
“empirical”; “political theory” and “policy analysis” are commonly used binary opposites in Politics and
International Relations. If a research is not empirical, practice-oriented and policy-oriented, it must be
theoretical, *vice versa*.

19 Ontology refers to a person’s view about the nature of the social and political world. It asks whether there is a
constructivism (note: not constructivist IR theory). After all, the subject matter being debated between the PRC’s non-interventionism and liberal internationalism—the legitimacy-legality problematique—has no absolute, unconditional and objective truth for analysis. A conceptual divergence is a value-laden debate that involves contesting norms, principles, conceptions, and doctrines. The very nature of this thesis’s core research question is a normative, jurisprudential and socio-culture specific one, which requires no foundationalism—which brings in epistemological positivism (hence quantitative method) and epistemological realism (hence quantitative and qualitative methods). If there is a real solution that exists independently of human knowledge to the moral and legal conundrums of intervention, then no debate in IR and international law will be necessary anymore. To make it simple, the answer cannot be “scientific” because the question is non-scientific. A non-scientific question does not yield a scientific answer. That explains why the research design of this thesis has nothing to do with foundationalism, positivism, realism (epistemology), empiricism, logical positivism, and quantitative methods.

Instead, this research requires interpretivism (or hermeneutics) and its corresponding qualitative methods. The word “hermeneutics” has a Greek origin of “ἐρμηνεύω”

“real” world “out there” (Furlong & Marsh, 2010, pp. 185 and 187; quoted from Hay, 2007, p. 117.)

20 Normative political theory has evolved. It was once foundationalist with an aim to build up absolute notions of the good or of justice. However, many political theorists are now anti-foundationalists who claim very weak affiliation with universal foundations. Postmodernism has an increasing influence on them (Furlong & Marsh, 2010, pp. 203-204).

21 Epistemology refers to a person’s view of what human can know about the world (what the world is like). It is the theory of knowledge. A researcher’s epistemological position has methodological implications: positivists tend to apply quantitative methods; interpretivists tend to apply qualitative methods; realists use both (Furlong & Marsh, 2010, pp. 185-187).
(hermeneuō), which means “to interpret.” Such kind of text-based analysis is an anti-foundationalist approach that emphasises the understanding of meaning rather than explanation of behaviour. It believes it is impossible to build causal relationships between phenomena that hold across time and space (Furlong & Marsh, 2010, p. 192). The so-called “reality” and “knowledge” are socially, discursively and theoretically constructed by individuals, social, political and cultural processes. The actor and the values s/he holds decide what is “rational,” though no actor can be truly objective and value-free. The objective analysis that natural sciences apply is unattainable in social sciences (Ibid., pp. 190 and 199).

Figure 1.6: Situating interpretivism (hermeneutics) in philosophy of social sciences (summarised and adopted from Furlong & Marsh, 2010, pp. 186, 191, 200-201)

Furlong and Marsh argue the epistemological position of interpretivism (hermeneutics) has methodological implications (Ibid., p. 199). Hermeneutics, as they describe, is concerned
with the interpretation, criticism, and transcription of texts and actions for the production of a “thick description.” The purpose is to establish “our own constructions of other people’s constructions of what they and their compatriots are up to.” (Ibid., p. 201; also from Geertz, 1973; Bevir & Rhodes, 2003, p. 22). On the basis of this “thick description,” ethnographers generalise, develop a narrative of the past, and offer interpretations of what this tells us about the society (Ibid., p. 201).

The whole process of interpretation and the production of a “thick description” echo with the methodology of KACIR, which is used by this thesis as an approach to discover and to understand classical Chinese conceptions of the *jus ad bellum*. KACIR is a term coined by the author of this thesis to refer to a summary and analysis of existing literature that apply classical Chinese conceptions to inspire innovative norms and principles in contemporary thought in Chinese IR (for definition, see Chapter 3.5). The evacuation of classical conceptions from classical texts involves interpretation, criticism, and the production of a “thick description,” as mentioned in the above paragraph. Generalisation is inevitable. Each school have developed different narratives—though sometimes co-develop narratives—for the past. There are three approaches: Tsinghua; the American, and the British. Academics from these three approaches have been closely working with each other. They borrow ideas from each other; they make mutual critique; they frequently collaborate in joint publications. They are concerned with questions like: How may classical Chinese texts of history and philosophy be used to inspire contemporary thought of Chinese IR? How and why are normative and value systems comparable?

The mechanism of socialisation, persuasion and bricolage are features of interpretivism (hermeneutics). They are all valid in the methodology of KACIR. Socialisation suggests that “norms or ideas spread in a relatively incremental, evolutionary way generated by repeated interaction within groups … a diffused, decentralised, collective, and consensual process in which a group of people work their way to certain norms or ideas” (Parsons, 2010, pp. 94-95).
Academics in the three approaches of Chinese IR have been doing on exactly the same thing—to create, to debate and to spread innovative norms and ideas by working collectively in a decentralised way. Persuasion refers to entrepreneurial people who “invent new ideas and sell them to others … bring new interpretations into an arena and persuade others to take them up” (Ibid., p. 95).

One may easily connote persuasion to KACIR academics in the PRC such as Yan Xuetong and Jiang Qing, whose arguments are found political rather than simply academically societal. Instead of taking social construction of norms and ideas as a spontaneous evolution almost without the consciousness of the actors, Yan and Jiang’s arguments fits into what Parsons describes: “rely on explicit advocates, who clearly believe in their new ideas or norms at a time before the ideas in question are embedded in broader action” (Ibid., p. 95). Parsons defines bricolage as “[the bottom-up development of] ideas and norms and practices to suit rather discrete problems and goals, and we end up with a complex landscape of overlapping realms of action” (Ibid., p. 96). The methodology of KACIR itself is a complex landscape of overlapping realms of action. After all, discoveries and application of classical Chinese conceptions are not only found in the field of Chinese IR, but also in the study of Political Philosophy, Law, Sociology and even Comparative Literature in China. Given its multidisciplinary nature, Chinese IR may borrow the classical-contemporary connections—though intellectually scattered—built up by political philosophers, legal theorists, sociologist and literary critics for its own use.

By applying the methodology of KACIR, this thesis takes its readers to examine primary sources: The Chronicle of Zuo and the two Confucian texts of philosophy, in a hope to find some parallels and overlaps between classical Chinese conceptions of the *jus ad bellum* and liberal internationalism. This is a text-based analysis; it is a study of comparative narratives in historical texts, legal texts, and philosophical texts. This thesis does not intent to take comparative method too far by incorporating all the dependent variables and independent
variables in a quantitative and/or qualitative research design; but it certainly pays attention to what are the “most similar” and “most different” (Burnham, Lutz, Grant & Layton-Henry, 2008, p. 74; Hopkin, 2010, pp. 292-293). For a comparative study like this, it is essential to establish parameters (Dunn, 2008, pp. 85-86) and anchors such as homogeneous criteria or reference points for judgment. It is helpful to “combine discourse analysis and historical research to examine struggles over the articulation and circulation of competing narratives” (Ibid. 2008, p. 82). This has to do with a pluralistic approach to historical research that is derived from the hermeneutic branch of historical analysis in the 20th century (McNabb, 2009, p. 372), which allows comparisons to be done, so that a more holistic view of the research can emerge.

Another two notable features of interpretivism (hermeneutics) is: first, the variation between the modern (modern constructivism) and the postmodern (post-structuralism); second, the division between context analysis (focuses on social-historical contexts) and textual analysis (focuses on linguistics). Figure 1.7 shows how this thesis locates itself among the two variations. These two pairs of variations are directly relevant to the discussion on hermeneutics problem in this thesis, which includes Chapter 6’s proposal of deconstruction of fundamentalist hermeneutics (α), followed by Chapter 7’s construction of reinvented

22 Both strands share the same meta-theoretical foundation, which originates from Sociology. Emile Durkheim argued “human societies are held together by ‘social facts’ of culture”; Max Weber argued “ideas are like ‘switchmen’ who determined the tracks”; Talcott Parsons coined “political culture” (Parsons, 2010, pp. 81-82). In IR, references were drawn by academics such as Alexander Wendt; Peter J. Katzenstein; Martha Finnemore, to create a constructivist circle of IR, which suggests, in Wendt’s words: “anarchy is what states make of it.” In continental Europe, there were academics like Jacques Derrida; Michel Foucault; Jacques Lacan who developed post-structuralism and postmodernism; while Antonio Gramsci analysed the social construction of “hegemony” of neoliberalism and globalisation (Ibid., pp. 82-83).
Cosmopolitan hermeneutics (β). This thesis has an equal touch on both the context and textual aspect of the selected texts, so it places itself in the middle of the vertical spectrum.

Diagram key:

**Figure 1.7: Locating this thesis: Modern or postmodern? Context-based or textual?** (Adopted from and modified by the author. Burnham, Lutz, Grant & Layton-Henry, 2008, p. 253; Phillips & Hardy, 2002, p. 20)

Contextualism has an important role to play in this thesis. The selected classical Chinese texts—not the conceptions embodied, thus we are not discussing situational ethics or moral relativism—are context-sensitive. They can only be understood relative to the contexts they are put into. For example, a Confucian-Legalist interpretation of *The Chronicle of Zuo* was considered as morally right and epistemologically true, thus being legitimate and practically useful in imperial China; but today such interpretation may not satisfy the requirement of a
fast-changing China and its relations to a globalising world that highlights an increasing awareness of One-worldness, humanitarianism and global justice. Therefore, to put *The Chronicle of Zuo* in the specific context of a reinvented cosmopolitanism may yield meanings that better suit the need of today’s Chinese IR—it offers new perspectives on China and global governance, in relation to international ethics. The original texts of the classics always remain unchanged as an independent variable. It is the different interpretations and the perspectives they endow (dependent variables) that create different meanings. Criticism on texts is indispensable to interpretation, for it demonstrates the moral values, political position, worldview and metaphysical assumption of a particular interpreter and/or a particular epoch. Interpretations are statements. Often, a classical text’s value is revealed through what the interpreter agrees and disagrees with details of the text. Hermeneutics is the art of political translation. It is the art of putting the right perspectives in brackets for the right outcomes.

Methodologically, the so-called deeper level of analysis in Chapter 6 and Chapter 7 refers to what Paul Furlong and David Marsh called “the double hermeneutic”: “The world is interpreted by the actors (one hermeneutic level) and their interpretation is interpreted by the observer (a second hermeneutic level) (Furlong & Marsh, 2010, p. 185). To apply it in this research, “the actors” are the KACIR academics; “the observer” is the author of this thesis. According to interpretivists, interpretations and meanings can only be established and understood within discourses, contexts and traditions. An interpretivist’s main task is to identify discourses, contexts and traditions for the establishment of interpretations and meanings (Ibid., p. 199). Postmodernism and the critical methodology of post-structuralism (including discourse analysis) are powerful weapons for tearing down meta-narratives such as the Confucian-Legalist grand narrative of orthodoxy in the autocratic tradition of Chinese politics. However, its refusal of separating ontology from epistemology has denied it the ability to build up and to construct. Postmodernism argues all interpretations are partial, provisional and not true. It also argues it is impossible to attain substantial knowledge in
social sciences because there are only narratives but not theories. This position contradicts with the thesis’s intention to search for innovative norms or principles for a constructive, but not destructive, study in Chinese IR.

That said, this thesis borrows postmodernism in its examination of fundamentalist hermeneutics (interpretation) of classical Chinese texts; but it does not stop there. Instead, it moves on with a progressive spirit akin to the Enlightenment and modernisation project (thus the $\alpha \rightarrow \beta$ transition in Figure 1.5). It also finds a post-positivist echo in its meta-theoretical position. Although this thesis does not necessarily agree that it is possible to attain an absolute “objective” view of the “real” world, it believes it is possible to derive useful explanations by applying interpretivism (hermeneutics) to texts and interpretations of texts. Researchers can document how much the narratives are socially constructed by set up careful research design and submit arguments to open debate among people with different views for tests (Ibid., pp. 200 and 202). With present knowledge (present interpretations/narratives) built upon past knowledge (past interpretations/narratives), humans are more able to get closer to the ultimate solution of a conundrum. This argument analogically echoes with Thomas S. Kuhn (1970) definition of scientific revolutions: “[They are] non-cumulative developmental episodes in which an older paradigm is replaced in whole or in part by an incompatible new one … for a better representation of what nature is really like” (pp. 92 and 206).

Such intellectual optimism finds an interesting echo in Gerald Chan’s pioneering idea of social evolution, derived from previous discussions given by Tang Shiping, Bradley Thayer, William R. Thompson and George Modelski (Chan, 2014, pp. 276-277). Chan’s Darwinian approach to IR resembles the Kuhnian definition of scientific revolutions, as he argues:

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23 This thesis applies a non-positivist methodology. Such methodology finds an echo in post-positivism but it does not classify itself post-positivist.
“Applying [social evolution] theory to the study of social change, the global social world could then be seen as evolving through incremental changes over a long stretch of time in a process of selection and elimination” (Ibid., p. 276). In the world of scientific paradigms, as well as in the world of interpretivism (hermeneutics), there also exists a mechanism of “the strong survive over the weak in a process of natural selection and elimination” (Ibid.). George Modelski’s mechanisms of change and of social-selection, which include cooperation, mutation/innovation, reinforcement, and social-learning process (Ibid., p. 277), can also be applied to interpretivism, particularly in socialisation, persuasion and bricolage as aforementioned. Within the field of Chinese IR, a contested competition in the exploration and innovation of interpretations of classical Chinese texts may in fact be an undercurrent of the evolution of the PRC’s international identity, as suggested by Chan. The survival of any interpretations, norms and principles not only depends on whether they match with Zeitgeist—the spirit of the current age and the current locale; but also Shijie chaoliu 世界潮流 (world trend that surpasses the current age and points to the future). This is the “natural force” that drives the evolution of interpretations and re-interpretations, thus the formation of new norms, new principles and new theories.

“Deconstruction for construction” is a moral and tragic mission for social sciences researchers. Neither postmodernism nor modernism alone is able to fully satisfy such Sisyphean demand. M. Reed (1993, quoted in Furlong & Marsh 2010) argues practice, tradition and narrative provide a negotiated and dynamic set of standards for rational debates between opposing perspectives or approaches. It is the narrative content that gives meaning to critical debate (Ibid., p. 202). Just like how Karl Popper (2004) defines conjectures, interpretations could be self-asserted, flawed, and incomplete—though in an interpretivist context they are not required to be scientifically proved—but it does not mean they are meaningless. There is a need to understand the meanings that interpreters attach to texts. There is also a need to understand the meanings that interpretivist (hermeneutic) critics attach
to interpretations and re-interpretations. A critical examination of history, conceptions and interpretations certainly adds meanings to the analysis of the PRC’s non-interventionist doctrine and its relations with liberal internationalism. In Chapter 3, this thesis will justify the application of the interpretivist methodology of KACIR by critically summarising three approaches of Chinese IR.

IV. Structure of the Thesis

This thesis consists of eight chapters. The analysis is arranged thematically and in many senses comparative. It starts with an introduction to the thesis framework, followed by the conundrum (that is, the research puzzle), methodology, discussion of selected classical texts, problems of hermeneutics, and the conclusion. Chapter 1 offers an overview of the thesis framework and introduces the readers to the research problem. It is also the prelude to more detailed discussions on methodological issues in Chapter 3. As a gesture of highlighting the significance and contribution of the thesis research, this chapter purposefully locates the research problem in the context of Chinese IR and international ethics.

Chapter 2 describes and explains the conundrum set by Chinese non-interventionism and liberal internationalism; that is, the Sino-liberal Western conceptual divergence in humanitarian intervention and R2P. It begins with an overview of liberal internationalism and its connections to the debates on humanitarian intervention and R2P. This is followed by a discussion of the origin and evolution of the PRC’s doctrine of non-interventionism. This section also looks at how the doctrine has been described, analysed and argued by the Chinese authorities and the academics; and how it comes into conflict with liberal internationalism. Then the chapter examines the “Third Way solution”—classical Chinese conceptions of the *jus ad bellum*. It points out the limitations of the current literature. The chapter finishes with a justification of turning the research focus to the liberal reading of
selected original texts from the pre-Qin era. It explains the rationale behind the selection of *The Chronicle of Zuo*. It also discusses the historical, exegetical, and philosophical issues relevant to the two Confucian texts of philosophy—*Mencius* and *Xunzi*.

Continuing from Chapter 1.3, Chapter 3 is the methodology chapter. It attempts to justify the application of classical Chinese resources for the use of contemporary Chinese thoughts in IR. However, it should be noticed that the application of classical resources for contemporary IR purposes is not unique in the PRC. In fact, it has been a method used by academics in general IR for decades. How do historical experiences and classical thoughts facilitate understanding and innovation of foreign relations doctrine, norms and principles? How is such comparative approach grounded in and supported by existing literature? With the purpose to build a solid methodological foundation for this thesis, Chapter 3 draws references from three approaches of Chinese IR—Tsinghua, the American, and the British—and proposes that the combined practice of such context-textual analysis can be summarised and synchronised for the reinvention of a methodology called “Knowledge Archaeology of Chinese IR” (KACIR).

Chapter 4 and Chapter 5 take the readers to the heart of the subject matter—the legitimacy and legality debate in the *jus ad bellum*. These are also the testing grounds that demonstrate how the comparative approach of context-textual analysis can be applied. Both chapters start with a theoretical section on justifying comparability—comparative international political theory (CIPT) and the “international politics in the pre-Qin era” argument for the legitimacy chapter; comparative jurisprudence and the “gongfa zhongyuan”公法中源 (the Chinese origin of international law) debate for the legality chapter. This will be followed by an examination of the textual and hermeneutical issues of *The Chronicle of Zuo, Mencius*, and *Xunzi*. Both chapters summarise, compare and synthesise classical Chinese conceptions with liberal internationalist norms. They want to see if there are parallel and overlapping norms and principles. They want to see how those classical texts may be
interpreted to shed light on the legitimacy and legality of the use of force for humanitarian purposes.

Chapter 6 and Chapter 7 are concerned with the deep structural problem in the application of KACIR to classical Chinese interpretations of the legitimacy- legality problematique, so they bring the readers back to the methodological issues. In Chapter 6, the author tries to justify the urgent need and possibility to redefine the Chinese tradition by applying Han-Georg Gadamer’s theory of hermeneutics (the double reading of tradition). He also argues what he called “fundamentalist hermeneutics” of the classical Chinese texts is the main obstacle to the construction of an innovative norm or principle for humanitarian intervention and R2P. The use of classical resources is not enough. The real issue to be concerned with is how we use those resources; that is, how we interpret those classical texts. The author then points out the unique status and irreplaceable importance of The Spring and Autumn Annals (Chunqiu 春秋), not only in the Confucian-Legalist orthodox thought of zhengtong, but also in the making of innovative norms and principles for Chinese IR and Chinese theory of international ethics. The Gongyang School (Gongyang xuepai 公羊学派) fundamentalist hermeneutics, alongside the grand narrative of orthodoxy established by the School, founded the Confucian-Legalist origin for the PRC’s doctrine of non-interventionism—a truly indigenous but not Westphalian rationale behind the formation of a self-restricted view of/stance on international ethics.

What should we do after the deconstruction of fundamentalist hermeneutics? Chapter 7 urges us to rethink the pros and cons of liberal internationalism; to explore traces of cosmopolitanism in the Chinese civilisation, and to see how to apply a reinvented cosmopolitan hermeneutics to classical Chinese texts. Special attentions are paid to pluralism in the pre-Qin era and Tang dynasty; also egalitarianism and compassion in Buddhist philosophy. The chapter argues the new hermeneutics is capable to fine tune the methodology of KACIR. It is possible to develop and incorporate classical Chinese conceptions of
pluralism, egalitarianism, and universal conscience to formulate new norms or principles that could possibly reconcile or reduce the long-standing Sino-liberal Western conceptual divergence in the use of force for humanitarian purposes.

The conclusion in Chapter 8 recapitulates the main points of the thesis and discusses their implications. What this thesis has achieved is to use humanitarian intervention and R2P as a case to complete the first two-and-a-half steps of a four-step macro project in constructing a grand narrative—solidly grounded in the cosmopolitan side of the Chinese tradition and a deep understanding of current global norms, regulations and institutions—for a refined KACIR and Chinese thoughts in international ethics. The chapter also reflects on some weaknesses of the Confucian thought, and suggests future research directions in relation to universal conscience. It concludes by reiterating the necessity to defend and celebrate human dignity; to find in oneself a spontaneous call of common humanity, righteousness and courage.
CHAPTER TWO
The Conundrum and the Classical Solutions

I. Liberal Internationalism

There seems to be a consensus on the difficulty to define “liberal internationalism,” “liberalism,” and “internationalism” (Doyle, 1997, p. 206; Franceschet, 2002, p. 68; Halliday, 1988, p. 188; Jahn, 2013, p. 13). Fred Halliday argued internationalism is “a cluster-concept” and “a loose set of ideas,” which had for too long been “an unfashionable topic in IR” (Halliday, 2009, p. 47; Halliday, 1988, p. 187). It “remains underdeveloped as a theory of global order and as a basis for a foreign and security strategy” (Dunne & McDonald, 2013, p. 7). It was only when the “normative turn” in IR took place, the internationalist tradition was revived with a focus on cosmopolitanism (Linklater, 1990). Notwithstanding, Halliday tried to give a meaning to it:

[Internationalism] is a set of ideas founded on a belief that the world is becoming more and more integrated and united, a belief that this objective process is accompanied by a growing sense of international belonging, identity, responsibility, even citizenship—and, most important, that these two processes, and their interaction, are broadly speaking to be desired, “a good thing” (Halliday, 2009, p. 47).

Beate Jahn (2013) refers liberal internationalism to democracy promotion; the protection of private property, free markets, and free trade; the institutionalisation of liberal norms and the integration of these norms into the legal and institutional structure of the international system. Liberalism is still a defining feature of many states and international organisations.
Liberal norms, such as human rights, provide a general reference point for international politics (pp. 2-5). Antonio Franceschet argues liberal internationalism is “a multifarious project of global reform, one that is characterized by historically contingent and divergent perceptions of the nature of sovereign states and the kind of freedom these agents can plausibly afford the individual both within and across territorial boundaries” (Franceschet, 2002, p. 69). Franceschet refers liberalism to political commitments in individual freedom; justice; equality; progress; the rule of law; political participation, and peace (Ibid.). Despite the internal disagreement, contradictions and tension, liberals have a common vision of reforming the status quo of realpolitik of international politics (Ibid., p. 71). The sovereignty-individual freedom dilemma found in liberalism, when it comes to the international level, becomes a question whether the state and the state system are capable of self-reform to meet the goal of freedom promotion and protection (Ibid., p. 70).

The split among liberals on how to reform international politics has contributed much to the self-contested nature and the presence of a wide array of liberal interpretations of humanitarian intervention and R2P. Many arguments that go against humanitarian intervention practices are in fact put forward by liberals (Dunne & McDonald, 2013, p. 6). Tim Dunne and Matt McDonald call them “rival conceptions of liberal internationalism” (Ibid., p. 7). Communitarians and cosmopolitans also differ on their criticisms on liberal internationalism (Ibid., p. 2). The profound disagreement among liberals on how to define and promote core liberal values could well be a hermeneutics issue. Unlike how realism finds its cornerstone in the magnum opus written by Thucydides, Niccolò Machiavelli, and Thomas Hobbes, there is no canonical description of liberalism (Doyle, 1997, p. 206). Liberal internationalism has been arguably a footnote of Immanuel Kant’s thought, while John Locke; Adam Smith; and John Stuart Mill are less mentioned. Jahn calls it “the Kantian monopoly” (Jahn, 2013, p. 34). Indeed, Kant has laid the very foundation for some liberal architecture in international politics, such as the League of Nations, the global rule of law, and pacifist
However, isn’t it self-contradictory to argue, on the one hand, “the meaning of liberal internationalism … is controversial and diverse because of its evolution” (Franceschet, p. 103); on the other hand, that “[Kant] is perhaps the only intellectual forerunner to liberal internationalism … be used to lend support to any and nearly all of the different mechanisms of [political] reform”? (Ibid., p. 79) The “Kantian monopoly” argument may not be totally valid now, as new types of liberal internationalist theories have been emerging in the recent decades, mostly in the English-speaking world. For example, the cosmopolitan democracy model has contrasted itself with the Kantian model, though it has adopted the Kantian notion of cosmopolitan law. Franceschet makes it clear that it is important for today’s liberals to embrace “more direct cosmopolitan means to promote individual autonomy and justice” (Franceschet, p. 130). One major problem with Kant’s theory of justice, according to Franceschet, is with the legislative force of the illimitable, absolute sovereign agent in a political reform for individual freedom (Ibid., p. 124). All progressive changes, including the achievement of international justice and the ideal of the “Perpetual Peace” (Zum ewigen Frieden) have to be done through the sovereign, which may use force as a means to meet the goal (Ibid., p. 58). In other words, Kant was too state-centric for those who believe we are living in a post-Westphalian and globalising world.

Whether one agrees with Franceschet is a matter of political affiliation, but the following comment from him is definitely precise: “[The] underlying foundations of [Kant’s] political theory are basically at odds with the predominant Anglo-American versions of political liberalism” (Ibid., p. 79). We cannot help but ponder if this European/Anglo-American division on the ontology of international politics has led to Germany’s opposition to the British-American coalitions in Iraq and Libya. In many empirical studies of humanitarian intervention and R2P, liberal internationalism is frequently read as identical to “liberal interventionism,” which connotes the Blair Doctrine; the Clinton Doctrine, and the Bush
Doctrine. The Liberal Way of War Programme at the University of Reading in the UK has a vivid description:

Liberalism is not pacifism. The major “liberal”—states that attach importance, at least internally, to individual autonomy—have frequently been willing to use military force; they have also, on occasion, fought aggressive wars of choice. But liberal ideology and practice are not at ease with military adventures: war of its very nature involves attacks on life; it usually requires some kind of trade-off between security and liberty; and it encourages a warrior ethos that draws upon non-liberal motivations (The Liberal Way of War Programme, 2014).

Jeremy Moses (2010) calls Blair and Bush’s Atlanticist doctrines “fundamentalist forms of liberal internationalism,” which features excessive reliance on the use of force; an aggressive and expansionist foreign policy (such as war on terror); an imperialist or neo-colonial attitude; the undermining of some great principles of liberalism (such as the right to a fair trial and the prohibition on arbitrary imprisonment); an unusually aggressive, unilateralist and militarised interpretation of democratic peace theory (pp. 26-27, 45 and 47).

Here we see how the tension between theory and practice is intertwined with the European/Anglo-American split; and how such complication occupies the core of debate in humanitarian intervention and R2P. In the Kantian theory, liberal internationalism is the path to cosmopolitan justice, peace, freedom, and morality. In the British-American practice of war, liberal internationalism becomes a leeway to justify the much criticised military campaigns launched in Iraq and Afghanistan. Jahn (2005) interestingly points out: “[The] contemporary liberal interventionism is more akin to the theoretical grounds laid out by John Stuart Mill” (p. 195; quoted in Moses, 2010, p. 45). In A Few Words on Non-intervention (1859), Mill reminds us the philosophy of humanitarian intervention and R2P in fact has a gene of Victorian utilitarianism:
But there assuredly are cases in which it is allowable to go to war, without having been ourselves attacked, or threatened with attack; and it is very important that nations should make up their minds in time, as to what these cases are … The only moral laws for the relation between a civilised and a barbarous government, are the universal rules of morality between man and man. (pp. 4-5).

While Kant emphasised the role of public international law, the Millian interpretation of intervention does not pursue the legalisation of intervention. The above quotation from Mill may make us wonder if Mill should be called a “liberal hawk,” because his thought resembles what Moses (2010) characterised about the Blair and Bush doctrines.

There is a Kantian side as well as a Millian side in humanitarian intervention and R2P. Therefore, it is unfair to assert liberal internationalism is a nineteenth-century British product. Notwithstanding, from a non-Western point of view (such as the Chinese one), liberal internationalism is almost a synonym of Millian interventionism. The PRC authority may not be interested to comment on Immanuel Kant or Woodrow Wilson, but it certainly remembers how its embassy in Belgrade was bombed by NATO during the 1999 Kosovo intervention under the Clinton Doctrine. The 1990s was the “liberal decade,” when Tony Blair declared that “We are all internationalists now” (Blair, 1999). Liberal internationalism, which coexists with neo-colonialism and neo-conservatism, was then become the major form of statecraft practised by Western liberal states and by international organisations. Despite the bankruptcy of the Bush Doctrine and the global financial crisis, liberal internationalism has remained resilient (Dunne & McDonald, 2013, pp. 1-2). The “order/justice dualism” in ethics and foreign policy, as Tim Dunne and Matt McDonald put it, indicates the tension between the “sovereignty-based order and the growing aspiration for all peoples to have their basic human rights protected” (Ibid., p. 4). Dunne and McDonald also points out, liberal internationalism
came famous at the time when it became American internationalism (Ibid., p. 12).

It is in this background, we shall now bring in G. John Ikenberry and his comments on liberal internationalism, the US and a rising China. Naming the US “liberal Leviathan” (2011a), Ikenberry admits there is a Hobbesian side of the American way of managing the world order, which features: first, rules and norms of non-discrimination and market openness; second, coalition-based character of leadership; third, order agreed upon rules and institutions (Ikenberry, 2011 July, pp. 6-7). Ikenberry argues, though the global status of the US is changing, the liberal international order it has commanded still works well and in demand (Ibid., p. 2). The US must renew Western rules and institutions and re-establish itself as the major supporter of the global system of governance. The liberal international order, according to Ikenberry, is “not just a collection of liberal democratic states but an international mutual-aid society” that celebrates liberal democracy and the rule of law as “hallmarks of modernity and the global standard for legitimate governance” (Ikenberry, 2011b, pp. 61-62). Ikenberry dichotomises state power and international order, and argues:

It may be possible for China to overtake the United States alone but it is much less likely that China will ever manage to overtake the Western order … The United States cannot thwart China’s rise, but it can help ensure that China’s power is exercised within the rules and institutions that the United States and its partners have crafted over the last century, rules and institutions that can protect the interests of all states in the more crowded world of the future (Ikenberry, 2008).

It is still too early to say the rise of China will lead to the decline of liberal internationalism. The PRC may choose to challenge, to modify, to integrate into, or to embrace the core values of liberal internationalism. It may use the rules and institutions of the current Western order to protect its interests. Martin Jacques (2012) argues, the PRC will establish an illiberal
hegemonic order (p. 376). Ikenberry argues, the PRC will build a non-Western, non-liberal hegemonic order (Ikenberry, 2011 July, p. 5). Both of them have ignored the fact that being non-Western does not necessarily mean being non-liberal or non-internationalist, let alone being non-liberal does not necessarily mean being non-internationalist. China is not the West. The PRC may not join the current global order under the US’s leadership, but it does not mean it is not able to be liberal. If we truly believe liberal internationalism has an idealistic side to use for humanitarian purposes; and that it has a cosmopolitan face rather than only a statist, colonial and imperial face, then we should be delighted to see if the Chinese tradition carries values that are compatible with those found in liberal internationalism.

As there is a European/Anglo-American split in the interpretation of liberal internationalism, then why in the age of globalisation we cannot apply a new hermeneutics to the broadly-defined concept of liberal internationalism (which includes cosmopolitanism and global citizenship) to see if a Chinese version is possible? Are there minimal cores? These questions are particularly imminent given the PRC’s current position of non-intervention is rather rigid; and that there is still no solution to the diplomatic deadlock caused by the conceptual divergence between liberal internationalism and it. In her doctoral thesis on the rise of China and the liberal international order, Catherine Jones inspiringly points out: “challenge does not necessitate or imply destructive revolution or conflict, and maintenance does not imply acquiescence or an absence of change” (Jones, 2013). Perhaps a new Chinese norm or principle will help to keep a balance of power or some kind of “constitutional check” within the global liberal family. This is healthy for the development of a sustainable humanitarian project of international relations (see Figure 2.1). After all, we need a truly humane solution to mass atrocities and humanitarian crises, but not complications caused by neo-colonialism and neo-conservatism.
Drawing references from Olav Stokke’s *Western Middle Powers and Global Poverty* (1989), Ward Warmerdam argues a strand of liberal internationalism under what he called “humane internationalism” does exist in the foreign aid programme conducted by the PRC. It focuses on the responsibility of developed countries toward the global South; it holds a strong commitment to an open, multilateral trading system; it is motivated by a humanitarian tradition and an “enlightened self-interest” arising from greater global North-South interdependence; it prefers bilateralism but has made an effort in working with the UN agencies and other international organisations (Warmerdam, 2012, pp. 207-211; 241-242).

Lowell Dittmer is even more optimistic. He argues the PRC is adopting a more multilateral approach in accordance with its “new security concept” (*xin anquanguan* 新安全观). The PRC has tried to make it clear that such transformation is a cognitive but not simply instrumental one; and that a “more idealistic and multilateral international persona has been thoroughly inculcated into [the PRC’s] national identity … China is now posing as a new ‘model’ of good citizenship in the international arena” (Dittmer, 2008, p. 32). By describing the PRC as once “outspoken and principled adherent … in defence of which it made many clear sacrifices of its national interest” in Mao’s era. Dittmer went on to argue the recent demonstration of good citizenship of the PRC is not China’s “maiden voyage on the seas of
international liberalism” (Ibid., p. 33). Of course, Dittmer wrote all these words back in 2008—a year when the PRC celebrated its globality partly because of the Olympic Games. The sense of good citizenship may then be replaced by or at least mixed with assertiveness, which has been debated heatedly since then.

In the conclusion of their journal article, Dunne and McDonald suggest that there is a call “for a renewal of liberal internationalism that takes social and economic exclusion more seriously” (Dunne & McDonald, 2013, p. 14). Scholars should “look to a humanitarian internationalism in which greater ‘voice opportunities’ exist for those previously silenced” (Ibid.). One could not help then, to think about Mencius, who argued a righteous intervention should base on material (social-economic) well-being (Bell, 2009, p. 36; Bell, 2008, pp. 226, 244-245). Before Mencius and his contemporary philosophers are examined, we shall now have a critical overview on the PRC’s doctrine of non-interventionism; see how it differs from—and sometimes clashes with—liberal internationalism, hence creates the Sino-liberal Western conceptual divergence in humanitarian intervention and R2P.

II. The PRC’s Doctrine of Non-interventionism

Non-interventionism is a concept embedded in the European notion of Westphalian state sovereignty and self-determination. It generally refers to the absence of “interference by a state or states in the external affairs of another state without its consent, or in its internal affairs with or without its consent” (Hodges, 1915, p. 1).

Non-interventionism also has a liberal origin. Michael Walzer relates it to John Stuart Mill’s On Liberty (1859), where he argues: “We are to treat states as self-determining communities … whether or not their internal political arrangements are free, whether or not the citizens choose their government and openly debate the policies carried out in their name” (Walzer, 2006, p. 87). To Walzer, self-determination is “the right of a people to become free
by their own efforts if they can”; while non-intervention is “the principle guaranteeing that their success will not be impeded or their failure prevented by the intrusions of an alien power” (Ibid., p. 88). Intervention, in whatever form, has to justify that it is not an aggression or invasion on sovereignty.

Non-interventionism in Modern China

Modern China’s adoption of the Westphalian concept of sovereignty, according to Tok Sow Keat (2013), has to do with the juxtaposition of such Western concept with the indigenous Chinese concept of Tianxia (pp. 42-48). This thesis argues, the late nineteenth century linguistic construct of the word zhquan 主权 (sovereignty) is not only a response to the infusion of the new concept of sovereignty (as Tok suggested), but also a nationalistic response of China to Western colonialism and imperialism. Chinese nationalism is both a product of and an obstacle for China’s entry into the international society (Lee, 2008). Zhuquan, hence, has a very defensive etymology from its birth. We may say the establishment of the Office for the Management of the Affairs of All Foreign Countries (OMAAFC) (Zongli geguo shiwu yamen 总理各国事务衙门) in 1861 and its full translation of Henry Wheaton’s Elements of International Law (Wanguo gongfa 万国公法) in 1864 marked not only that “[the concept of sovereignty] began to plant its roots in Chinese thinking” (Tok, 2013, p. 40), but also the beginning of Chinese non-interventionism—a tradition in Chinese IR that has been passed on to the PRC. The core philosophies of the OMAAFC and the MFA of the PRC are the same: to free China from the interference of foreign powers, so China can develop itself into a strong state and regain its proper status in the world.

The existence of the concept “sovereignty” can be dated before the year of 1648. Jean Bodin, a French jurist, coined the term “souveraineté” in Six Books of the Commonwealth
Les Six livres de la République, 1576). The recent proliferation of a nation-wide discussion on sovereignty in the PRC has led to the publication of the first comprehensive collection of Jean Bodin’s works, including his best-known Six Books of the Commonwealth by Peking University Press in 2008. In the translator’s preface, Li Weihai and Qian Junwen offer a non-interventionist interpretation of Bodin. They argue, in echo with the legal positivist scholar Hans Kelsen, that the external nature of sovereignty marks the death of sovereignty. The theory of sovereignty is in itself an absolute, exclusive subject. A sovereign by nature excludes all other sovereigns. By treating other sovereignties as unequal and incompatible, sovereignty is destined to be an expansionist idea (Bodin, 2008, p. 5). The Western concept of sovereignty distinguishes itself from zhuquan by its aggressive quality. 24 Non-interventionism thus is a concept originated from the West, but used by modern China as an occidentalist weapon to fight against the West. It could be well illustrated by Wei Yuan’s ethnocentric saying: “To manage the barbarians by using the barbarians’ skills” (师夷之长技以制夷).

The PRC and Non-interventionism

The PRC’s doctrine of non-interventionism can be traced back to the Five Principles of Peaceful Co-existence found in The Agreement between the Republic of India and the People’s Republic of China on Trade and Intercourse between Tibet Region of China and India, signed in Beijing in 1954. It features:

- Mutual respect for each other’s territorial integrity and sovereignty;
- Mutual non-aggression;

24 It has a defensive side as well, as cited above in Mill’s description.
Mutual non-interference in each other’s internal affairs;

Equality and mutual benefit, and

Peaceful co-existence (UN Treaty Series, 1958, p. 70).

Since then, these principles have continued to serve as the ideological pillars for the PRC authorities to deal with the outside world. In fact, documentary research reveals the CPC’s support of non-interventionism can be observed as early as on 30 April 1949 in a statement drafted by Mao Zedong for the PLA headquarters spokesperson, criticising the British Prime Minister Winston Churchill’s decision on sending two aircraft carriers to China as a response to the HMS Amethyst Incident (aka the Yangtze Incident)\textsuperscript{25}. In the statement, Mao argues, the People’s Government and the Chinese People’s Revolutionary Military Committee will only consider establishing foreign relations with governments which: first, do not pose threat to the Chinese sovereignty and territory; second, do not involve in the Chinese civil war (to support the KMT force); third, are willing to build up foreign relations on the basis of “equality, mutual benefit, mutual respect of sovereignty and territorial integrity” (Mao, 1949b, pp. 1349-1350). The footnote printed in the CPC’s official publication describes Mao’s statement as the basic principles of the foreign policy of the about-to-establish PRC (Ibid., p. 1349). In another article written on 30 August in the same year, Mao criticises the US for “manipulating friendships and principles to make excuses for aggression” (Mao, 1949a, p. 1394). He argues:

\textsuperscript{25} Mao argued the British Royal Navy had no right to sail into the Yangtze River (aka Changjiang), as it is China’s inland river. He called for the Chinese people to defend their territory and sovereignty against foreign government’s intrusion. The PLA asked military forces of Britain, France and the US to leave the Chinese territory and to keep clear from the Chinese civil war (Mao, 1949b, pp. 1349-1350).
Killing millions of the Chinese people [since the Treaty of Wanghia in 1844], the US only wishes to maintain the Open Door Policy; to “respect” China’s administrative and territorial integrity; to oppose other foreign powers to control China … “Not to intervene in China’s domestic affairs”—should this be counted as an American principle as well? (Ibid., p. 1396).

Anti-colonialism and anti-imperialism have a role to play in the formation of the PRC’s non-interventionist doctrine. The doctrine derives from the CPC’s historical interpretations of, and wartime encounters with Western great powers even before the founding of the PRC. The Chinese memory of “a century of humiliation” has virtually defined international justice as injustice, because by looking at the history of international relations from a non-Western power politics point of view, only the powerful ones hold the legitimacy to define what justice is.26 Drawing references from a legal perspective, Suzanne Yang Xiao (2013) takes this further and argues: “Sovereignty was used as a legal shield to protect China [from] actual or imaginary imperialists or big powers … China’s conceptualization of state sovereignty in the pre-1976 era was consistent with its world order conception of becoming a strong state” (pp. 49 and 50).

Since the implementation of economic reforms initiated by Deng Xiaoping in 1978, realism and pragmatism have been the dominating thoughts in Chinese foreign relations. Deng bluntly pointed out:

Things happen in other countries have nothing to do with us … We are not afraid of anyone but

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26 One can even question the legitimacy of “humanitarianism.” The PRC has good reasons to be sceptical about any concept starts with “Western humanitarian” especially when it recalls memories; for instance, from the Taiping Rebellion (1850-1864). Britain intervened in the Chinese civil war on rationalised and “sincere” humanitarian grounds, but ended up with a disastrous consequence of at least 20,000,000 deaths.
we will not offend anyone … There are some Third World countries that want us to take the lead, but we should definitely not taking the lead. This is our basic policy. We are not powerful yet. To take the lead means to lose the momentums we have already got” (Deng, 1993, pp. 326 and 363).

This is further exemplified by Deng’s Twenty-eight-character Principle, which includes: “observe calmly” (lengjing guancha 冷静观察); “stand firm with one’s own feet” (zhanwen jiaogen 站稳脚跟); “tackle problems with a cool-head” (chenzhuo yingfu 沉着应付); “be skilful in hiding one’s capacities and biding one’s time” (taoguang yanghui 韬光养晦); “be good at the tactics of low profile diplomacy” (shanyu shouzhuo 善于守拙); “never take the lead” (juebu dangtou 决不当头); “take proper initiatives” (yousuo zuowei 有所作为). All of these axioms, except “take proper initiatives,” match well with the spirit of non-interventionism. This makes us wonder if a change in the PRC’s norms and principles of humanitarian intervention and R2P may depend on how the authority re-interprets the phrase “proper initiatives.”

Today, Chinese non-interventionism is commonly associated with the spirit of the Five Principles of Peaceful Co-existence and the realist-pragmatism of safeguarding state interests that are described in the PRC’s grand strategy. The strategy features three components: first, national security strategy (to create and to maintain a peaceful external environment; to protect overseas interests); second, national development strategy (to grow in economic, political, technological, social and cultural arenas); third, national reunification strategy (to seek peaceful reunification with Taiwan, albeit retaining the use of force). From the realist-pragmatist perspective, it makes no sense for the current PRC authorities to support liberal internationalist intervention, because the intrusion into other states’ sovereignty upsets the peaceful external environment and internal stability that are required by the PRC’s security and development strategies. It also obstructs the achievement of the “great renaissance of the Chinese race” (Zhonghua minzu de weida fuxing 中华民族的伟大复兴);
or what Xi Jinping named the “Chinese Dream” (Zhongguo meng 中国梦). The PRC authorities do not want to give Western liberal powers, especially the US, an excuse to intervene on the Taiwan, Xinjiang and Tibet issues—which have been considered strictly as domestic issues by the PRC. By acknowledging humanitarian intervention and R2P as legitimate and legal, the PRC may risk the chance of being intervened—in the name of humanitarianism and human rights protection—when the PRC wages a war in the Taiwan Strait or uses force to suppress the Uighur and the Tibetan separatists.27

Non-interventionism is a kind of Chinese exceptionalism. The conceptual divergence between the PRC’s doctrine and liberal internationalism on intervention is not easy to be reconciled or reduced because firstly, a strong sense of autocratic statism and defensive nationalism still prevails in the PRC. The CPC, the PRC’s governmental institutions and the PLA rarely issue official condemnations or take action against international injustices, including mass atrocities and humanitarian crises in other states. The Chinese authorities are highly sceptical of post-Westphalian values and the Western principles of the *jus ad bellum*. Secondly, the CPC regime still maintains firm control of the PRC. The newly-risen middle class is satisfied with the wealth and improvement of material life. They are therefore the largest supporting group in favour of status quo, contrary to the bourgeoisie that initiated revolution in the eighteenth century Europe (Kupchan, 2012). In the near future, the PRC is unlikely to experience a regime change that is comparable to the Colour Revolutions or the Arab Spring.

27 Nevertheless, one may argue the PRC’s worries are unnecessary because being a P5 member at the UNSC, the PRC can veto any draft resolution that puts the PRC in disadvantage. Being a major nuclear power, the PRC is in an advantageous position in the global security order. The PRC also has a heavy role to play in today’s global economy. It does not sound to be a rational choice, even for the US, to take military action against a rising great power like the PRC.
Early discussions on the PRC’s position on intervention usually focus on the PRC’s firm position on upholding state sovereignty and denouncing universal human rights. Allen Carlson’s “Helping to Keep the Peace (Albeit Reluctantly): China’s Recent Stance on Sovereignty and Multilateral Intervention” (2004) and Michael C. Davis’s “Humanitarian Intervention and China’s World View” (2002) are typical examples. The PRC’s general position can be summarised as below:

(1) The PRC will not intervene other sovereign states by means of military action and economic sanction.

(2) The PRC generally opposes intervention carried out by any state or coalition.

(3) The PRC may endorse an intervention that is thoroughly discussed, debated and supported by an authentic, globally recognised institution—that is, the UNSC—but not Western-controlled organisations such as the NATO. The legal source of intervention can only be The UN Charter, interpreted by a Westphalian point of view.

(4) Though increasingly norm-biding, the PRC is still very reluctant to engage with post-Westphalian norms and the evolving game-rules of global politics.

(5) In the face of mass atrocities and humanitarian crises, the PRC currently has three choices: to remain low-profiled (muted); to verbally criticise, or to act as a mediator. It tends not to judge publicly on ethical issues—even the imminent ones—within another state. Since most of the global IGOs are Western-oriented, the PRC tends to
cooperate with regional IGOs, such as the Association of Southeast Asian Nations (ASEAN) (Lee, Chan & Chan, 2012). The PRC’s cooperation with the African Union (AU) in the 2011 Libyan Civil War was also an example.

There are several ways to explain why the PRC has adopted the doctrine of non-interventionism and resisted liberal internationalist norms.

(a) State sovereignty argument

As aforementioned, the PRC’s non-interventionism is closely related to the PRC’s support of mutual non-interference; independence of state sovereignty, and territorial integrity. Its rigid preference of putting state sovereignty (Westphalian-oriented) prior to universal human rights (post-Westphalian-oriented) has made it resistant to Western norms of liberal internationalism. The PRC authorities have reiterated that violations to the sovereignty principle will jeopardise the legitimacy of the UN; international law and the stability of the current international order, which has been largely based on the Yalta System and endorsed by the UN Charter in 1945.

There are practical reasons, though: The PRC does not support intervention because it does not want the same problem to happen on itself. It believes an adherence to the sovereignty principle and even neo-realism makes it safe. Mainstream literature from the US often holds a realpolitik opinion that no matter the PRC changes its view on humanitarian intervention and R2P or not, it still applies a conservative and self-interested approach to IR. Bernard Y. Geoxavier (2012) clearly points out: “[The PRC’s] decision to embrace intervention will have more to do with protecting its national interests and economic investments and less to do with a genuine belief in the responsibility to protect against gross violations of human rights” (p. 98).
(b) Pragmatist argument

Pragmatism means ambiguity. One can argue the PRC’s non-interference in other states’ internal affairs is a kind of pragmatism, and it does not imply compliance with global norms (Rebol, 2011). One can also argue the PRC’s deepening material interests overseas are forcing it to pragmatically revise the rigid principle of non-interference, but still it is not going to converge with Western visions of international order (Verhoeven, 2014, pp. 66-67). Pragmatism indicates the PRC’s determination to stay away from any unnecessary conflict with other states. The so-called “unnecessary conflict” refers to those that are unrelated to the domestic security concern of the PRC. The Taiwan, Xinjiang and Tibet issues are much closer to the PRC authorities’ core concern than the Syrian Civil War and the Crimean Crisis—those two regions have very little relevancy to Chinese interests. In her research on the PRC’s voting behaviour at the UNSC, Suzanne Yang Xiao (2013) concludes:

It is China’s strategic preferences, including China’s concern about its future role in a changing global order and its strategic flexibility characterized by a willingness to adopt more pragmatic, cooperative and at times even a compromise posture (p. 100).

Jonathan E. Davis finds an echo in Yang: “The majority of today’s commentary and scholarship holds that the People’s Republic of China’s position on sovereignty and intervention remains inflexible and absolutist … [This] view is outdated and overly simplistic because China is switching from an ideological mode on noninterference to a more pragmatic approach in responding to humanitarian crisis” (Davis, 2011, p. 217). The PRC’s silence on Omar al-Bashir and its comparatively flexible attitude towards sanctions, the ICC referral, and the setup of “no-fly zone” against Muammar Gaddafi can be read as the PRC’s protection
of its economic and energy benefits; also Chinese citizens abroad. The PRC wants stability in these regions for the stability of its governance back home. The pragmatist argument is echoed by those who believe political and social stability are indispensable prerequisites to secure economic development—the PRC’s prime national interest since the opening up in 1978.

(c) Traditional worldview argument

China’s traditional worldview, known in the Chinese language as “Tianxia,” has constructed an inward-looking and defensive character for Chinese IR, thus makes it less interested in caring about off-shore issues that result in no direct consequence to domestic politics and the local well-being of the “Middle Kingdom.” The concept of Tianxia suggests China’s foreign relations, since the imperial era, is best explained by a concentric model that puts foreigners (referred as “yi” 夷; “di” 狄; “rong” 戎, and “man” 蛮, all mean barbarians) at the periphery. Such model does not necessarily suggest that the Chinese civilisation is xenophobic, but rather implies that China sees “the world” as just China. China stands by itself as a world. Mass atrocities and humanitarian crises happened in foreign states are not only events happen out of the PRC’s state boundary, but also out of “the world”—the monolithic world that Chinese politics and society only pay attention to and care about.

(d) Regionalist argument

Instead of engaging humanitarian intervention and R2P through the UN, the PRC has shown its preference of practicing bi-lateral negotiations and problem-solving strategies through regional IGOs (Lee, Chan & Chan 2012, p. 19; Teitt, 2008, 19 December, pp. 2 and 11). In the case of Libyan Intervention in 2011, the PRC worked closely with regional
organisations, such as the Arab League, in order to find a solution to the crisis that can avoid NATO’s use of military intervention. The PRC authorities insist the local and regional situations should always be looked after by means of respecting the indigenous traditions and customs (Liu, 2012, p. 169). Alex J. Bellamy (2014) optimistically argues another “Asian miracle” is in the making:

Gradually, the widening acceptance of human rights-related norms in East Asia gave rise to an emerging regional consensus about the notion that sovereignty entails responsibilities as well as rights, which crystallized in the principle of the “Responsibility to Protect” (p. 16).

Bellamy observed that East Asian countries have been mimicking support for R2P—to verbally support it without changing behaviour. Norm localisation is possible. Dialogues between East Asian countries and R2P have already begun (Ibid., pp. 17-18).

(e) Cultural relativist argument

International human rights are indispensable elements in the discussion of humanitarian intervention and R2P. The purpose of intervention is to protect human rights of the people who suffer from humanitarian crisis and/or mass atrocities; to make criminals responsible, and to bring justice to victims by the use of force and the practice of international criminal justice. There are still debates on whether human rights and humanitarian intervention norms are by nature universal or relative. Cultural relativists argue that the PRC, being a non-Western state that upholds East Asian values, has rights to interpret human rights in its own way or even to reject human rights values (usually civil, political but not social-economic). This gives the PRC an excuse to resist complying with the norms that are recognised by Western liberal states as global and universal.
The divergence in interpreting human rights between the PRC and Western liberal states may result in different prescriptions to mass atrocities such as genocide and crimes against humanity. Both the PRC and the liberal West may share the same goal (to protect human lives and humanity), but they insist to offer different solutions: The liberal West takes proactive actions, usually in an intrusive and speedy manner, with an aim to get the task completed once-and-for-all; while the PRC uses more indirect approaches, such as negotiation and persuasion, which are non-intrusive but slow-yielding. Within the context of Chinese collectivism, it is allowed to argue that injustice can be selectively tolerated in order to preserve hierarchical order and a stable environment to sustain material well-being. In the liberal Western context, however, where there is no justice, there is no peace.

Recent developments indicate that despite the rhetoric of the CPC, the PRC government and the PLA has remained rigid, some flexibility has been observed. With the recent proliferation of discussions on “China’s compliance to global norms and rules”; “China as a responsible great power” and “China’s ability to provide global public goods,” the PRC has been under pressure from the international community to speak up on humanitarian intervention and R2P. The PRC government demonstrated its preliminary commitment in the R2P debate at the 2005 World Summit and 2009 discussions on the concept’s implementation. Rosemary Foot argues the PRC is a norm-shaper as it has helped to strengthen Pillar I of R2P; to focus on the application of the concept, and to confine the military aspect of R2P’s definitions (Foot, 2011, p. 47). The PRC also participated in the preparatory work of the ICC though it is not a signatory state of The Rome Statute.

In March 2011, the UNSC passed draft resolution 1973, to impose a “no-fly zone” and to authorise “all necessary measures,” including the use of force, to protect civilians from crimes against humanity in Libya. Li Baodong, the Chinese permanent representative to the UN, presided over the meeting and voted for abstention. The PRC was also among the
fifth-teen members at the UNSC that voted in favour of the referral of Muammar Gaddafi to the ICC. When Libya was under heavy fighting, the PRC opened contacts with the National Transitional Council (NTC). On Syria, the PRC joined the unanimous adoption of UNSC draft resolution 2118; expressed a will to participate in Geneva II Conference, and sought solutions for chemical weapon disposal. Is there a normative shift towards greater acceptance of R2P? If we look at how the PRC has been dealing with the Syrian Civil War and the Crimean Crisis, the answer could be no (Garwood-Gowers, 2012, pp. 375 and 386). The state-controlled *People’s Daily* issued a commentary on 11 Jun 2012, arguing “China cannot abandon the principle of opposing military intervention … Even if Assad leaves power, China won’t be embarrassed for sticking to this principle.” The commentary also asserts “Syrian authorities were ‘the least’ likely to be behind the Houla massacre” (BBC News, 2014, 13 June).

The issue of humanitarian intervention and R2P is rather new but urgent in contemporary Chinese IR. The PRC has vetoed nine times at the UNSC since 1971—the year it replaced the ROC at the UN. Five (55.56%) out of the nine vetoes were put in the last six years. They are all related to humanitarian intervention and R2P issues (see Table 2.1).
<table>
<thead>
<tr>
<th>Date</th>
<th>Draft</th>
<th>Issue</th>
<th>Vetoed with</th>
</tr>
</thead>
<tbody>
<tr>
<td>25 Aug 1972</td>
<td>S/10771</td>
<td>Admission of Bangladesh as new member to UN General Assembly (GA)</td>
<td>Nil</td>
</tr>
<tr>
<td>10 Jan 1997</td>
<td>S/1997/18</td>
<td>Deployment of military observers to Guatemala</td>
<td>Nil</td>
</tr>
<tr>
<td>25 Feb 1999</td>
<td>S/1999/201</td>
<td>Extension of UN deployment in Macedonia</td>
<td>Nil</td>
</tr>
<tr>
<td>4 Oct 2011</td>
<td>S/2011/612</td>
<td>Strong condemnation on human rights violations and the use of force against civilians in Syria; situation review and consideration of using sanction under Article 41 of the UN Charter</td>
<td>Russian Federation</td>
</tr>
<tr>
<td>4 Feb 2012</td>
<td>S/2012/77</td>
<td>To request the Syrian government to act in accordance with the Plan of Action of the League of Arab States; to call for an end to violence and to support political transition</td>
<td>Russian Federation</td>
</tr>
<tr>
<td>19 Jun 2012</td>
<td>S/2012/538</td>
<td>Acting under Chapter VII of the UN Charter, to demand immediate implementation of the UN-Arab League Joint Envoy’s six-point proposal. Otherwise the UNSC shall impose sanctions under Article 41 of the UN Charter</td>
<td>Russian Federation</td>
</tr>
<tr>
<td>22 May 2014</td>
<td>S/2014/348</td>
<td>Acting under Chapter VII of the UN Charter, to reaffirm strong condemnation of violation of human rights and international humanitarian law in Syria; to refer the situation to the Prosecutor of the ICC.</td>
<td>Russian Federation</td>
</tr>
</tbody>
</table>

Table 2.1: Vetoes put by the PRC at the UNSC (1971-2014) (United Nations, 2014)
The Sino-liberal Western divergence appears to be increasingly irreconcilable because of the PRC’s status as a rising, flaunting power and its rigid doctrine of non-intervention along with a mixture of autocratic statism, defensive nationalism and non-negotiable worship of the Westphalian sovereignty principles. The influence of the doctrine is more important than the doctrine itself. If the PRC is going to sustain its position for a long time, the Sino-liberal Western conceptual divergence in humanitarian intervention and R2P will not be reconciled or reduced. More lives will be put at risk by the UN’s inaction or slow action.

Latest Developments

Notwithstanding, an increasing number of literature has argued that the PRC is showing some kind of flexibility, particularly in dealing with R2P. There are scholar who argue the PRC is now more concerned about its national image so it is more receptive to international norms (Wu, 2009). In “China’s Non-intervention Question,” Pang Zhongying (2009) argues:

There is a new Chinese interventionism [which] is highly conditional, cooperative, and constructive … With its continued commitment to non-interference, a rising China will evolve as a new kind of force in relation to international intervention based on the UN Charter, China’s revised foreign policy principles and other international norms and regimes, [also] new international rules such as [R2P]. It is important to note that China’s flexibility in dealing with international intervention issues is mainly framed by an interest in achieving a final settlement or the effective management/control of international conflicts, rather than intentionally seeking to complicate the situation (Pang, 2009, p. 252).

28 The author refrains from using the term “assertive” to describe the PRC’s character. For details, please read (Lee, 2013b).
Rosemary Foot (2011) argues, “China’s position is not far removed from the international consensus on the concept, although its interpretation of R2P lies at the conservative end of the spectrum” (p. 47). Sarah Teitt (2011) argues the PRC shows a shift from condemnation to reluctant engagement. The PRC is sophisticated and adept in its diplomacy to appear “cooperative and conciliatory without ceding ground on its vital interest to preserve sovereignty and restrict interventionist claims” (pp. 299 and 310). The PRC has also helped to translate R2P from words to deeds (Teitt, 2008, 19 December, p. 11). Allen Carlson (2006) believes the PRC’s position on sovereignty and intervention has often been misunderstood because it “entails much more than simply opposing intervention” (p. 234). Ian Holliday (2009) argues if we do not confine the discussion of humanitarian intervention to military operations, then we may argue non-interventionism is not the only doctrine that the PRC has been adopting. Robert D. Kaplan (2012, 13 June) and Johan Lagerkvist (2012, 29 May) go even further but in quite the opposite ways: Kaplan hints the PRC’s realism can in fact be humanitarianism; while Lagerkvist argues the PRC is able to tolerate universalistic discourse on human rights. Pak K. Lee, Chan Lai-ha and Gerald Chan (2012) argue sometimes the PRC’s flexible and constructive attitude lies in its passiveness, but not activeness:

China is more determined than the West in redefining humanitarian intervention … Capitalizing on the paralysis of the Western powers, China effectively prevents inviting Western forces into the non-Western world and kills the standard definition of intervention … In so doing, China shows some initial signs of making rules for the world (p. 22).

Another notable development is that the PRC and other BRICS members at the UN are now more receptive to intervention. They are emerging as a normative power collectively at
the UNSC and the UNGA. They aspire to redefine norms on intervention by applying a realist-constructivist “normative balancing strategy” (Pak K. Lee, 2013). Such conceptual optimism began with the coinage of “Responsible Protection” (RP) by Ruan Zongze, Deputy-director of China Institute of International Studies (CIIS). RP could be regarded as a kind of “R2P with Chinese characteristics.” In “Responsible Protection: Building a Safer World,” Ruan criticises “new interventionism” and the concept of R2P. Drawing references from the Sanya Declaration (2011) and the Delhi Declaration (2012), Ruan argues, the BRICS consensus on a new set of norms may modify or even replace R2P (Ruan, 2012). Subsequent debates were followed by Ramesh Thakur (2013, 1 November); Gareth Evans (2013, 25 October); Lucie Qian Xia (2013, 21 August), in which Brazil’s idea of “responsibility while protecting” (RWP) are discussed.

Despite all the recent flexibilities observed, this thesis still contends that the Sino-liberal Western conceptual divergence on humanitarian intervention and R2P has not been reconciled or reduced, because it is fundamentally a conceptual one. After all, RP and RWP are not backed up by any strong metaphysical foundation (they share no common ontological grounds). It is unlikely that they can fit into the current international legal system and order. Moreover, the vacuum of international criminal justice makes RP and RWP flawed, as humanitarian intervention does not only aim to save victims and restore peace but also to do justice to those who are involved. Unless the PRC and liberal West have agreed on commensurable norms, they are destined to paralyse the UNSC again. A transition in normative power may hint there could be a soft power struggle between the two parties; but it is also possible that an innovative set of norms or principles—that is compatible to both the Chinese and Western context—can be derived.
Summary

To turn a blind-eye on mass atrocities and to be apathetic to sanction and condemnation of oppressive regimes give tyrants more time to kill; while to be silent on the abuse of the use of force gives great powers the opportunity to abuse the UNSC, Chapter VII of the UN Charter, and the whole concept of humanitarianism. The PRC is now at a crossroads of choosing which elements to adopt from its indigenous tradition; its current social-political doctrine and liberal Western norms. Is Chinese non-interventionism exotic or indigenous? The doctrine of non-interventionism has a Western origin, and it has been used by modern China to fight against Western great powers. However, the persistence application of such doctrine by the PRC may well imply that non-interventionism not only have an exotic face, but also an indigenous connection. We should not only ask: “Why has the PRC adopted non-interventionism?” but also ponder: “Why has not the PRC adopted interventionism?” This leads us to a review of the *jus ad bellum* in classical China.
III. A Review of the *Jus ad Bellum* in Classical China

Military operations should highly regard righteousness and appropriateness. One should not use force without a righteous cause even if there is reward of interests. Only righteous cause may anger an army. If soldiers are in fury for a righteous cause, they are ready for all kinds of battles.

凡兵上义；不义，虽利物动……夫惟义可以怒士，士以义怒，可与百战。

- Su Xun 29

Weapons are evil and inauspicious. A sage will not use them unless he has no choice.

乃知兵者是凶器，圣人不得已而用之。

- Li Po 30

I dream that there might come some great man, who would bring down the River of Heaven, cleaning all the weapons of blood, so that they could be stored away for ever, never to be used again.

安得壮士挽天河，净洗甲兵长不用。

- Tu Fu 31

Knowing there is probably no immediate formula for a solution to the conundrum of Sino-liberal Western conceptual divergence in humanitarian intervention and R2P, we may wonder if there is a “Third Way” to some kind of inspiration. Given the Chinese civilisation’s

29 From the prose “Psychological Tactics” (*心术*) by Su Xun (1009-1066) (Xie, 1989, pp. 623-624).

30 From the poem “Fighting South of the Wall” (*战城南*) by Li Po (701-762) (Peng & Yang, 1960, p. 1682).

rich intellectual history, it sounds all reasonable to turn to classical China for an answer. At this point, let us not forget in the monumental treatise *Just and Unjust Wars* (2006), Michael Walzer uses the battle between the Kingdom of Sung and the Kingdom of Chu happened in 638 B.C. to illustrate how the pre-Qin philosopher Mozi’s just war ethics can be related to Mao Zedong’s “One Protracted War” (1938). He says: “[M]ore than two millennia before the communist revolution, the philosopher Mo Tzu perfectly described Mao’s case” (p. 226).

Walzer’s authenticity in the Western scholarship of just war theory and his application of classical Chinese war ethics urge us to ponder the following questions: Has the *jus ad bellum* ever existed in China? How could we justify the *jus ad bellum*, being a Western-oriented concept, can fit itself well in the Chinese context? If there is such a parallel tradition, what is it? What are classical Chinese conceptions of the *jus ad bellum*? Where can we find them? How can we get to understand them? How can they be applied to contemporary Chinese IR and global governance?

This thesis argues indigenous Chinese conceptions of war ethics that are akin to the Western conception of the *jus ad bellum* do exist in the Chinese history. The Chinese tradition is a self-contained system so it is inappropriate to assume elements of the Western *jus ad bellum* can all be found in the Chinese context. It may also be inappropriate to assume the way of understanding the Western *jus ad bellum* will be totally applicable to the understanding of corresponding Chinese conceptions. What we can do is to borrow the Western scholarship as a platform to make a comparison between the two traditions. We will see what is in common and what is not, while bearing in mind there is always an ethno-cultural perspective to be aware of.

*Etymology*

Discussions in the Chinese language on “the principles of waging a war” or “the moral
reasoning of going to war” usually apply the catch-all term “zhengyi zhanzheng” 正义战争, or its acronym “yizhan” 义战 (literally, both means “just war”). There are no equivalent terms in the Chinese language that precisely make the differences between the *jus ad bellum*, the *jus in bello*, and the *jus post bellum*—three components of the Western just war theory/doctrine (*jus bellum iustum*). The Latin etymology, which carries cultural genes from the Greco-Roman and Judeo-Christian tradition, does not totally fit into the Chinese context. The consequence of such etymological ambiguity and confusion in translation is: in the English language publications, “just war,” “just war theory” and “just war doctrine” are used interchangeably by many scholars when they are referring to “the *jus ad bellum*” in China. In fact, “just” (as an adjective) and “justice” (as a noun) are not problem-free because they can only find literal translations but not equivalent meanings in the Chinese language. The Western definition of justice, which carries the meaning of equity and fairness in distribution, is absent in the Chinese tradition. “Justice,” when it is translated into “zhengyi”

32 The moral issues initiated by the coalition operations in Iraq and Afghanistan in recent years have given rise to a debate on whether the *jus post bellum* should be counted as a “Third Strand” of the just war theory/doctrine. Some scholars, such as Brian Orend (2007) argues the ignorance and rejection of the *jus post bellum* must be overcome; while others such as Alex J. Bellamy (2008) is more reserved, arguing what he called the “minimalists” and the “maximalists” are both flawed. This thesis supports Orend’s view for the reason that the legitimacy and legality of humanitarian intervention and R2P is first and foremost derived from international criminal justice.

33 Justice, in the Western definition, refers to “the existence of a proper balance” (McLean & McMillan, 2003, p. 287). In law, it illustrates the applications of such proper balance in a fair trial and a just sentence. In political philosophy, it refers to the membership of a social group and the distribution of burdens and benefits within the group (Ibid.). Andrew Heywood (2000) defines “justice” as: “the idea of a morally justifiable distribution of rewards or punishments … [It] is about giving each person what he or she is ‘due’” (Heywood, 2000, p. 134).
正义 in the classical Chinese context, emphasises more on the restoration of hierarchical order in a feudal society. In the Chinese language, the meanings of “just” and “justice” are embedded in two characters—“zheng” 正 and “yi” 义. A semantic summary of a few essential Chinese terms (Table 2.2) may help us understand more about the ethno-cultural structure of classical Chinese conceptions of the jus ad bellum:

<table>
<thead>
<tr>
<th>Term in Chinese</th>
<th>Meaning in English and Latin</th>
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<tbody>
<tr>
<td>Zheng 正</td>
<td>In English: The standard of correctness; right; proper; principal; lawful; upright; orthodox; regular; exact; just right; positive; straight; unbiased; genuine; pure; real; true; original; honest and virtuous; the right side; to enquire; to rectify; to correct; to fit; to adjust properly; to follow the law; to mete out punishment for a criminal; the person in charge.</td>
</tr>
<tr>
<td></td>
<td>In Latin: rectus; legitimus; genuinus; justus; congruens entis; conveniens entis</td>
</tr>
<tr>
<td>Yi 义</td>
<td>In English: Equivalent to “yi”谊 in classical Chinese, which means appropriateness. That which it is right to do; which is profitable; duty towards one’s neighbour; a moral principle; purport; justice; righteousness; generosity; charity; public spirit; honour and right; heroic; chivalry; faithful; loyal; patriotic; common; free; open to all.</td>
</tr>
<tr>
<td></td>
<td>In Latin: justitia; justus; summus; supremus; communis; publicus</td>
</tr>
<tr>
<td>Zhengyi 正义</td>
<td>In English: Justice; the cause of justice; sense of righteousness; orthodox interpretation of / book of commentary on Confucian classics; chiefly exegetical.</td>
</tr>
<tr>
<td></td>
<td>In Latin: animus rectus; justitia; orthodoxus; verae et receptae doctrinar addictus</td>
</tr>
<tr>
<td>Yizhan 义战</td>
<td>In English: To fight in a good cause; a fight for the right; a war for moral principles; a war for justice; a holy war for justice.</td>
</tr>
<tr>
<td></td>
<td>In Latin: bellum justum</td>
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34 This is in the definition of rites (li) of Zhou dynasty. It has nothing to do with feudalism in medieval Europe.
The lack of consistency in the semantics of “zhengyi zhanzheng” and “yizhan” (aka “just war”) has led to some belief that it could be more appropriate to use “righteous” rather than “just” when referring to the principles of waging a war in China. David Graff is one of those who hold such belief. In “The Chinese Concept of Righteous War” (2010), Graff systematises the way China defines a righteous war by drawing reference from 1,700 years of Chinese history (from Shang Dynasty in eleventh century B.C. to Sui Dynasty in seventh century A.D.). He finds that the classical Chinese concept of “righteous war” shares certain parallels with the ideas of the *jus ad bellum* that later evolved in Christian Europe. For example, a war should be waged only with a just cause and with the goal of restoring peace. Nevertheless, competent authority (the ability to identify which authority could legitimately wage a war) and proportionality (the means adopted should be proportionate to the goals being pursued in the conflict) remain undeveloped, ambiguous, or the subject of disagreement in the Chinese tradition (Graff, 2010, p. 196). Nadine Godehardt (2010) lists six Chinese criteria of the *jus ad bellum*: legitimized authority; people’s approval; stability of the political order; just cause for defensive warfare; last resort, and aim of war (pp. 460-461). Apparently, Godehardt does not agree with Graff on the absence of authority, but she did not explain in detail what it means by “legitimized authority.” Graff argues, the entire area of the *jus in bello* (the determination of what actions are considered legitimate during war) is absent in China. In other words, there is no way to signpost a systematic and comprehensive Chinese just war theory/doctrine. There are only classical conceptions that deal with the principles of waging a

35 “Comparative justice” and “probability of success” in the Western tradition of the *jus ad bellum* are not covered.
war in the Chinese tradition. We shall call them “classical Chinese conceptions of the *jus ad bellum*” in the following discussions.

**Main Features and Sources**

The classical Chinese conceptions of the *jus ad bellum* are much embedded in the strategic culture of China, which is a fuzzy concept to define. Alastair Iain Johnston (1995) points out there has been a conceptual overlap on strategic culture (*zhanlue wenhua* 战略文化). The Chinese strategic culture includes weapons culture, military systems or organisational culture, military thought or thought culture—all seen by Chinese analysts as strategic value system that reflects culturally rooted thought processes or cognitive processes—military culture, defence culture and cultural style (pp. 24-25). He observed most of the first-generation literature on Chinese war ethics has defined Chinese strategic culture as “nonviolent”—diplomacy is always used to deal with adversaries. When the use of force is necessary, it is controlled; and it is used in a defensive but not offensive way. It is commonly agreed that the Chinese strategic behaviour has a distinctive minimally violent character. Johnston then summarises such non-violent characteristic of Chinese strategic culture into three aspects: first, “a theoretical and practical preference for strategic defense”; second, “a preference for limited war, or the restrained application of force for clearly enunciated political ends”; third, “an apparently low estimation of the efficacy of violence” (Ibid., pp. 22 and 25). The relation between “righteousness” and “just” is: “Righteousness (*yi* 义) in some sense means controlling or ordering things (*zhi* 治) as they should be. If this ordering is done benevolently (*ren* 仁), then the process is called just (*zheng* 正)” (Ibid., p. 70). The non-interest (*fei li* 非利) nature of war implies there is no private interest involved in the process of achieving justice. Justice is, and should be, purely moral. Zhang Junbo and Yao Yunzhu (2004) summarise several main roots of traditional Chinese military thought, namely:
justice *versus* interest; human factor *versus* weapon factor; the principle of keeping a smaller but better army; the principle of keeping a well-disciplined army; the principle of boosting morale; the principle of unity in the army; stratagem *versus* strength (pp. 128-133). These are common characteristics of the Chinese strategic culture as well.

Building on her critique on Johnston’s *parabellum* paradigm, Feng Huiyun (2007) firmly safeguards the belief that the Confucian-Mencian strategic culture provides a guidepost for Chinese strategic preferences. In the world of harmony (*he* 和), benevolence (*ren* 仁), and rituals (*li* 礼), there is no place for aggressive and expansionist thought (pp. 17-19). The Chinese strategic culture can be summarised as peace-loving and non-violent. It is realised by Sun Tzu’s saying: “*buzhan ersheng*” 不战而胜 (win without fight or use of force); the Confucian ideal: “*he wei gui*” 和为贵 (peace is the most precious), also the purpose of building the Great Wall36 (Ibid., p. 26).

John K. Fairbank argues there is a tendency to “disesteem heroism and violence, not to glorify it” (Fairbank, 1974, p. 25). Indeed, China has never given foreign war victory architectures (such as memorials, shrine and cenotaphs) a proper place. Take triumphal arch as an example, while there are Arco di Costantino in Rome; Arc de Triomphe in Paris; Brandenburger Tor in Berlin; Wellington Arch in London; The Narva Triumphal Arch in Saint

36 The Great Wall of China embodies a defensive character of war ethics and strategy. Ni Lexiong argues its underlying idea is that it treats war “as a means of maintaining peaceful life, still exist and continue to be of long-lasting rationality and universality” (Ni, 2008, p. 202). However, the Great Wall can also be read as the insular barrier between China and the outside world. It may connote ethnocentric arrogance; self-containment; lack of proactiveness; *biguan suoguo* 闭关锁国 (close the border and lock the country). Julia Lovell argues the Great Wall, since it has been at the centre of China’s twisting history for millennia, must be a uniquely Chinese solution to deal with its neighbours (Lovell, 2006). We may take Lovell’s findings further, and argue a re-interpretation of the Great Wall could bring a change of perception in Chinese IR.
Petersburg, there has been no such architecture in the Chinese cities. Instead of celebrating exhilarating victories, the Chinese chose to conservatively control their emotion. We can tell by the names of the city gates of Beijing: Desheng Men (The Gate of Virtuous Victory—all triumphal armies during the Ming and Qing dynasty were made mandatory to pass through this gate when return); Anding Men (The Gate of Peace and Stability); Yongding Men (The Gate of Eternal Stability); Chongwen Men (The Gate of Admiration of the Civilian), which was built to make a balanced pair with Xuanwu Men (The Gate of Proclamation of Force). In Xi’an, there are Heping Men (The Gate of Peace); Yongning Men (The Gate of Eternal Tranquillity); Anyuan Men (The Gate of Peacekeeping the Foreign Land); Shangde Men (The Gate of Admiration of Virtue).37

Non-aggression, which features defensive warfare and cautious war, holds the gravity of China’s largely Confucian-defined strategic culture. Confucians believe in order to achieve harmony; universal tranquillity, and love, states should not attack each other. Mencius’s concept of yi (righteousness) is inseparable from the human nature. It refers to the attitude and virtue humans have towards each other (Feng, 2007, p. 19). Mencius’s idea is that the world will turn against a state or a ruler if it or he seeks to dominate the world by aggressive force. Contrastingly, a benevolent state or ruler is close to virtue and the will of the people. The practice of benevolence draws no enemy (Ibid., p. 21). The general attitude of non-use of force in the Confucian tradition implies that defensive warfare has a much heavier role to play in the Chinese strategic culture than offensive warfare. Feng explains defensive warfare in three steps: an emphasis on non-violence (feigong 非攻); defensiveness (fangyu 防御), and righteous war (yizhan 义战) (Ibid., p. 26). It also features “if someone doesn’t attack us,

37 Observation made by the author of this thesis from July to November 2013 when he was in the PRC for fieldwork research.
we won’t attack them” (Scobell, 2003, p. 31). This is vividly realised in the PRC’s “no first use” pledge of nuclear weapons. John K. Fairbank was particularly fascinated by the idea of civilian (wen 文) supremacy over the military (wu 武) in the Chinese military tradition. In other words, militarism was contained by bureaucracy (Fairbank, 1974, pp. 2 and 9). He also suggests that China’s preference of focusing more on land warfare than naval warfare is in fact an expression of its defensive nature of strategy (Ibid., p. 25).

Cautious war is another feature of China’s non-aggression tradition. This can be exemplified by the etymological study of the character 武 (wu)—which denotes force; the military; weapons; martial arts—given by The Chronicle of Zuo. In the narrative of the Twelfth Year of the Duke Xuan, there is a saying: “The character for ‘prowess’ is formed by those for ‘to stay’ and ‘a spear’” (夫文，止戈为武) (Zuo, 2005, p. 475; Zuo, 2007). The prowess for using military force has to do with “to stay a spear.” The character 武 (wu) is a combination of two other characters: 止 zhi (means to stay or to stop) and 戈 ge (means a spear or weapon). The etymological study implies the idea that the whole purpose of going to war is to stop a war; or, the whole purpose of using force/violence is to stop an existing use of force/violence. Ni Lexiong (2008) argues: “waging war with prudence (shenzhan 慎战) is the foundation of Chinese military culture and one of the most important characteristics that separate it from other civilizations regarding ideas about war” (Ni, 2008, p. 217). War should always be the last resort. When the use of force is unavoidable, it must be handled strictly based on the righteous principle. The purpose of going to war should only be, first, to fight against those who have initiated the conflict (usually an invasion); second, to stop the weak being bullied (Feng, 2007, p. 26).

The pre-Qin era was a time when some great powers held the legitimacy to call for wars—of course, righteous wars but not aggressive wars. Great powers that practised wangdao 王道 (the righteous/kingly way) are legitimate in calling middle powers and small states for an alliance against a state that was morally failed and/or breached norms and
regulations as stated in the rites (*li*). Interventions were considered as legitimate with the practice of *wangdao*, but not *badao* (the expansionist/hegemonic way). During the Spring and Autumn Period (771-476 B.C.), the most militarily resourceful and morally influential great powers (*ba* 霸) were able to have the authority to call for inter-state meetings (*huimeng* 会盟) and to set rules and norms. Feudal states (*zhuhou* 诸侯) were also supposed to follow the rules and regulations made in *The Book of Rites (Zhouli 周礼)*, despite the power of the royal family of Zhou Dynasty had been largely weakened. Such mechanism worked as well during Han Dynasty (206 B.C.E.-220 A.D.) and Tang Dynasty (618-907 A.D.), when these Chinese Empires had to unite and to lead neighbouring tribes to fight wars against the “barbarians.” Interestingly, there has been a rise of discussions in the PRC in the recent decade on how should the PRC practise *wangdao*, while still sticking to the pledge of “never seek hegemony.” Yan Xuetong suggests the idea of “moral realism,” and distinguishes it from Western classical realism:

> Classical realism deems that nationalism is not humanitarian while moral realism argues that nationalist policy of a humane authority state (*wang*) can be humanitarian when its policy is guided by the concerns of global leadership (*you Tianxia*). Humane authority is an ancient Chinese political concept about the highest form of world leadership based on both material strength and morality. Moral realism modernizes the morality of humane authority with its principles of fairness, justice and civility (Yan, 2014, p. 163; Yan, 2013; Yan, 2011).

Yan stresses a lot on arguing the PRC under Xi Jinping’s leadership is shifting from a “keeping low profile” (KLP) strategy to “striving for achievement” (SFA) strategy; and that moral realism can explain the shift well. Whether a PRC under the guidance of moral realism will adopt *wangdao* and make humanitarian intervention—parallel to those carried out by pre-Qin great powers—possible is something worth to keep an eye on.
Mencius perhaps is the most prominent philosopher from classical China who argued steadfastly for *wangdao*. The current literature on China’s strategic culture has suggested that Mencius is one of the most pro-humanitarian intervention and R2P philosophers (also the most interventionist within the Confucian tradition) in the pre-Qin era. Daniel A. Bell (2008) suggests that instead of blindly sticking to the Western standard of human rights, critical intellectuals should draw upon Mencius’s views to evaluate the justice of wars in the contemporary world. The advantages of taking Mencius as an alternative is that he focuses on material well-being and emphasises less on communal particularity as justifications for going to war (Bell, 2008, pp. 226, 244-245). In “War, Peace, and China’s Soft Power: A Confucian Approach” (2009), Bell further elaborates his understanding of Mencius on war ethics by linking it to modern humanitarian intervention. He argues Confucians may be more likely to support humanitarian interventions compared to liberal defenders of humanitarian intervention in the condition that the people in a foreign state are not well-fed by their irresponsible government (Bell, 2009, p. 36). Mencius focuses on material well-being; while liberal internationalism focuses on civil political rights. For Mencius, intervention should be done when people are in starvation. This may not be the main focus of the more hawkish liberal discourse of intervention, but the evolving concept of R2P may echo with it. A modern understanding of Mencius could be useful for the future development of R2P principles.

The last feature we are going to discuss about classical Chinese conceptions of the *jus ad bellum* is just cause and the goal/aim of war. The Chinese tradition permits, in the case of mass atrocities, it is legitimate for a foreign state, usually a moral great power, to punish the tyrant and/or the rebels with an aim to restore order and peace. Scobell (2003) argues, Confucius himself criticised the improper use of war rather than the use of war *per se*. Certain types of violence were in fact accepted by the Confucians. Violence initiated by the state and the authority was “culturally sanctioned,” while violence initiated from below with an aim to challenge the authority was “condemned” (p. 20). It is the intent and motive that
matter. Therefore, if the use of force is for the purpose of restoring order, peace and stability; for the purpose of stopping violence and saving those who are suffering from tyrannical rule; for the purpose of punishing those who have failed their duties, it is considered legitimate, hence righteous (Twiss, 2012, p. 401).

The current literature on classical Chinese conceptions of the *jus ad bellum*, however, has overly focused on the aspect of restoring order and peace (which is of course, very Confucian). It largely neglects that the ancient Chinese were also keen to bring justice (equity and balance of distribution) to the victims—that is, to punish those who caused trouble. In *Mencius*, there is a saying that stresses the importance of satisfying the victims and holding the offenders accountable to their deeds: “He punished the rulers and comforted the people, like a fall of timely rain, and the people rejoiced greatly” (诛其罪，吊其民，如时雨降，民大悦) (III. B. 5). The *Jus post bellum* is a huge and crucially important gap to fill in when it comes to innovating a Chinese norm or principle of humanitarian intervention and R2P. The *Jus post bellum* in international criminal justice is so closely connected to the *jus ad bellum*. A *jus ad bellum* without the *jus post bellum*’s support is like a person tries to walk with only one leg. While scholars disagree on whether China has a tradition of the *jus in bello* or not, it is very clear that the *jus post bellum* has been discussed so little. Part of the reason has to do with China’s separate legal tradition as compared to the West. More discussions will follow in Chapter 5 of this thesis on the legality problem.

To sum up, the classical Chinese conceptions of the *jus ad bellum* is embedded in the Chinese strategic culture, which features: (1) Non-aggression, including defensive warfare and cautious war; (2) great power legitimacy to call for war, or what Yan Xuetong called “moral realism”; (3) preference of social-economic welfare than civil, political rights as the right intention and just cause of using force; (4) punishment of the criminals and restoration of order and peace. Some of the weaknesses of these conceptions have been discussed above. The rest will be addressed in the following section.

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Limitations of Current Studies

The current studies on classical Chinese conceptions of the *jus ad bellum* are insufficient for the making of a solution to the Sino-liberal Western conundrum posed in this thesis. Five limitations have been observed: (1) The dispute and the dichotomy between Confucian-Mencian interpretation and *realpolitik* interpretation of the Chinese classics have blinded us from perceiving a more pluralistic and balanced view of the principles of waging a war in China. (2) The classical Chinese principles and values, though morally incisive, are interpreted by occidentalists and narrow-minded nationalists in a way to argue that China will never share the West’s worldview for whatever reason. It also implies being global and liberal means being neo-colonial, neo-imperialist, aggressive, and unpatriotic. (3) Negative state responsibility is weak. (4) The problem of hermeneutics in classical texts is largely neglected. (5) Many of the discussions are done by political philosophers but not academics in IR and public international law, thus losing perspective of the cutting-edge of global governance and Chinese IR. One example is the negligence of the prevalence of globalism.

Reviewing the literature in classical Chinese conceptions of the *jus ad bellum* is like watching an intellectual battle between the panda-huggers and the dragon-slayers. Nadine Godehardt labelled the former strand “cultural moralism,” while the latter “cultural realism” (Godehardt, 2010, pp. 445-452). Mark Burles and Abram N. Shulsky named the former strand “the case for Chinese exceptionalism,” while the latter “the case against Chinese exceptionalism” (Burles & Shulsky, 2000, pp. 80 and 83). When we are examining texts written two millennia ago, it is inevitable for us to apply lens of the modern world to judge whether a piece of information is useful or not. We also cherry pick ideas that suit the needs of our epoch and match our intellectual mentality—in academic writing, this refers to the researcher’s political stance, methodology training received, language use, and cultural
background. Nobody is free from stereotypes and bias. Neither the cultural moralists nor the cultural realists provide the single most legitimate and “objective” interpretation of the classical texts.

When it comes to the study of classical Chinese conceptions on the *jus ad bellum*, it can be observed that those who are in support of the predominance of the Confucian-Mencian interpretation (Adelmann & Shih, 1993; Bell, 2008 & 2009; Fairbank, 1974; Feng, 2007; Ni, 2008; Zhang & Yao, 2004) have been in a futile debate with those who argue for the *realpolitik* interpretation (Graff, 2010; Johnston, 1993, 1995, 1996; Swaine, 2000; Wang, 2011, 2012a, 2012b). One of the examples is Feng’s argument: “Confucianism reflected the [Chinese] people’s general aspiration for peace” (Feng, 2007, p. 20). Feng argues *Sunzi Bingfa* 孙子兵法 (*The Art of War*) not only reflects the wisdom of military strategies, but also “a strong Confucian philosophical underpinning” (Ibid., p. 21). Johnston disagrees with Feng’s definition on Chinese strategic culture, as he argues:

Briefly put, there is an almost monolithic acceptance of the view that the Chinese strategic tradition is uniquely antimilitarist, yet there is little explication of the process of analysing this tradition … When authors do look at other sources of Chinese strategic culture, the interpretation and analysis of these sources is heavily influenced by this standard view of Sun Zi. In other words, other texts end up confirming or buttressing the alleged preference for minimal violence embodied in *Sun Zi’s* concept of ‘not fighting and subduing the enemy’” (Johnston, 1995, p. 26).

Using findings from *Wujing Qishu* 武经七书 (*The Seven Military Classics*), Johnston then suggests apart from the Confucian-Mencian paradigm of non-violence; accommodationist grand strategy that emphasises benevolence, righteousness and virtues, there is also a
“parabellum paradigm”—a Machiavellian view of the Chinese strategic culture that stresses on offensive strategies (Ibid., p. 61; Johnston, 1996, p. 219). This is very much in contrast with the stereotyped image of Chinese pacifism or cult of defence (Johnston, 1995, p. 61). The righteous use of force, according to *Wujing Qishu*, refers to “sending forth armor and weapons in order to punish the unrighteous”; “punishing the rebellious and suppressing the unrighteous,” and “punishing the violent and cruel, and suppressing the rebellious” (Ibid., p. 69).

Graff echoes with Johnston’s realist argument by arguing the “cult of defense” in China does not show us the whole picture of China’s way of doing war, because when a less virtuous leader is in power, it is then possible for him to wage any war by mobilizing the right amount of propaganda and manipulating the information spread to the public. This is called “the righteous war exception in Chinese pacifism” (Graff, 2010, p. 211). He also argues: “It has frequently been observed that Chinese culture tends to ‘disesteem’ war and violence, but this observation coexists uneasily with the recognition that China’s history has not been especially peaceful” (Ibid., p. 210). Similarly, Michael D. Swaine believes the use of force has been endemic in the Chinese history (Swaine, 2000, p. 46). He cannot confirm with the viewpoint that “warfare is China’s last resort just because Chinese philosophers and military theorists in the pre-Qin era love peace, and their thoughts determined beliefs and actions of the people who are involved in warfare subsequently” (Ibid., p. 45). Contrasting with Feng and her allies’ emphasis on Sun Tzu’s saying “buzhan ersheng” 不战而胜 (win without fight or use of force), Swaine argues Sun Tzu was willing to use coercion against an enemy; and that is merely another kind of violence:

38 Johnston named it after the Roman adage: “si vis pacem, para bellum” (if you want peace, prepare for war) (Burles & Shulsky, 2000, p. 79).
[Sun Tzu] was primarily concerned with how to win military campaigns … [His] emphasis on the use of stratagems over simple coercion related more often to the tactics of military campaigns than to the larger strategic question of whether to deploy armies against an opponent … He did not advocate shirking from the use of force (Ibid., p. 46).

Andrew Scobell (2003) has a more balanced view, which is closer to pluralism—what this thesis is arguing for. He argues China has a dualistic strategic culture—a Confucian-Mencian one, and a realpolitik one. Both of these two strands are constant, active and influential. They combine in a dialectic way to produce what he called a “Chinese cult of Defense” (Scobell, 2003, p. 15). Scobell advocates there is a need to rethink the Chinese strategic culture by deconstructing the presumption of monism. On the one hand, he agrees with Johnston that most of the strategic culture scholarship “allows no room for the possibility of multiple strategic cultures … Supporters of a distant Chinese Confucian tradition abhorring violence tend to treat this culture as a monistic one” (Ibid., pp. 19-20); on the other hand, he joins Arthur Waldron to critique Johnston for being “far too dismissive of Confucianism”:

How can one brush side as largely irrelevant a philosophical tradition that for thousands of years has constituted the bedrock legitimizing ideology of the Chinese polity? I argue, on the contrary, that both strands of strategic culture are operative, and that the “Confucian-Mencian” one reflects deeply held beliefs (Ibid., p. 20).

The key point is that the defensive-mindedness and preference for nonviolent solutions to interstate disputes are not merely empty rhetoric or symbolic discourse, but rather are part of a belief system that has been deeply internalized by Chinese civilian and military elites (Ibid., p. 38).
This thesis would like to point out from an ontological point of view, there is an intellectual advantage to shift from a monist view to a pluralistic view of the Chinese strategic culture, as well as the classical Chinese conceptions of the *jus ad bellum*. The predominance of the Confucian-Mencian thought has made other schools of thought less noticed; a pervasive victory of *realpolitik* interpretation is not healthy as well. Both are not desirable for the construction of an innovative norm or principle of humanitarian intervention and R2P. Also, the current literature has been overwhelmingly reliant on the pre-Qin Confucian texts (mainly from *Jingbu 经部* and *Shibu 史部*—orthodox Confucian classics; histories and geographies sections) and military classics (*Bingshu 兵书*, from *Zibu 子部*—miscellaneous schools of writings), particularly Sun Tzu’s *The Art of War*. China is a civilisation of millennia’s history. It is feasible to argue that there are other resources and ways of interpretations to excavate from. The three quotations from the Tang and Song dynasty displayed at the beginning of this chapter are categorised in the *Jibu 集部* (literature section) of *Siku Quanshu 四库全书* (The Imperial Collection of Four), a hugely resourceful section which should not be overlooked.

Another problem found in the current literature is China’s self-restricted worldview; more precisely, its exceptionalist and exclusionist (self-exclusion) worldview of *huayi zhbian 华夷之辨* or *yixia zhbian 夷夏之辨* (the “civilised China-barbaric foreign” dichotomy). The analysis of classical Chinese conceptions of the *jus ad bellum*, particularly when it is done within Chinese Studies and Chinese philosophy, often falls into the traps of self-reference and self-explanation. Scholars of *Guoxue 国学* (Orthodox Confucian school of Chinese Studies) do talk about *Tianxia*; they do try to hold dialogues with their Western counterparts. However, nobody seems to be interested to put the academic discussions of classical Chinese conceptions of the *jus ad bellum* in the context of the globalism and global governance (within the study of general IR and Chinese IR). Feng Huiyun argues,
“Confucianism remained a domestically focused ruling philosophy; therefore, the Chinese way of expansion of the Chinese order was through cultural rather than military means and the final goal was not territorial or political rule over other states … the universalized order of the Chinese world should be a cultural order” (Feng, 2007, p. 20). Much of what the Chinese scholars have defensively argued about the Chinese strategic culture is for China’s domestic use. Some of them argue what Feng called a “cultural order” can be applied elsewhere too, but have we ever seen a single concept from the indigenous Chinese tradition being systematically analysed, openly debated, and eventually adopted by international organisations for global governance? The author of this thesis knows nobody who masters the Chinese classics as well as the way to exert global influence in international organisations, except Chang Pang-chun—who vice-chaired the UN committee for the draft of The UDHR in 1948.

Ni Lexiong (2008) suggests China’s “waging war with prudence” tradition in fact originates from China’s particular living conditions and socio-psychological background of “an irrigating agricultural society in great river valleys that are sealed off from other areas … The highest aim of war is the maintenance of normal agricultural life, a standard that also determines whether the war is regarded as just and legitimate” (pp. 217-218). This is a very precise observation. Nevertheless, as the international society is transforming from the Westphalian order to the post-Westphalian order; modernity is gradually giving way to post-modernity; humanism has been increasingly challenged by post-human arguments; the PRC is fast-changing in a sense tomorrow is almost unpredictable—given all these are on the table, is it the time for China to excuse itself a while from the old mentality of agricultural society? It is always difficult, if not impossible to change a tradition; but to embrace openness, diversity and flexibility in a globalising world will simply bring China more ideas and options to deal with the challenges it has to face.

Since a righteous war can only be a defensive war according to the Chinese tradition,
positive state responsibility (to hold a state responsible for what it has done) is always the legitimate focus; while negative state responsibility (to hold a state responsible for what it has not done to prevent something from happening) is largely neglected. For some scholars, such as Edmund Ryden, the meaning of “just war” is two-fold: the pursuit of justice and the avoidance of war (Ryden, 2001). There is always a cost to pay to pursue justice. Since direct confrontation is always avoided in the Chinese tradition, the Chinese strategic culture clearly focuses more on the avoidance of war than the active pursuit of justice. However, as aforementioned, the fact that negative state responsibility being neglected does not mean it is absent in China. The main problem is: the non-aggression principle has been overwhelmingly emphasised so we may not see there are other possibilities.

Mencius has made it clear that the Chinese character zhan 战 (war) connotes unrighteous interstate warfare; while fa 伐 and tao 讨 (the Son of Heaven’s suppression of usurpation) is righteous. That is why he says: “There is no righteous war (zhan) in The Spring and Autumn Annals” (春秋无义战) (VII. B. 2). However, “to punish the tyrant (fa) and to console the victims” (diaomin fazui 吊民伐罪) are always righteous. The overthrow of King Zhou of Shang by King Wu of Zhou around 1046 B.C. was commonly considered by Chinese historians as an action of fa, but not zhan. The historical event has been known as “Wuwang fa Zhou” 武王伐纣.

Summary

In a nutshell, the current literature of Chinese strategic culture has shown us many aspects of the features found in the traditional Chinese principles of waging a war or moral reasoning of going to war. However, the current discussions are not sufficient to address the conundrum set in this thesis. The lack of pluralism; the denial of a globalist worldview, and the weak presence of negative state responsibility have hindered the development of classical
Chinese conceptions of the *jus ad bellum* into innovative norm or principle of humanitarian intervention and R2P. Not much has been questioned about the legitimacy of the current hermeneutics applied to all the classical texts. Within the context of Chinese IR, how do the Confucians, the Chinese Communists and the American realists justify themselves to be the more legitimate interpretation of the classics? This thesis argues all of these interpretations are not able to satisfy the requirement set by today’s a globalising world and faced by a PRC that is increasingly involved in global governance. For this reason, we shall see what innovative interpretations can tell us, and how a shift in hermeneutics may help to solve the conundrum.

**IV. The Chronicle of Zuo and Two Confucian Texts of Philosophy**

Why is there a need to turn to classical Chinese texts? How can this be done? The first two sections of this chapter have analysed the core features of liberal internationalism and the PRC’s doctrine of non-interventionism. These sections have also discussed the tensions between the two and explained how the Sino-liberal Western conceptual divergence of humanitarian intervention and R2P had formed. Instead of following the nearly fully-excavated path of analysing the post-1949 roots of non-interventionism in the PRC, this thesis concentrates on a careful examination of classical Chinese conceptions that are akin to the Western principles of *jus ad bellum*. The third section of this chapter has dealt with this. It has shown us the limitations of the current literature on Chinese strategic culture and classical Chinese concept of “just war”—they are not sufficient to make a solution for the conundrum of this thesis.

We shall now look for a “Third Way” to solve the problem—to focus on investigating one historical and two philosophical texts of the pre-Qin era; and to see how these texts shed light on the legitimacy-legality problematique in the use of force for humanitarian purposes.
We will see what we can learn from a liberal reading by applying a summarised, self-coined methodology of “Knowledge Archaeology of Chinese International Relations” (KACIR), which will be discussed in the next chapter. Chapter 4 and Chapter 5 aim to locate close parallels and overlaps between liberal internationalist norms and classical Chinese conceptions of the *jus ad bellum* that are revealed in the two Confucian texts of philosophy.

*The Pre-Qin Era: Historical Background of the Classical Texts*

The pre-Qin era is extremely crucial for the modern evolution of Chinese politics and culture. Despite attempts in 1911 (the abolishment of the 2,132-year imperial institution), 1915-1921 (the New Culture Movement), 1949 (the establishment of the Communist regime), and 1966 (the Great Proletariat Cultural Revolution) to get rid of traditional ways of thinking, it still exists in an evolved form. The application of pre-Qin resources for contemporary uses is not something totally new. Yuri Pines (2009a) argues:

> The twentieth century witnessed an unprecedented upsurge of interest in the intellectual legacy of the Warring States. Academics, politicians, and occasionally even students and workers were repeatedly engulfed in controversies about the nature of ancient political thought and about its relevance (or irrelevance) to the projects of modernization, socialism, democracy, patriotism, human rights—and the other ideological agendas that intermittently dominated political discourse in China and among China-watchers abroad (p. 219).

Separately, Zheng Yongnian argues in modern Chinese history, drastic change in China’s international environment as well as drastic transformation in its domestic society usually invokes a crisis of consciousness (*yishi weiji* 意识危机) among the Chinese intelligentsia. As a response to such crisis, intellectuals and political authorities initiate idealistic debates (2013,
14th May). Searching for a “Chinese Dream,” today’s PRC is under a similar crisis. The pre-Qin era has become an increasingly important keyword because scholars and the PRC authorities want to draw references from and to make good uses of the wisdom and experiences embedded in it.

Inter-state interventions did happen in classical China. The pre-Qin era best explains this. The pre-Qin era (771-221 B.C.) is commonly referred by historians as the combination of the Spring and Autumn period (771-476 B.C.) and the Warring States period (475-221 B.C.). It is called “pre-Qin” because it is the period before the State of Qin unified China into a single empire. Some historians refer pre-Qin as Eastern Zhou period because the kings of the Eastern Zhou dynasty, though politically and militarily weak, were still legitimate sovereigns (or gongzhu 共主, aka common leaders) during pre-Qin era. Pre-Qin was a historical period in classical China that entails features akin to modern inter-state system and international legal order (Ford, 2010, p. 245; Hui, 2005, p. 7; Koo, 1944, 23 August; Lake, 2010, pp. 390-391; Lauren, 2011, p. 161; Morgan, 1926, pp. 50-56; Walker, 1953, p. xi; Watson, 1992, pp. 85-89). There was a lack of top-down control over States from the central political power. This gave rise to a situation that is akin to international anarchy. The pre-Qin era was also a time when States engaged frequently in warfare, diplomacy and norms formation. States sent envoys to each other; diplomats and rulers met bilaterally and multilaterally. They negotiated, drafted regulations, rules and treaties. Great power interventions were practised by five hegemons.39

The pre-Qin era was also a time when the “Hundred Schools of Thoughts” emerged and flourished. Its immense intellectual pluralism may identify common ideological choices that eventually shaped traditional Chinese political culture (Pines, 2009a). It was a unique period

39 In the Spring and Autumn period, this refers to the State of Qi, the State of Chu, the State of Jin, the State of Wu and the State of Yue.
in the Chinese history when intellectuals enjoyed great freedom in teaching, publication, open debating and political lobbying. Many of the philosophical ideas discussed were related to the study of ethics. After a series of unification wars carried out by the State of Qin, China appeared to a large extent a monolithic imperial structure until the establishment of the ROC in 1912. The inter-state system and quasi-international institutions retreated, until the time when the Westphalian concept of sovereignty and public international law were introduced to China in the nineteenth century.

Ancient Greece is said to be the cradle of the Western civilisation; while the pre-Qin era (particularly the Warring States Period, 475-221 B.C.) can be said as the cradle of the Chinese civilisation (Lo, 2015b, p. 3). Based on the virtuous statecraft of Confucius (aka Kongzi 孔子, 551-479 B.C.), Mencius (aka Mengzi 孟子, 372-289 B.C.) discussed virtuous statecraft by applying it to military ethics. Xunzi (aka Hsün-tzu, 荀子, c. 325-238 B.C.) refuted Mencius’s belief that the human nature is good. He believed in the opposite and argued that li (rite) must be imposed to secure ren (benevolence) and yi (righteousness) (Ibid., p. 8). Mencius and Xunzi’s support for a benevolent and righteous ruler to legitimately manage the use of force was in fact a response to the on-going brutal warfare and deteriorating morality in the Warring States Period. Both of them called for order amid disorder; for benevolence and righteousness amid cruelty, greed, and aggression. Parallel comparison can conveniently be made to Thomas Hobbes’s experience of the English Civil War (1642-1651): “[W]here every man is Enemy to every man … the life of man, solitary, poor, nasty, brutish, and short” (Hobbes, 2010, p. 78). Such comparison to the statist theory promoted by Leviathan hints why texts written during the chaotic pre-Qin era (Mencius and Xunzi included) have been used effectively by the conservative scholars in the PRC—particularly Yan Xuetong and his Tsinghua School fellows—as resources for the construction of realist and statist theory for Chinese IR; also a theory of military intervention without any touch on humanitarianism, human rights, and international criminal justice.
A good understanding of the historical background of the classics is essential for the construction of innovative interpretations. However, ancient writers have passed away long ago. They will never be here to speak to us their thoughts and experiences. What we can rely on is only the written texts. While we are paying attention to history, we must not be imprisoned by history. There is no single “correct” understanding of the classical canons. Everything is subjective, as Han-Georg Gadamer rightly argues: “It would be an inadmissible abstraction to contend that we must first achieve a contemporaneousness with the author or the original reader by means of a reconstruction of his historical horizon before we could begin to grasp the meaning of what is said. No, a kind of anticipation of meaning guides the effort to understand from the very beginning” (Gadamer, 1976, p. 129).

*The Historical Text: The Chronicle of Zuo*

Texts are open and flexible for interpretations. What makes a text special is there are different interpretations throughout different epochs and cultural contexts. The meaning of a text has to do with how the interpreter reads the text. In terms of data selection, the author of this thesis admits selection bias is almost inevitable. He has tried his best, though, to grasp the basic structure of the classical Chinese scholarship; to see which texts best fit into the context of Chinese IR, particularly the issue of humanitarian intervention and R2P. John Scott (1990) proposes four criteria in approaching and using textual resources: first, authenticity; second, credibility; third, representativeness; fourth, meaning (quoted in Vromen, 2010, pp. 262-263). The application of *The Chronicle of Zuo* and the two Confucian texts of philosophy should have met these criteria. The reasons are stated as below:

Confucianism has dictated the Chinese intellectual scholarship for two millennia. Classical Chinese studies (*guoxue 国学*) is almost a synonym of the Confucian study of the Confucian classics (*ruxue 儒学*). In Chinese history, the most authentic and the most
comprehensive series of the Chinese classics is *The Imperial Collection of Four* (*Siku Quanshu 四库全书*), which was published by the order of Emperor Qianlong around 1773. *The Imperial Collection of Four* is categorised into four sections: Confucian classics (*Jing 经*); histories and geographies (*Shi 史*); miscellaneous schools of thought (*Zi 子*), and literature (*Ji 集*). The section of Confucian classics is of prominent importance. There are different ways of categorising the Confucian classics. One of the most popular collections is *The Thirteen Classics* (*Shisanjing 十三经*), which includes *The Chronicle of Zuo; The Analects*, and *Mencius*—texts to be analysed in Chapter 4 and Chapter 5.

Confucius’s *The Spring and Autumn Annals* (*Chunqiu 春秋*) perhaps is the most important canon among all Confucian canons. Written from Confucius’s perspective, this is a narrative of the history of the State of Lu in the Spring and Autumn Period. It is the most authentic Confucian narrative of inter-state war and diplomacy in the pre-Qin era. However, since its language is very concise and difficult to be decoded, some commentaries (aka interpretations) were written by Confucian scholars for better understanding. There are mainly three interpretations: *Zuo’s Interpretation of Chunqiu* (*Chunqiu Zuoshizhuan 春秋左氏传*, aka *The Chronicle of Zuo*); *Gongyang’s Interpretation of Chunqiu* (*Chunqiu Gongyangzhuan 春秋公羊传*); *Guliang’s Interpretation of Chunqiu* (*Chunqiu Guliangzhuan 春秋穀梁传*). Each of them specialises in a specific area (Figure 2.2):

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40 *Guliang’s Interpretation of Chunqiu* focuses mainly on the language, so it is not suitable for use.
Figure 2.2: *The Spring and Autumn Annals (Chunqiu)* and its three interpretations

*The Chronicle of Zuo*, written by Zuo Qiuming, is one of the most significant and earliest works of narrative history in classical China. It includes a handful of descriptions of and commentaries on military intervention that took place during the Spring and Autumn period. The period of narration is from 722 to 468 B.C. This thesis has chosen *The Chronicle of Zuo* for two reasons: first, like Thucydides’ *The History of Peloponnesian War*, *The Chronicle of Zuo* is a narrative account (history) of events happened in the ancient time. Both texts serve as very useful resources for IR theorists—Thucydides has laid the cornerstone for classical realism; while *The Chronicle of Zuo*’s potential in innovating thoughts in Chinese IR is still a modern project yet to be completed. It started in 1881, when William A. P. Martin wrote *Traces of International Law in Ancient China* by applying the perspective of public international law to *The Spring and Autumn Annals*. Now the most urging question is: how should we interpret the text to suit the needs of the PRC—a rising great power that is immersing deeper and deeper in the globalising world?

The way *The Chronicle of Zuo* describes and comments on peoples and events looks
relatively more neutral than Gongyang’s Interpretation of Chunqiu—which is heavily influenced by New Text Confucianism (Jinwenjing xue 今文经学). New Text Confucianism interprets Confucius as a political institution reformer rather than a human and a scholar. It occupies a central role in the implementation of the Confucian-Legalist grand narrative of orthodoxy later in Western Han dynasty. The neutrality embodied in The Chronicle of Zuo is crucially important, because it opens up possibilities for different interpretations of The Spring and Autumn Annals to create different meanings. We need such flexibility to deconstruct the monolithic, fundamentalist hermeneutics in the Chinese intellectual tradition. We also need it to make spaces for the application of a new, pluralist interpretation that better suit the needs of today’s Chinese IR. Gongyang’s Interpretation of Chunqiu, thus, is not only a text we do not choose for data analysis, but also a text we have to critique on. The Chinese tradition does not necessarily need to be read as a monolithic entity.

Second, some of the recent studies on humanitarian intervention and R2P have been completed on the basis of The Chronicle of Zuo. One of the examples is A Theory of Interventions among Nations: Practice of Spring and Autumn Era and Implications for Modern China (2012)—based on two already-published journal articles (Chen & Huang, 2008; Chen & Huang, 2009)—written by Chen Qi and Huang Yuxing of the Tsinghua Approach of KACIR. In this monograph, Chen and Huang explain why The Chronicle of Zuo is the best source among all Chinese classics for a research in humanitarian intervention. They argue it is even better than Confucius’s original text of The Spring and Autumn Annals because of its higher concentration on narrative history and inter-state politics; also because of the more eloquent language and continuum in narration (Chen & Huang, 2012, pp. 19-25). What they have not mentioned, or even noticed, is that The Chronicle of Zuo is tolerant to negative state responsibility, which is an essential element in humanitarian intervention and R2P. In the past five years, there have been very few scholarly writings on the corresponding topic that are not restricted to the state-centric and great power politics interpretations of The
Spring and Autumn Annals. Most of them focus on the Gongyang Commentary, not The Chronicle of Zuo (Ou, 2010; Yu, 2014).

Two Confucian Texts of Philosophy: Mencius and Xunzi

Conceptions of military ethics are found in the Taoist, Mohist, and Legalist writings, but those received the greatest attention are the Confucian and Military Strategy Schools (Lo, 2015a, p. 411). Since Confucianism has been dominating the usual understanding of the Chinese tradition, plus this thesis intends to tackle with the flaws in Confucian-Legalism, two philosophical texts of the Confucian School are chosen to be discussed. In fact, liberal reinterpretations of Mencius and Xunzi may offer us a pluralistic view of how pre-Qin philosophers thought about and shaped principles of the use of force. International scholarships have demonstrated in the past decade that Mencius and Xunzi have been the most frequently applied pre-Qin canons for the discussions of humanitarian intervention, R2P, and just war (Bell, 2008; Bell, 2009; Ching, 2004; Glanville, 2010; He, 2012; Kim, 2010; Lo, 2015a; Lo, 2015b; Lo & Twiss, 2015; Stalnaker, 2015; Twiss & Chan, 2015a; Twiss & Chan, 2015b; Ye & Jiang, 2012). Journal of Religious Ethics has a special issue titled “Focus on Just Wars in Classical Chinese Thought” (2012, 40:3). Journal of Military Ethics has another special issue: “Expanding the Global Conversation about War: Three Chinese Perspectives” (2012, 11:2). Some of the articles published in these volumes were then included in the first comprehensive compilation of essays on Chinese war ethics. It is titled Chinese Just War Ethics: Origin, Development, and Dissent (2015), edited by Lo Ping-cheung and Sumner B. Twiss. On top of the existing series of Sino-Western dialogues hosted by Hong Kong Baptist University, the Project on Religion and Ethics in the Making of War and Peace and the Confucius Institute of Scotland will co-host an international conference on classical Chinese military ethics at the University of Edinburgh on 31 October 2015. Topics on Confucian
perspective on humanitarian intervention, the *jus ad bellum*, R2P, Chinese military culture and its relevance to the PLA’s strategies will be discussed. The Conference will involve academics and military officers from the PRC, the US, Hong Kong, and the UK. The Tsinghua School scholars have discussed the issue of intervention by using *Mencius* and *Xunzi*, but they have shunned anything related to “humanitarian” and R2P (Xu, 2011; Yan, 2009; Yan, 2011a; Yan, 2011b; Yan, 2013; Yan, 2014; Yan & Xu, 2008; Yan & Xu, 2009).

Exegesis is crucially important in the study of *Mencius* and *Xunzi* because war ethics in China has been thickly developed in the sophisticated sediments of the Chinese cultural history. As James T. Johnson argues, until now no effort has been made on detailed, substantive examination on the Chinese tradition similar to the large-scale study on Western just war and Islamic *jihad* (Lo & Twiss, 2015, x). Lo Ping-Cheung points out there has not been much development in specifying concrete norms and systematising theories for Mencius and Xunzi’s guidance for the *jus ad bellum* (Lo, 2015b, p. 11). The exegetical (detailed, critical, and “correct”) explanation and interpretation of conceptions in classical canons like *Mencius* and *Xunzi* are difficult tasks:

> Although the relevant texts were continually read and commented on, these early military ethical ideas have not been developed, elaborated, refined, systematized, and popularized in modern Chinese thought. Hence an average Chinese today does not know much about them … We need to know whether there is a just war tradition in China rather than simply whether one or two philosophical texts have addressed this topic (Ibid., pp. 19-20).

The liberal reinterpretation of the two Confucian texts of philosophy, as will be demonstrated in Chapters 4 and 5, is an effort made to establish the exegetical foundation for the two texts by Lo Ping-cheung, Twiss B. Sumner, Jonathan K. L. Chan, and Aaron Stalnaker. This thesis, by proposing the method of KACIR and the replacement of fundamentalist hermeneutics with
reinvent cosmopolitanism, also attempts to join the collaboration.

The philosophical framework of ren, yi, and li in Mencius and Xunzi is largely based on virtue ethics founded by Confucius (Lo, 2015a, p. 405). Confucius makes it clear that proper statecraft requires virtuous politics in continuity with the emphasis on virtuous ethics for individuals (Lo, 2015b, p. 7). Confucian ethics in the pre-Qin era pays heavy attention to the individual’s intention to be good, and his intention to complete a life of perfection being a “junzi” (君子). This is in harmony with Immanuel Kant’s deontological saying: “It is impossible to think of anything at all in the world, or indeed even beyond it, that could be considered good without limitation except a good will” (Kant, 2011, 4:393).

Nevertheless, in his discussion of Confucian military ethics, Lo Ping-cheung argues: “[V]irtues offer action guidance in decisions on when to wage wars (ad bellum issues)” (Lo, 2013, p. 141). Despite being deontological rather than consequentialist, Confucian military ethics is able to contribute to applied ethics. Comparing to the liberal Western query on the issue or matter (Is such action just or unjust?), the Confucian focus is human-centric and social role-based (Who is responsible for what?). It is the humans who are at the centre to determine the issues, rather than that the humans and the issues (in physical world) are dissected, alienated agents unknown to each other. To the Confucians, it does not matter how complicated the issue is. Once the right person is assigned with the right role and is put in the position of power, the issue will be solved. In Lo’s words: “[I]n Confucianism the emphasis is more on whether or not the person who starts a justified war is virtuous rather than on whether or not any specific kind of action is justifiable … It is not what you do, but who you are, that ultimately matters the most” (Lo, 2015a, p. 405). Confucian virtue ethics takes deontology as a starting point. It then questions how the moral judgment on the issue can be made in accordance with the right action (renzheng, aka benevolent governance) and the right regulations (lizhi, aka the rule by rites) by the right person (the True King, who is a junzi). Confucian idealism requires unshakable integrity from the leader. It rejects moral dualism
and any other kinds of double standard. Commanders with character strengths will always win wars against those with major character flaws (Lo, 2015a, p. 411).
CHAPTER THREE
Methodology: Knowledge Archaeology of Chinese International Relations

Politics are vulgar when they are not liberalised by history, and history fades into mere literature when it loses sight of its relation to practical politics.

- Sir John Robert Seeley 41

What fills our historical consciousness is always a variety of voices in which the past echoes … [Each] time in [modern research] a new voice is heard in which the past echoes.

- Hans-Georg Gadamer 42

Chapter 1.3 has given an introduction to some methodological questions of this thesis. It puts this thesis in the general framework of the philosophy of social sciences. It attempts to locate this thesis to the most appropriate position on meta-theoretical level and methodological level. This chapter will continue to explore the interpretivist methodology of “Knowledge Archaeology of Chinese International Relations” (KACIR) by drawing substantial examples witnessed in the recent decade from a growing number of literatures in the application of classical Chinese history and philosophy to the study of contemporary Chinese IR. We will begin with the use of classical history and philosophy in general IR; then discuss the three schools of Chinese IR, namely Tsinghua, the American, and the British. The last section of this chapter will sum up the three school’s strengths and limitations before it justifies the existence of and defines such methodology coined by the author as “KACIR.”

To begin with, there is a need to further clarify some essential issues on methodology and

41 Seeley, 1883, p. 166.
IR theories. This thesis does not beg the question: It did not assume, at the very beginning of the research, that the classical Chinese *jus ad bellum* is the innate solution to the Sino-liberal Western conundrum. Some may suspect if this thesis had got an answer or asserted a conclusion before it posed the research question and hypothesis. They should understand this thesis does not argue the current findings of the classical Chinese *jus ad bellum*—a set of conceptions that has never been systematised and theorised for the use of IR—alone can solve the problem. There is no one-step solution. It will be too assumptive and naïve to argue the conundrum can be solved by simply attacking the PRC’s doctrine of non-interventionism with the discovery of interventionist elements in classical Chinese conceptions of the *jus ad bellum*. *Circulus in probando* (circular reasoning) is a kind of fatal logical fallacy in social sciences research. This thesis has no intention to commit such intellectual suicide.

What this thesis insists to highlight is that the problem of hermeneutics in the reading of classical Chinese texts holds the key to the solution to the conundrum. The answer to the core research question will still be a “No” if the problem of hermeneutics is not appropriately addressed. In other words, only by applying an appropriate hermeneutics to the classical texts may then make the classical Chinese *jus ad bellum* a catalyst for the solution. That being said, the main concern of this research is methodology—the methodology used to interpret classical texts. Every research project applies a methodology. This research not only applies a methodology, but also places methodology at the centre of reasoning. Current findings of the classical Chinese *jus ad bellum* do not provide solution to the problem, because the interpretation is the problem. Methodology does not help us to solve the problem. Methodology is the problem.

This thesis does not intentionally apply any Western IR theory because none of them fully satisfy the methodological requirement of the research problem. The author of this thesis is mindful of the view that IR theories are lens provided for us to examine international affairs from different perspectives. IR theories also direct different ways of managing
research data—that is, which methodology or methodologies to be used. Speaking from an anti-foundationalist point of view, the author believes both methodology and IR theories are value-laden. They have overlapping functions. Nevertheless, methodology focuses more on answering the question of “how”; while IR theories emphasise the essential importance of asking “why.” IR theories deal with the explanation of phenomenon in international relations. The object for analysis is “reality”: the actors’ behaviour and events that have taken place (what has happened). The two strands of IR theories—explanatory theories and constitutive theories—both deal with the “reality.” That is why both are considered by IR theorists as empirically important (Bull, 1973, pp. 183-184; Smith, 1995, pp. 26-27).

The research problem of this thesis, however, is concerned with the question of “how” rather than “why.” It is concerned with the relations between textual reading and thoughts in IR rather than actors’ behaviour and events that have taken place. Readers may argue this thesis sounds like a Western critique (liberalism and cosmopolitanism) on Chinese IR, especially when it comes to the discussion of the three dimensions of international ethics: cosmology; worldview, and positive/negative state responsibility (see Chapter 6). This argument is flawed, because firstly, the main discussion issue to deal with in this thesis is methodology, not IR theory; secondly, the thesis borrows Western critiques of liberalism and cosmopolitanism as lens to look at classical Chinese texts, but it does not stop there—the cosmopolitan hermeneutics proposed by the author is a reinvented one, drawing references from both the Western and the Chinese tradition. The author’s hybrid cosmopolitan point of view in fact complements and intertwines with his discussion on methodology—a reinvented cosmopolitan interpretation (hermeneutics) of classical Chinese texts is the appropriate method to use for the making of an innovative thought (norm and principle included) of humanitarian intervention and R2P for the PRC. In other words, the installation of the hybrid cosmopolitan prism in interpretation/hermeneutics (KACIR methodology) is the key to the solution of the Sino-liberal Western conundrum.
I. Textual Analysis, Ancient History and Contemporary Thought in IR

The use of ancient history in understanding and innovating thoughts in IR is not confined to the Chinese context. Such “knowledge archaeology” is evident in the general study of IR, particularly among the English School scholars43 (Buzan & Little, 2000; Carr, 2001; Watson, 1992; Wight, 1977). Ken Booth argues: “History will remain the data-base of student of international relations / world politics” (Booth, 1996, p. 334). He advocates the exploration of macro and/or global history for the understanding of what he has called a “future-relevant past,” so that “by stimulating our historical imagination we might gain insights into the meanings of the present and the prospects for the future” (Ibid., p. 335). Fred Halliday argues “a renewed emphasis on history” is one of the four hopes for the relief of the “epistemological hypochondria” of IR (Halliday, 1996, p. 7). “There is [a] reason why a historical dimension, suitably defined, is essential for the study of IR: it can help to place the present in perspective” (Ibid., p. 324). For Booth and Halliday, history is relevant to both the present and the future. Similarly, Michael Cox, Tim Dunne and Ken Booth suggest “the turn to history in International Relations.” They argue that “such a resurgent interest has many

43 The nature of the English School is a historical construct. The School’s idea of ‘International Society’ has been shaped based on a specific understanding and interpretation of world history. The ‘founding fathers’ of the English School theory like E. H. Carr, Herbert Butterfield, and Charles Manning were all historians.
roots, including attempts by social scientists to discover historically significant patterns of
behaviour, and the broader political project of trying to understand our age and how it differs
from what came before” (Cox, Dunne & Booth, 2001).

Such application of history to IR usually involves the use of classical canons from a
cultural tradition. We say “canons” but not only “texts,” “books” or “scripts” because canons
provide the most authentic, influential, even authoritative account of the values, norms and
principles on a subject/subjects in a tradition. Canons shape and/or represent a race’s
fundamental understanding of the Universe, life and morality; the mentality and ways of
thinking of a people, and the metaphysical framework of an intellectual tradition.

In “Ethics and War in Homer’s Iliad” (2012), Joel H. Rosenthal—President of the
Carnegie Council for Ethics in International Affairs and Editor-in-Chief of Ethics and
International Affairs—asks: “Why is it so important that we read the so-called classics?” “Are
the values we bring to war today really the same as they were back in the days of Argives,
Acheans, and Trojans?” He argues that the Iliad, one of the two greatest epics in ancient
Greece, “remains the original benchmark for our understanding of war’s human dimensions.”
From yesterday to today, the Iliad is “the purest and the loveliest of mirrors.” Rosenthal
affirms the value of classical texts to the study of contemporary warfare by saying “the
fundamental aspects of the human experience of war [are], in some ways, unchanging”
(Rosenthal, 2012). He also expresses an enjoyment of linking the text to IR and a history of
simple present tense:

I hope that like me, you finished the poem with a sense that we have come a long way in 3,000
years, and yet we still have a long way to go. There is excitement in that. And I suppose there is
also some comfort in recognizing that our struggles are similar to the ones faced by those who
came before us, and those who will come after (Rosenthal, 2012).
Rosenthal’s comment on the *Iliad* is not the only case to make parallel comparisons with the use of classical canons in Chinese IR. Thucydides, often recognised as “the father of realism,” has been discussed by IR theorists since the late 1970s. Robert Gilpin (1984) argues, Thucydides is “the first scientific student of international politics” (p. 291). Regarding *The History of the Peloponnesian War*, Kenneth Waltz (1979) argues for the relevance of Thucydides in an era of nuclear weapons. His narrative represents an early recognition of “the anarchic character of international politics [that] accounts for the striking sameness of the quality of international life throughout the millennia” (p. 66). Martin Wight (1978) argues, “One of the supreme books on power politics is the history of the great war between Athens and Sparta commonly called the Peloponnesian War” (p. 24). Robert Keohane (1983) believes Thucydides’ book contains fundamental assumptions of structural realism (pp. 507-508).

The interpretation of Thucydides in the West, however, is not monolithic and dogmatic. Some suggest people should “stop reading Thucydides” (Welch, 2003); others argue that “Thucydides Hates ‘Realists’”; that he is smart and realistic but not realist; that “the modern realist is something of an idealist in the Thucydidean universe,” because “even if everyone agreed to seek the ‘best interest’ of the state as a whole, it is not always easy to figure out what that is.” Thucydides is the greatest possible enemy of realism. “He mocks it, spits in its face, and gleefully dances on its grave” (Mead, 2011, 24 February).

The contemporary discussions on ethics and IR theories started with Mervyn Frost’s proposal of applying Western tragedy to IR (especially IPT) theories. A debate from 2003 to 2008 between Mervyn Frost; Chris Brown; James Mayall, etc. eventually led to the publication of a compilation titled *Tragedy and International Relations* (2012), in which the Iraq War, the *jus ad bellum*; humanitarian intervention and R2P; human rights; civil societies, and human progress are discussed.

The tragic sensibility in ancient Greece may mirror the lack of flexibility in the
interpretation of classical Chinese canons. Richard Ned Lebow (2008) argues, “In contrast to most theories that take stable structures, societies and identities as the norm, tragedy encourages us to emphasize the complexity and dynamism of social life” (p. 54). Qian Zhongshu 钱钟书 famously puts there is no tragedy in the Chinese tradition (Qian, 1935). This is, perhaps, one of the reasons why the interpretation of the Chinese canons has been exceptionally monolithic and dogmatic compared to the audience-based approach adopted by Homer and Thucydides:

Homer and Thucydides do not critique their societies by developing a competing language of motive and value … They do so through their ordering of their texts, by arranging scenes, speeches and dialogues to highlight inconsistencies and lead the reader to feelings and judgments at odds with those the material superficially appears to suggest (Ned Lebow, 2003, p. 56).

The tragic dimension of human existence celebrates ambiguity rather than “right” answers. It points IPT to the path of accepting ethical dilemmas as matters of facts in IR. China has no tradition that is comparable to theatre/drama in ancient Greece. Most of the pre-Qin philosophical ideas are found in the form of prose and occasionally in Shi Jing 诗经 (The Book of Poetry), which some of its poems vividly indicate an anti-war position. The orthodox Confucian interpretation of Chinese classics does not tolerate any order/hierarchy-disrupting thoughts and actions, such as the counter-sovereignty spirit presented in Sophocles’ Antigone. Antigone and Creon rejects/is forced to reject the middle ground but to commit to extremes, which completely violates the Confucian idea of “Zhongyong” 中庸 (the middle way). 44 What may not be accepted and even understood by the Confucian mentality is that Antigone’s

44 A typical illustration is from The Analects: “There is little to choose between overshooting the mark and falling short” (Guoyou buji 过犹不及) (XI. 16).
rejection and commitment, though extreme and ends in disaster—are back-up by sounded reasons and a fervent devotion to noble ideals (the natural law). Such spirit is self-evident in the liberal internationalist interpretation of the humanitarian intervention dilemma.

Karl Popper’s *The Open Society and Its Enemies* (2002, first published in 1945) draws references from philosophical texts of Plato and Aristotle for his critique on Georg W. F. Hegel, Karl Marx, historicism and totalitarianism. Popper contrasts scientific (empirical) methods with historical methods by calling the latter “general interpretations” (Popper, 2002, p. 542). He argues: “[We] shall give up the naïve belief that any definite set of historical records can ever be interpreted in one way only” (Ibid., p. 543). Interpretations inevitably represent different point of views. History has no scientific character that can be tested. Even in the realm of Physics, experiments have to be done one after another as to make sure two competing and incompatible theories work together to push the boundaries of human knowledge towards the “real” world. Popper believes the co-existence of many historical interpretations in fact foster progress (Ibid., pp. 542-543):

[Two] histories need not be in conflict; [but] be two views of the same landscape seen from two different points … For since each generation has its own troubles and problems, and therefore its own interests and its own point of view, it follows that each generation has a right to look upon and re-interpret history in its own way, which is complementary to that of previous generations (Ibid., p. 544).

Popper argues: “The Interpretation must speak for itself.” The merit of this will be “its ability to elucidate the problems of the day” (Ibid., p. 545). None of the historical interpretations will be final. As humans, we all want to know how our problems are related to the past; we all want to know how to manage historical resources for the need of the present; we all want to make solutions and progress. Popper not only provides a methodological example of relating
the ancient to the modern, but also takes us to the epistemological level for a deeper understanding of interpretivism.

II. The Tsinghua Approach

This chapter will now analyse the three major approaches of KACIR: Tsinghua, the American, and the British. Tsinghua serves as the ideational origin and the evidential foundation of most debates in KACIR; while the American and the British approach apply KACIR, as well as critique around the Tsinghua approach. This thesis trusts there exist other invaluable perspectives (for example, the European perspective). However, due to word limitation, we will focus solely on the most significant and influential discussions in the PRC and the English-speaking world.

The use of classical Chinese canons for the innovation of norms, principles and the creation of theories in Chinese IR started with a team of academics at the Institute of International Studies (now the Institute of Modern International Relations) at Tsinghua University in Beijing. Under the leadership of Yan Xuetong, the Dean of the Institute, the team started in 2005 to research into the philosophical and historical texts of the pre-Qin era. The team was basically formed by scholars of and those who were affiliated with the Institute: Yan Xuetong, Chen Qi, Sun Zhe (teaching staff); Huang Yuxing, Huang Haibin, Xu Jin (graduates); Daniel A. Bell (teaching staff at the Department of Philosophy of Tsinghua). Yang Qianru of Renmin University and Wang Rihua of the CPC Party School in Guangdong were also involved. Their research has proved to be exceptionally challenging, inspiring and respectable, but is also full of problems. It starts with the scholars’ identity: Yan refuses to name it “the Tsinghua School” or “the Chinese School of IR,” claiming no theory or school of thought is legitimate to represent the diversity and complexity of the Chinese intellectual tradition (Yan, 2011b, pp. 252-260). Yan apparently takes the link between a “school” and a
“theory” for granted, though it is not necessary. He argues: “Some international colleagues of mine believe that the purpose of my research in the pre-Qin interstate thoughts is to create a Chinese IR theory. They have misunderstood my research” (Yan, 2009, p. 150). The responses on the international level have been varied. Zhang Feng calls it “the Tsinghua approach”; while Linsay Cunningham-Cross and William A. Callahan call it “the Pre-Qin Project” (Zhang, 2012; Cunningham-Cross & Callahan, 2011). He Kai insists to name it “the Tsinghua school of IR in China” (He, 2012, p. 192).

The research of the Tsinghua team has produced three major publications. The first one was titled “Pre-Qin Chinese Thoughts on Foreign Relations” (Zhongguo xianqin guojiajian zhengzhi sixiang xuandu 中国先秦国家间政治思想选读), published in 2008. It is a compilation of thirteen selected classical texts from pre-Qin with commentaries from Tsinghua’s point of view. The second one was titled “Thoughts of World Leadership and Implications” (Wangba Tianxia sixiang ji qidi 王霸天下思想及启迪), published in 2009. This is a compilation of eleven selected classical texts from pre-Qin with comments and some further discussions on the theory of political power as world leadership. The third one, published by Princeton University Press in 2011, titled Ancient Chinese Thought, Modern Chinese Power, is the most internationally known. In this book, Yan examines the lessons learned from classical Chinese political thought of pre-Qin era (particularly Xunzi’s philosophy) for the political future of the PRC and “the development of a Beijing consensus in IR” (Yan, 2011a). Xunzi’s inspiration for the PRC is summarised as follows:

(i) Norms and morality determine the stability of interstate order, and the hierarchical relation among states is conducive to world peace; (ii) Humane authority (wang) is a superior model for great powers compared to hegemony (ba) and tyranny in international politics; (iii) Political power is the most important element of power compared to economic, military, and soft power (Yan, 2011a, pp. 70, 78, 86; Yan & Huang, 2011, p. 123; He, 2012, p. 183).
Though emphasising much on the necessity of morality, harmony and peace, Yan based his research largely on the neo-realist assumptions. This is evident from how he relentlessly correlates the pre-Qin texts to conceptions such as authority; force; instinct; selfishness; system, etc. (Yan, 2011a, pp. 32 and 43). As Daniel A. Bell points out, Yan believes “powerful states have extra responsibility to secure international order”; “the strong should undertake greater international responsibilities” as “countries that pursue hegemony in the pre-Qin sense are reliable international actors” (Bell, 2011, pp. 6, 11 and 15). This can be read as a policy direction to the PRC authorities as well as a way to soothe the Western agony of the “China threat” and “China as a free-rider” in global governance. Notwithstanding, if we read closer, we shall notice Yan’s argument is nothing but an expression of the expansion of the Chinese ethnocentric ego carrying a heavy realist weight. In fact, among the seven schools of pre-Qin thoughts he has compared, Yan favours Xunzi’s “choice of guideline”—which was later developed into what he calls “moral realism”45—rather than Laozi’s “ability to accumulate”; Confucius’s “ability to raise moral standards”; Mencius’s “ability to implement benevolent government”; Mozi’s “ability to employ the worthy and capable,” etc. (Yan, 2011a, p. 57). The inclination of applying only one school of thought plus Yan’s connection with the CPC46 remind us the political reform Shang Yang implemented for

45 Xu Jin makes a fairer comment by comparing Xunzi with Mencius’s moral idealism. He argues: “Mencius’s viewpoint … gives us room for reflecting on what sort of great state China develops into … The lack of [the Mencian] moral ideal means that many countries view China’s rise as that of a state thirsty for power and thus misread it as a serious threat to the stability of the international system. That is to say, China still lacks what can attract the countries of the world to naturally follow it.” Xu also stresses the importance of multilateralism and international legal norms (Xu, 2011, pp. 178-180).

46 One example is Yan links up moral realism with Xi Jinping’s striving for achievement (SFA) policy. He
the State of Qin back in the 4th century B.C.: first, academics serve only the ruler’s (the state’s) interests; second, it is part of the self-strengthening reform (as Victoria Tin-bor Hui puts it) to make the state strong enough to break any balancing act of other states (Hui, 2005). The high concentration on one thought for one reform in one unified country has been central to the Chinese political tradition since Qin’s time.

It is exactly Yan’s aura of realism that makes some of his idealist arguments puzzling. Yan argues the use of classical Chinese resources includes three aims and purposes: first, to enrich the contemporary IR theories; second, to deepen the understanding of contemporary international politics; third, to direct foreign policy (Yan, 2009, pp. 151-154). Do they serve the PRC’s interests or the world’s interests? Speaking in a hospitable tone, Yan claims the application of pre-Qin resources in Chinese IR does not mean an exclusion of Western conceptions, including liberal democracy. He argues: “Some people make a dichotomy between Chinese traditional thoughts and Western political thoughts. They have neglected the commonalities between the two” (Ibid., p. 163). We may easily find him self-contradictory by comparing with another quotation:

Constructivists argue that international interactions can only advance international norms towards a Kantian culture of friendly mutual help and could not propel any regression to a Hobbesian culture of hostile confrontation. We can observe, however, that the reality of international politics does not support this argument (Yan, 2011b, p. 233).

Drawing references from pre-Qin, Yan suggests the PRC should uphold the idea of making responsibility and power proportional to each other. The PRC should “open to the

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argues: “Xi’s strong leadership may become a new case suitable for illustrating the theory of moral realism” (Yan, 2014, p. 153).
whole world”; while the world should open to the PRC (Yan, 2009, p. 164). He also points out zhi 治 (governance) is the core issue for both wang 王 (the kingly way) and ba 霸 (hegemony). Pre-Qin thoughts help us to understand human history “correctly.” “Those races that are not able to face their historical facts may never convince other countries” (Ibid., pp. 162-163). These words may have attracted some applause, but some severe criticism too. For instance, Shih Chih-yu and Huang Chiung-chiu argue the Chinese style of global governance is in fact self-governance. Zhi in fact means governability but not governance or governmentality (Shih & Huang, 2013). Victoria Tin-bor Hui makes a blunt attack on Ancient Chinese Thought, Modern Chinese Power: “Because the understanding of ‘ancient Chinese thought’ is unhistorical and that of IR theory is untheoretical, the authors’ attempts to develop new theoretical insights and policy recommendations are no more fruitful than building castles in the sand” (Hui, 2012, p. 426).

In terms of methodology, Yan obsesses with the importance of being “scientific.” He applies Kenneth Waltz’s three-level analysis (a combination of qualitative and quantitative analysis in international system; international organisation, and the individuals) in his study of pre-Qin texts (Yan, 2009, p. 154). Waltz’s influence on Yan is twofold: first, his positivist approach; second, his neo-realist understanding of IR. Yan justifies the application of pre-Qin resources by means of holding on to something that is “eternal”—the human nature and its impact of interstate relations (Ibid., p. 159). He argues, the basic features of science are objectivity, positivism, and openness. They make scientific theories universal” (Yan, 2009, p. 150). In a pre-Qin project description published on behalf of Quarterly Journal of International Politics (Guoji zhengzhi kexue 国际政治科学), Xu Jin almost takes such “scientific” method for granted: “This research should be completed upon the foundation of positivism … [aka] the three-level analysis, which is commonly accepted by the field of IR theory” (Xu, 2013). Zhang Feng (2012) vividly summarises: “Yan apparently believes that the positivist scientific method can be unproblematically applied to analysis of ancient
Chinese thought contained in classical texts. He therefore does not, and might not have felt the need to, justify its use” (p. 80).

This thesis, standing from the interpretivist point of view, argues such scientific search in textual analysis is meaningless and futile. Texts and histories are open for interpretations. There is no science in hermeneutics. The pursuit of science in the field of humanities and social sciences—particularly in the context of state-affiliated academia in China—usually ends up with large amount of unacademic, fuzzy, and logically flawed “analysis” that only please the wishes and suit the interests of the state, but not at all scientific. In too many occasions, the ruler applies Machiavellian tactics in manipulating the academia in the name of “science” and treads on the true spirit of science (In Tsinghua’s case, Kenneth Waltz has been manipulated). In the name of “science,” all arguments surrender to one single, state-approved argument (because it is “scientific,” hence “objective”). In other words, there can be only one “truth”; and the “truth” is controlled by those who are in power or affiliated to the power structure. One could assess kexue fazhan guan 科学发展观 (Scientific Outlook on Development) by applying the Popperian theory and find that there is no science. Yet, the “scientific” view frames how the Chinese authorities, the society and the people perceive the world and think about the world—and it creates an unbridgeable gap between the PRC and the globalising world. The “scientific” reading of classical Chinese texts thus is at the very least a dictatorship (if not a kind of fascism) of hermeneutics. The state-controlled weikexue 伪科学 (false science) is a product inherited from what this thesis calls “fundamentalist hermeneutics” in the autocratic tradition of Chinese politics. Chapter 6 shall further discuss this by borrowing theories of Hans-Georg Gadamer and Karl Popper—two giant figures in hermeneutics and the philosophy of natural science.

The use of “scientific” method is also found in a trilogy of journal articles written by Chen Qi, Huang Yuxing and Huang Rihua from 2008 to 2009. The topic of debate is the legality of intervention. These three articles are successful in offering detailed discussions on
the definition of intervention; categorisation of intervention cases in the pre-Qin era, and a neo-realist interpretation of the data. The analysis on the subject-matter—legality—is unfortunately a failure. We may not need to assert there was public international law in the pre-Qin era, but a study of comparative jurisprudence is fundamental for an investigation into the legality problematique in pre-Qin intervention. This is totally absent in the three articles, not to mention the way they distinguish “legality” from “legitimacy” is confusing. The authors simply take *zongfa zhidu* (the patriarchal system of Zhou dynasty) for granted as the “legal” sources (Chen & Huang, 2008, pp. 48-52; Wang, 2009, p. 101; Chen & Huang, 2009, pp. 114-115). This may sound alright in the study of Sinology, but it does not work with IR—which is a globalised discipline. The word “legal” in IR is undoubtedly a Western jurisprudential construct.

The thirty cases of pre-Qin intervention presented by Chen and Huang bring us several puzzles: Can the research findings help us to solve the Sino-liberal Western conundrum in humanitarian intervention and R2P? Among the six types of intervention mentioned by Chen and Huang, none of them touches on the issue of criminal justice or the *jus post bellum*. To them, the success of an intervention is defined by the “cost-benefit calculation” (Chen & Huang, 2008, p. 65) from the perspective of game theory. The pre-Qin norm of intervention, as mentioned by Chen and Huang, addresses the removal of a tyrant, but the authors’ findings indicate “the norm of the use of force based on justice is weak.” It was not widely accepted and complied by pre-Qin states (Ibid., pp. 63-64). This thesis has no intention to adopt

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47 They are for six purposes: to sustain an alliance; to stabilise the patriarchal order; to divide the inheritance of a hegemon; to prevent disaster in neighbouring countries to spread over; to convert rivals and enemies; to sabotage hostile alliances (Chen & Huang, 2008, p. 40).

48 The stability of the regime after intervention; the bilateral relations after intervention; the costs the potential intervener has to pay if it chooses not to intervene (Ibid., p. 65).
scepticism when looking at these findings, but it does believe something that is “weak,” “not widely accepted and complied by states” in the past does not mean it cannot be utilised today—especially if it can be justified legitimately and legally. If we study The Chronicle of Zuo only by checking it with the standard set by “cost-benefit calculation,” we will never derive a norm or principle that suits well in international ethics. What is so meaningful about applying only the neo-realist perspective on The Chronicle of Zuo? Chen and Huang argue:

Interventions [in the pre-Qin era] were usually initiated by great powers. These interventions were mainly based on the pursuit of material benefits rather than ethical purposes. Realist scholars in IR have the same understanding and observation … It is rare to find the kind of imperative intervention based on humanitarian grounds. In the eyes of realist scholars, a state intervenes only for the purpose of expanding its power. Great power intervention in weak states is in fact the political logic of power maximisation of the great powers (Ibid., p. 68).

Such statement can well be read as a gesture to legitimise the PRC’s official doctrine of non-interventionism as well as to criticise the liberal West (thus to deepen the conceptual divergence); while it does not help to solve the Sino-liberal Western conundrum. Chen, Huang, and Wang are all too self-restricted in the contextual limitations of “not to distort the classical author’s original meaning and not to misread the historical background of the text” (Wang, 2009, p. 102; Chen & Huang, 2009, pp. 115 and 121). Interestingly, Chen and Huang self-contradict by arguing the State of Qin’s intervention in the State of Jin can be read by the perspective of utilitarianism (Chen & Huang, 2009, p. 117). We may never achieve what the IPT scholars have achieved with Homer, Thucydides and Western tragedy if we do not emancipate ourselves from the self-censorship of not to keqiu guren 勘求古人 (being too demanding of the ancestors). The creative use of classical resources is not to be identified with disrespecting the ancestors. In summary, this thesis insists that:
(1) The Tsinghua approach can never be truly scientific.

(2) There is no need to pursue scientific objectivity in the study of the pre-Qin texts, because the study of texts (interpretation/hermeneutics) is inevitably subjective.

(3) The study of the pre-Qin texts should be an open arena for all possible (subjective) interpretations to emerge; to communicate; to debate, and to synchronise, with the minimal intervention posed by the power structure, such as the state. Realism should be tolerated as one of the interpretations, but not the only interpretation, of the classical texts.

(4) For the purpose of solving the Sino-liberal Western conundrum and the creation of an innovative Chinese norm or principle in humanitarian intervention and R2P, an emancipation of historiography and worldview is essential.

III. The American Approach

Yan’s use of ancient Chinese thoughts can be conveniently read as a gesture to convince the West about the PRC’s peaceful rise as a moral agent (wang or the kingly way), as well as to criticise the US as a wicked great power (ba or hegemon). It is interesting then, to see how the American scholars have responded to the Tsinghua approach. Some of them have criticised that Yan’s use of the text Xunzi is unscientific.

We will start with Victoria Tin-bor Hui, who critiques the methodology Yan used in Ancient Chinese Thought, Modern Chinese Power from the angle of historiography, positivist realism, and intellectual plurality. Largely based on her research done in War and State
Formation in Ancient China and Early Modern Europe (2005), Hui criticises Yan for being unhistorical because he was “very removed from historical reality” (Hui, 2012, p. 449). Yan’s interpretation of pre-Qin apparently does not match with what Hui discovered about the dynamics of international politics, state formation and transformation in the same era. Hui argues: “Without solid grounding in history, the analysis of ‘humane authority’ largely falls into the realm of the ideal … [Yan and Huang] provides the perfect illustration of the contradiction between the historical and the ideal, thus calling into question if the conclusions are valid” (Ibid., p. 426).

Hui also argues Yan’s understanding of contemporary IR theory is untheoretical. The identity of an American academic in Political Sciences seems to have given Hui the licence to criticise Yan’s application of Kenneth Waltz.49 First, the application of Waltz is again, unhistorical. Hui argues: “If Waltz is right, then how did Qin overcome the balance of power and dominate the ancient Chinese system?” (Ibid., p. 437). Second, Yan’s obsession with the “formal logic” of rigorous verification and complete refutation of “dialectic logic” in fact contradicts with Waltz. Hui argues:

To understand change in international systems, I argue that IR theory needs an interactive view of agency [and] structure … I point out that Waltz’s theory in fact contains such an interactive view … Dialectic logic is consistent with not only Waltz’s theory, but also “formal logic” (Ibid., p. 440).

Hui then suspects if Yan does not intend to enrich or revamp Waltz’s positivist theory, but “to advocate a new theory of ‘political power’” (Ibid., p. 441). To Hui, Yan’s neo-realism has no

49 Although Yan was also American trained. He got his doctoral degree at the University of California, Berkeley.
science in it—which makes it different from Waltz—but is full of Machiavellian calculations that serve the Chinese authorities. Hui accuses Yan’s monograph for “missing an enormous amount of highly relevant arguments … He writes as if only Kenneth Waltz’s work deserves the title ‘IR theory.’ While Waltz is indeed an icon, he is only one icon among realists, and there are other scholars besides realists” (Ibid., pp. 437 and 444). Hui also doubts Yan’s utopian dream to call for patriotic talents. She impeccably points out: “Chinese leaders naturally have doubts about the talented who speak truth to power” (Ibid., p. 435). She quotes from He Baogang and Daniel A. Bell:

> Official selection and endorsement is a much more important criterion than peer review in judging the quality of social science research (Ibid.; He, 2011, pp. 264 and 273).

> it would take on extra international responsibilities and help marginalized countries; its rulers would be chosen by some sort of electoral system; their political advisors would be chosen according to a meritocratic system that ensured promotion and demotion according to performance rather than political loyalty; and China’s borders would be open for peoples of all nationalities to join the competition to attract talent (Hui, 2012, pp. 448-449; Bell, 2011, p. 17).

> While recognising Yan’s monograph as a contribution of “the first comprehensive and systematic research project on China’s pre-Qin philosophical thought on international politics,” He Kai joins Hui to criticise Yan for being unscientific. Yan’s focuses on morality, norm, humane authority, and political power may turn out as “brilliant rhetorically, but as unrealistic in reality” (He, 2012, p. 184). He also argues: “Some of Yan’s arguments and suggestions about China’s foreign policy are normative in nature with difficulties in their practical and empirical verifications” (Ibid.).
American Evidences of Using Classical Texts

In some cases similarities between the experiences in China during the Spring and Autumn period and events at later times in the West are unbelievably precise.

- Richard L. Walker 50

Alastair Iain Johnston is one of the very few non-Chinese scholars who are able to master the classical Chinese language as well as IR theories and Chinese foreign relations. He has built up his academic reputation by using both qualitative and quantitative methods in the study of classical Chinese texts. He started out with his PhD dissertation—later published with the title Cultural Realism: Strategic Culture and Grand Strategy in Chinese History (1995)—on a study of Ming dynasty’s strategic culture by using pre-Qin military classics (bingshu 兵书) such as Wujing Qishu 武经七书 (The Seven Military Classics) (Johnston, 1993). Johnston has a desire to “make the discussion of China’s external behavior across history, its patterns of conflict resolution, its strategic doctrines, etc., as common in the international relations literature as discussions of the German, French, American, British, and Russian case” (Ibid., pp. vi-v). Writing from a constructivist perspective, Johnston argues Chinese political behaviour cannot be understood accurately without reference to historical and cultural precedent (Ibid., p. iv). Johnston repeatedly “returns to the technique of conducting content analysis (searching out specific terms and key phrases) within large open-source datasets. Over the last ten years, a growing number of scholars have followed Johnston’s move and made use of content analysis in attempt to discover new trends and tendencies within Chinese foreign policy statements and analysis” (Carlson & Duan, 2010, p. 102; Johnston, 1996).

50 Walker, 1953, p. xi.
Another notable figure is David Graff. Though focusing a lot on Tang dynasty texts, Graff researched pre-Qin war ethics. In “The Chinese Concept of Righteous War” (2010), he discovers that the classical Chinese concept of “righteous war” (yizhan) shows certain parallels with the just war doctrine that evolved in Roman and Christian Europe, in particular the idea of “a war should be waged only with a just cause” and “the goal of restoring peace” (Graff, 2010, p. 196). Graff also compare and contrast different schools of thought during the pre-Qin era on the definition of righteous war. This includes the Confucians, the Legalists, the Taoists, the Mohists, and the Military Strategists such as Sun Tzu (Ibid., pp. 198-207). Graff’s cross-dynasty interest enables him to link up pre-Qin conceptions with the changes and continuities found in later periods such as Han Dynasty and Tang Dynasty, when the Chinese Empire had to unite and to lead neighbouring tribes to fight wars against the “barbarians.”

When we compare Victoria Tin-bor Hui’s critique on Yan Xuetong’s monograph with what she has done in her War and State Formation in Ancient China and Early Modern Europe (2005), we may find one interesting observation: While Hui criticises Yan for being unhistorical, her monograph depends largely on second-hand resources’ descriptions and quotations from first-hand classical texts. This is a methodological question we have for Hui. Otherwise, her monograph has vividly shown us how “ancient China resembled early modern Europe in both international and domestic politics” (Hui, 2005, p. 7). Hui defines the pre-Qin era as a period that “experienced disintegration of feudal hierarchy, prevalence of war, conditions of international anarchy, emergence of sovereign territorial states, configuration of the balance of power, development of the centralized bureaucracy, birth of state-society bargains, expansion of international trade, and other familiar phenomena of international and domestic politics” (Ibid., p. 1). Hui’s application of comparative analysis is inspiring. In “How China Was Ruled” (2008, March/April), Hui asks: “Can models of China’s future behavior be derived from Chinese history? How have Chinese intellectuals understood the
meaning of their history? How do China’s present leaders read history, and how will their successors do so?” (Ibid.). Her firm stance on the reinterpreting history is evident in what she puts in a debate: “Chinese history must be taken seriously in the construction of a Chinese School of IR” (Hui, 2010, p. 124).

There are numerous American scholars who have tried to link up classical Chinese conceptions with Chinese IR. Most of them depend on second-hand (English language included) materials; yet they provide stimulating discussions. In The Mind of Empire: China’s History and Modern Foreign Relations (2010), Christopher A. Ford asserts China’s ancient history exerts a powerful force on its contemporary foreign policy. He argues that the Warring States period in the pre-Qin era provided an ancient model of sovereign state-to-state relationships. He quotes from the prominent Chinese historian Fung Yu-lan, saying that the pre-Qin era is a close parallel to modern international system; and that is why the Chinese feel there is repetition in history (Ford, 2010, p. 245). “With Chinese political discourse already thick with idioms from ancient statecraft, modern Chinese writings on statecraft, strategy, and international politics are particularly rich with analogies to the preunification (that is, pre-Qin) period” (Ibid., p. 246). Ford then continues to quote Michael Pillsbury, consultant at the US Department of Defense: “Chinese writing about the future security environment describes the future in terms of the Warring States era in Chinese history” (Ibid.). Ford also quotes from the PLA generals: “Today’s multi-polar world is amazingly similar to the Warring States era.” (Ibid.) Ford then concludes: “Extensive references to the classics of ancient statecraft are embedded throughout modern Chinese strategic writing and are used to provide lessons or metaphors to assess the future … Warring States period statecraft is central to China’s understanding of the future” (Ibid.).

In Harmony: Confucian Culture and Chinese Power Politics (2011), Wang Yuan-kang asks: “Did Confucianism constrain China’s decision to use force in the past? Most importantly, what can we learn from the past to shed light on the strategic trajectory of an
ascendant China in today’s world?” (Wang, 2011, p. xiii). Wang encourages us to reconsider the PRC official rhetoric of Confucian harmony and benevolence by examining military strategy in Song dynasty and Ming dynasty. He argues, China’s military strategy is not always defensive but depends on its relative power. In his words, “Chinese leaders have not restricted their war aim deterrence and border protection but at times adopted expansive goals such as acquisition of territory, destruction of enemy power, and total military victory” (Ibid.).

In “Managing Regional Hegemony in Historical Asia: The Case of Early Ming China” (2012a), Wang argues the Ming hegemony’s story tells us how a state pursues power to become dominant is equally important as how a state resists a concentration of power to avoid being dominated. The dominant state has a range of tools to maintain its power advantage and to shape the preferences of secondary states (p. 153). Wang also argues the Great Wall does not symbolise the PRC’s defensive military character. In “The Myth of Chinese Exceptionalism” (2012b, 6 March) he argues: “Chinese history suggests that its foreign policy behaviour is highly sensitive to its relative power.”

In “Talking History: The Chinese Classics and Foreign Policy,” Nikolas K. Gvosdev argues: “Some have wondered if Beijing’s plans for the 21st century reflect a break with past Chinese traditions. Perhaps an examination of some of China’s classical historical texts is in order … Our ‘civilisational’ heritage does help to shape attitudes and worldviews. Looking at China’s past can help provide some understanding about the type of future they hope to create” (Gvosdev, 2007, 28 August). Gvosdev discusses how The Chronicle of Late Han (Hou Hanshu 后汉书)’s depiction of the Roman Empire helps us to gain some insight into the type of multipolar world order Beijing has in mind for the future. This view is moderated by Peter J. Katzenstein’s Sinicization and the Rise of China: Civilisational Processes Beyond East and West, which argues: “China’s rise and processes of Sinicization suggest that recombination of new and old elements rather than a total rupture with or return to the past is China’s likely future” (Katzenstein, 2012). Leonard Gordon has a similar comment: “Modern China’s role
in international affairs must be understood in terms of historic factors as well as Communist ideology” (Gordon, 1969, pp. 45-46). John K. Fairbank’s argument perhaps is the most balanced:

To deal with a major power without regard for its history, and especially its tradition in foreign policy, is truly to be flying blind … Tradition provides the base-line for foreign policy and even the most novel of our policies has points of reference in the past … No one, I hope, will suggest that tradition governs Peking’s foreign policy today … It is stale and unprofitable to argue for continuity against discontinuity, and equally so to argue the reverse. History alone, therefore, cannot give us an image of current reality; yet to imagine Peking acting completely free of history would be the height of unrealism (Fairbank, 1969, pp. 449-450).

Perhaps we should also ponder some elements in the “five ways history affects Chinese foreign relations,” as suggested by Harry Harding. In particular, history “provides an agenda of unresolved problems”; it “presents a set of broad narratives that provide the context for China’s contemporary international conduct”; while “narratives contain lessons”; “competing narratives can become international issues” (Harding, 2011, p. 111). Harding reminds us, the creation of an innovative norm or principle of humanitarian intervention and R2P in the PRC may ultimately be a domestic puzzle of Chinese intellectual history. The meaningful reinterpretation of ancient history and classical texts depends on the existence of a pluralistic and open intellectual platform. This is not only a common project for the Chinese historians, philosophers, linguists, and literary critics, but also one of the top tasks for IR scholars.
IV. The British Approach

While the American scholars examine Yan Xuetong’s works by using their standard of positivism in social sciences, scholars in the British Commonwealth apply non-positivist and post-positivist approaches. They focus more on identity, norms, history and culture. Notably, a strand of post-structuralist interpretation of Chinese IR has developed at the University of Manchester and the British Inter-University China Centre (BICC) with William A. Callahan; Elena Barabantseva; Astrid Nordin; Linsay Cunningham-Cross, and Małgorzata Jakimów. Despite the fact that many of them do not investigate into the original Chinese texts, the Manchester-BICC scholars have been offering freshening critiques on Yan’s works.

What makes the British approach distinctive is that it stands outside the Sino-US contention. It critiques from a third party perspective. Callahan argues, Yan’s proposal of wangdao (the kingly way, or “humane authority” in Yan’s translation) is ultimately an Occidentalist response from the PRC to the US, as he argues: “The Kingly Way [is] unquestionably good and the Hegemonic Way [is] thoroughly evil … China is the exemplary moral power, while the United States is the hypocritically evil hegemon” (Callahan, 2013, p. 158). The British approach is fascinated by the classical Chinese conceptions such as he 和 (harmony); wenming 文明 (civilisation); Tianxia 天下 (All-under-heaven); ba 霸 (hegemony); wang 王 (the kingly way), etc. It engages with the study of Chinese IR theories. It adopts a more pluralist, but less realist approach as compared to the Americans.

Despite acknowledging “Yan provides a powerful example of how Chinese norms can be employed to think about global politics” (Callahan & Barabantseva, 2011, p. 9), Callahan is not satisfied with the cultural essentialism and determinism found in Yan’s interpretation of the classical texts (Horesh, 2014, p. 9). He has noticed the subtle aggressiveness hidden in the Confucian “All-under-heaven” concept. He points out, since people like Yan Xuetong and Zhao Tingyang believe the Chinese culture is superior, it is a duty for the patriotic Chinese to
spread the culture all around the world, which may end in a kind of “yellow man’s burden” (Callahan, 2013, p. 57). He puts Yan and Zhao under the category of “Chinese exceptionalism” and “Sino-speak,” which he and Cunningham-Cross define as:

China [rises] as a pure civilization-state that is completely different from Western nation-states … China’s ethical system [is] the solution to the problems of the current international system … Chinese empire [is] the solution to the world’s global governance ills” (Cunningham-Cross & Callahan, 2011, p. 374; Callahan & Barabantseva, 2011, pp. 250 and 251).

Callahan’s post-structuralist position can be observed from his uneasiness with any monolithic explanation of the Chinese tradition:

The view of an Eternal China that is inspired as well as limited by its weighty historical tradition informs populist books by conservative commentators in both China and America, most notably … Yan Xuetong’s Ancient Chinese Thought, Modern Chinese Power (Callahan, 2012c).

One may criticise Callahan for being Eurocentric, as he argues: “Though Yan concentrates on the ‘voluntariness’ of submission in this hierarchy, it seems odd that one would design a utopia around the negative practice of ‘submission’ rather than around ‘equality,’ ‘emancipation,’ or other positive duties” (Callahan & Barabantseva, 2011, p. 251). Nevertheless, reading from another perspective, Callahan is right to echo with Victoria Tin-bor Hui when he argues: “[U]ntil the Chinese School can critically discuss China’s own policies, it will be hard to judge its utility—and its limits” (Ibid., p. 253). This brings us back to the necessity of opening up a pluralistic platform for different discourses.

The most serious problem Callahan has found in Yan is that: “Instead of opening up new
alternatives to ‘build world harmony,’ the pre-Qin project [appears] to support the idea that it is the duty of a great power to ‘harmonize the world’—whether the world likes it or not” (Cunningham-Cross & Callahan, 2011, p. 374). This echoes with what we have discussed on “the lack of empathy” in Chapter 1.2. It also makes us wonder if Lydia H. Liu’s “desire of the sovereign” and the clashes of imperial wills (Liu, 2004) are finding a way to return and haunt tomorrow’s PRC or not. Yan’s notion of “voluntary submission” and Zhao Tingyang’s notion of “Tianxia” are nothing but modern versions of kowtow in the disguise of the CPC’s rhetoric. Cunningham-Cross has some very precise descriptions:

Yan’s notion of “voluntary submission” requires adopting the Chinese model in order to guarantee success; submission, therefore, requires Others to become more like the Chinese self. Thus amongst the consequences of Yan’s rising China narrative is a view on “Otherness” that advocates conversion rather than coexistence (Cunningham-Cross, 2012, p. 225).

The world is pacified by transforming the people to become like the king … [Callahan argues], ‘[Zhao Tingyang’s] approach to an ethical world order encourages a conversion of difference, if not a conquest of it’ … [T]he result of the Confucian datong is that otherness is transformed into sameness (Ibid., p. 226).

In both pre-Qin narratives, difference is transformed into sameness, through an appeal to a morally correct example, which all people will learn to follow. Their preferences are shaped to be one and, as a result, there is harmony in the world. This involves not just a radical reordering of people’s preferences but the construction of new identities (Ibid.).

To Cunningham-Cross, the Confucian idea of jiaohua 教化 (to educate and to transform) and the Mohist idea of jianai 兼爱 (universal love) can all be interpreted as not just
behavioural reform, but psychological transformation. The complete erasure of difference in the world—led by a moral sage, a world saviour—leaves little room for “those who may not wish to belong” (Ibid., pp. 226 and 227). This is the tragedy of Confucianism: its utopian side has been manipulated by Legalism; its ideals are preserved in the highly-centralised political rhetoric; pluralism and tolerance are lost. The post-structuralist critique by the Manchester-BICC scholars on Yan and Zhao can be seen as a pluralist, decentralised Europe’s reading on the monolithic meta-narrative in Chinese politics. The conclusion is predictable. Nevertheless, this thesis argues the PRC needs not to go on the path as paved by the contestation between Yan, Zhao, Callahan and Cunningham-Cross. The Chinese tradition by nature has a pluralistic side. The cure is with hermeneutics.

Cunningham-Cross’s concern with “how ancient Chinese history is often invoked or even re-imagined to tap into current perceptions of China’s rise, and how it might change international relations in the future” (Horesh, 2014, p. 9) has to do with what Niv Horesh called “politically-geared aspirational narratives on global leadership emanating from the CCP,” (Ibid., p. 8) which Yan Xuetong has been heavily involved. Strategy serves the power structure; while theory is rational and academic. Yan is a strategist rather than a theorist (Cunningham-Cross, 2012, p. 220). We may wonder how his interpretation of pre-Qin texts can be independent from the state-affiliated mentality of ethnocentrism and neo-realism.

The British Evidences of Using Classical Texts

Good international relations history is informed by an awareness of theoretical considerations; good theoretical work takes place in conjunction with historical study; both are essential.

- Hedley Bull

China Orders the World?: Normative Soft Power and Foreign Policy, edited by William A. Callahan and Elena Barabantseva examines a series of complex debates surrounding the role of China’s historical ideals in shaping its foreign relations. It investigates how an idealised version of China’s imperial past now inspires a new generation of Chinese academics and policy-makers to plan for the PRC’s future. It explores how traditional Chinese culture is being remoulded into a “Chinese-style” world order for the 21st century (Callahan & Barabantseva, 2011). In a project titled “China’s Future—World’s Future,” funded by Leverhulme Research Fellowship, Callahan explores how the PRC’s rise is impacting the world in terms of its normative soft power, which can be traced back in Chinese history (Callahan, 2012b). Callahan identifies “charting the PRC’s future” with “charting the world’s future.” He justifies his approach by arguing: “Chinese discussions of the future can tell us about how people in the PRC interact with their own past-present-future, and how they interact with people in other countries in the present” (Callahan, 2012a, p. 137).

G. E. R. Lloyd is one of the very rare, outstanding scholars who are able to master the classical Chinese language, as well as classical Greek. He is also skilled in linking up fundamental classical conceptions with problems found in modern notions such as human rights and modern democracy. In Ancient Worlds, Modern Reflections, he wants to see whether there is a common ontology and a common logic shared by all human rationality. He points out “understanding ancient societies is not radically different from understanding our own contemporaries … [T]he ancients can, and should, be used as a resource for new understanding of the world, of the capacity of humans to understand, and of ourselves” (Lloyd, 2004, pp. 10 and 11).

We shall not forget the English School scholar’s preference in using history. One example is Adam Watson’s The Evolution of International Society. Watson has made an attempt to link up IR and histories of both Western and non-Western; modern and pre-modern.
civilisations. Concepts such as state, system of states, hegemony, suzerainty, community, war and legitimacy are investigated. In a chapter called “China: Hegemony, Warring States and Empire,” Watson points out ancient China (pre-Qin era) had a system of independent states which resembled that of early modern Europe (Watson, 1992, pp. 85-89).

V. Knowledge Archaeology of Chinese IR as an Approach

The Tsinghua approach, the American approach, and the British approach are approaches of Chinese IR, as well as approaches of KACIR. They are approaches of KACIR because their methodology involves the excavation, the discovery, and the application of classical Chinese conceptions for the use of contemporary Chinese IR. They have met the basic requirement to be identified, in a general sense, with using the KACIR methodology. Notwithstanding, this thesis wants to point out the three approaches’ application of KACIR is not sufficient for the making of a solution to the Sino-liberal Western conundrum posed in the core research question. Therefore, there is a need to summarise, to analyse, and to synthesise the three approaches, so that we can proceed to reinvent and to define a KACIR methodology that suits the need of this research and probably the making of a Chinese IR theory in the long-run.

Comparisons and Adjudication

The three approaches, as aforementioned, complement with and critique each other. Rooted in their specific intellectual soils, they are distinctive in how they understand and interpret the classical texts; the texts meaning to Chinese IR; the identity of China in the international society, and the rise of China. However, there is something in common. They all show us, first, classical conceptions and thoughts in contemporary IR are comparable; second,
classical history provides guidelines and recommendations to norm and principle making in IR. Whether “history shapes policies” is not the focus here; but it is quite true that a dialogue between the past, the present, and the future may inspire us with innovative readings on China and the world. The three approaches are keen to know how the PRC’s concept of world order can be traced back in China’s historical past. Not much has been touched on international ethics, though.

The internal dispute of KACIR centres on the critique offered by the American and the British approach scholars to the Tsinghua approach and its scholars—most noticeably Yan Xuetong, who laid the very foundation of KACIR. The strength of the Tsinghua approach is that the scholars are able to dive deep into the original classical canons, which were written in a concise ancient language. Being native Chinese scholars (especially for those who are living in Beijing), they are familiar with and are sensitive to the most up-to-date changes in the Chinese political climate. Ethnocentrism may argue since the Tsinghua scholars (except Daniel A. Bell) are ethnically and culturally Chinese; living in China; able to read classical Chinese, they understand better the authentic way of interpreting the essence of the Chinese tradition through the Chinese texts; therefore, they are in the best position to innovate Chinese IR.

This is not totally true, because first, the term “authentic” is problematic: How do we define it? Who defines it? Second, to be “authentic” (usually identified with “orthodox”) does not necessarily mean to be intellectually suggestive of ideas in IR and to suit the need of globalising politics. In this sense, we may find an echo in the American and the British critique on Yan’s monolithic mentality of subtle desire to convert every human being into Confucian Chinese. We should also seriously ponder Wang Gungwu’s reflection on “Chineseness,” which we will discuss more in Chapter 6. Who may recall exactly how the Chinese civilisation (not even the Chinese “nation”), the culture and the people looked like back in the 8th century B.C.? The application of pre-Qin resources in Chinese IR by Tsinghua
scholars is nothing but a kind of *nostalgia without memory*. What history has left them is more about the conquest of a will by another will.

The close affiliation with the CPC and the Sino-liberal Western dichotomy suggested by the Tsinghua scholars are intellectually unhealthy. The American and the British scholars have criticised much on the former being a representation of the PRC’s lack of academic freedom under an autocratic regime. Pluralism seems to be the most powerful weapon for the American and the British scholars to critique on Tsinghua. 52 The Americans, being “scientifically” trained, may add that their strength is they can prove why Yan is “unscientific” in his research. However, their positivism and realist obsession with hegemony, order, and hierarchy may not help much in an international ethics research based on textual analysis. Moreover, the use of classical Chinese resources should not be read as merely a feature in the Sino-US struggle of power, as perceived by many rivalling Chinese and American IR scholars.

The British scholars impeccably point out the futileness and danger of focusing too much on the creation of an “Other” by separating “You” and “I.” 53 They are also alert to the possible suffocation that a reviving imperial will embedded in the rise of China may bring to an increasingly diversified world. However, the British scholars’ post-structuralist position undermines their ability of building up something useful. Deconstruction, after all, is a

52 Yan argues that the significant differences amongst the pre-Qin schools is another reason for the futility of searching for a “Chinese school’ of IR” (Cunningham-Cross, 2012, p. 221). To the American and the British scholars, he apparently misses the point.

53 Małgorzata Jakimów argues: “It is now almost impossible to separate the ways in which Chinese academics build theories from ‘Western’ influences. Such influences are deeply ingrained in China through discourses such as modernization and nationalism, which even if they were remoulded in a Chinese way, originated in the West” (Jakimów, 2012, p. 658).
powerful weapon to dissect meta-narratives; but it pays no attention to reconstruction in the aftermath of a deconstruction.

Now we should bring in Qin Yaqing, the President of China Foreign Affairs University. Qin is a sophisticated native Chinese IR scholar. He has been widely considered as liberal, sensible, and constructive. Even the British post-structuralists have found something commendable in his ideas. Contrasting with Yan Xuetong, Qin argues the making of a Chinese theory of IR is inevitable. He does not believe in the search for a singular notion of truth in IR. He finds the hierarchical view of world order that stems from the imperial context problematic. That is why he turns to theorise “relationality” (guanxi 关系). Zhang Feng (2012) argues, Qin is keen to build up a theory that “transcend local traditions and experiences in being universally valid” and enrich the traditional Chinese thoughts, modern Western theories, and existing human knowledge (p. 79). To Cunningham-Cross and Callahan, Qin represents a kind of pluralistic alternative in Chinese IR thoughts (Cunningham-Cross & Callahan, 2011, pp. 360 and 361). Cunningham-Cross points out, both Qin and Yan ultimately ask questions about Chinese identity; but it is Qin who focuses more on the problem of the relationship between the PRC and the international society, and identifies it with the core basis of a Chinese school of IR. The Chinese school debate is largely about Chinese identity now and into the future (Cunningham-Cross, 2012, p. 227). By comparing, contrasting and choosing useful elements among the four approaches (Table 3.1), we may come to conclude what we need in a reinvented methodology of KACIR.
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Table 3.1: Reinventing KACIR by drawing references from four approaches
Definitions

A reinvented methodology of KACIR that suits the need of this research and possibly the making of a Chinese IR norm, principle, and theory in the long-run should meet the following criteria:

(1) Classical Chinese texts:

KACIR is by nature a methodology of hermeneutics. It roots itself in anti-foundationalism and interpretivism. The original canons, annotations and commentaries should be examined directly in their primitive versions—that is, first-hand materials written in the classical Chinese language—by means of context approach (socio-historical) and textual approach (linguistic). It should be noticed though, historicism may confine innovation; while discourse analysis may make us lose the focus. A healthy balance between the two is needed.

(2) De/reconstruction:

KACIR does not take any existing ideas for granted, but is not nihilistic as well. It deconstructs current meta-narratives but it does not stop there. The purpose of applying a post-structural and critical perspective is to construct a discourse that offers a new voice in the open debate. It is impossible to construct something better without deconstruction, but it is meaningless to deconstruct without an aim to construct. KACIR is modern and postmodern—both are essential.

(3) Pluralism:

KACIR respects and celebrates plurality. The interpretation of classical texts should be pluralistic. The methodology should not only tolerate but encourage the
co-existence of all discourses (subjective interpretations). It should be free from the control of, but not exclusive to, the official ideology. It believes in self-reflection; independent and critical thinking; free communications; open and rational debates among discourses; and that they may yield a synthesis of the best possible norm, principle and/or theory. Discourses are dynamic in nature. They will be renewed or replaced according to the need of a generation and epoch.

(4) Reinvented cosmopolitanism:
KACIR rejects the Sino-centric worldview of conversion as well as the blind adoption of liberal internationalism and cosmopolitanism. Instead, based on its firm belief in pluralism, it strives to excavate traces of cosmopolitanism in China; to redefine China; to find overlaps and parallels between the Chinese and the Western traditions; to see whether values and conceptions are commensurable through rational communication and dialogues by using the platform of hermeneutics, hence a reinvented cosmopolitanism for the use of Chinese IR, international ethics, and global governance may be available. KACIR enhances international socialisation.

(5) Knowledge archaeology:
KACIR is about knowledge; conceptions; discourse; narrative. It is also about discovery and rediscovery; invention and reinvention; deconstruction and reconstruction. It does not rigidly demand the creation of a Chinese theory of IR, but believes we can start from making a norm or principle.

(6) Knowledge sociology:
KACIR forms on the foundation of Tsinghua, the American, and the British approach. It builds on the agreements, disagreements, and comparisons between them. As
aforementioned in Chapter 1.3, the mechanisms of socialisation, persuasion and bricolage are features of the methodology of KACIR. Such group commitment to a similar research methodology has another name: “disciplinary matrix” in Thomas S. Kuhn’s *The Structure of Scientific Revolutions* (1970, p. 182), in which he refers to a group of scholars that share similar type of professional judgments in a similar scientific paradigm. KACIR embodies several “disciplinary matrixes.” It does not aim to convert any “Other” nor be autistic. It is healthy assertive.54

(7) Negative state responsibility:

KACIR has an ethical concern for the states’ rights and obligation to protect those beyond their physical and mental borders from suffering. The excavation, discovery, and reinterpretation of classical Chinese conceptions thus are connected with “negative state responsibility”—a concept derived from “negative responsibility” or “negative utilitarianism” suggested by the British philosopher Bernard Williams (2006; proposed in 1973). The application of Williams’s concept in IR is observed in works of Andrew Linklater (2011) and Luke Glanville (2012). This thesis argues traces of negative state responsibility are found in the pre-Qin texts, and this is exactly what has been missing in the PRC’s view of international ethics. Chapter 4 and 6 will discuss more how a rediscovery of negative state responsibility in the Chinese tradition may help to solve the Sino-liberal Western conundrum posed by the core research question.

Therefore, this thesis reinvents and defines “Knowledge Archaeology of Chinese International Relations” (KACIR) as:

54 On the author’s definition on “assertiveness,” please read Lee, 2013b.
“A hermeneutic methodology that excavates, (re)discovers, and (re)invents classical Chinese conceptions for the use of Chinese IR by reinterpreting canons in their original language through cosmopolitan pluralism. It is critical of any orthodox interpretations. It attempts to add a voice to the open debate by building a Chinese norm or principle with a significant ethical and globalist concern in it.”

The most “un-archaeological” part of KACIR perhaps is that it does not focus on the recovery of “original” history or meaning in the texts. It rather echoes with Richard Ned Lebow and Richard Rorty: Hermeneutics stresses the importance of understanding and self-reflection. It objects to grand theory and puts all understandings—even human progress—in historical perspective. It deconstructs and reconstructs concepts used by previous interpreters (Ned Lebow, 2003; 2008, p. 37). Hermeneutics “rejects all privileged standpoints, but is not relativistic” (Ibid.). Up to this point, we should have got an answer for Sub-question No. 1 (see Chapter 1.1). In the next two chapters, we shall try to examine some selections from the pre-Qin canons by using a reinvented methodology of KACIR.
CHAPTER FOUR
Problems of Legitimacy in the Jus ad Bellum

The section of context-textual analysis in this thesis research comprises Chapter 4 and Chapter 5. Both chapters will begin with a critical review of “the Issue”—problems of legitimacy to be reviewed in Chapter 4; problems of legality to be reviewed in Chapter 5. This will be followed by a justification of the use of comparative methodologies in the interactive study of classical China and modern IR. Once such platform for comparison is built, we will proceed to the reading of original classical Chinese texts. Figure 4.1 shows the general layout of the two chapters.

![Figure 4.1: Chapter 4 and Chapter 5 signposted](image)

**Issue**
- The legitimacy *problematique*
- The legality *problematique*

**Method**
- Comparative International Political Theory (CIPT)
- Comparative jurisprudence

**Evidence/debate**
- International politics in the pre-Qin era
- Traces of international law in the pre-Qin era / *Gongfa Zhongyuan* (the Chinese origin of international law)

**Text**
- *The Chronicle of Zuo*
- Two Confucian texts: *Mencius* and *Xunzi*
The contemporary problems of legitimacy in humanitarian intervention and R2P focus on the normative aspects of the *jus ad bellum* in global collective security. They are discussed in light of: the changing character of warfare; norms of universal human rights as acceptable reason for the use of force; clashes and dialogues between Westphalian sovereignty principle and post-Westphalian norms of intervention; state responsibility, in particular great power obligations; the dichotomy of intervention as a moral issue and an operational issue; problems of the UN’s authorisation; the role of global civil society. The debates on these topics centre on the righteousness of the use of force. What are the righteous reasons to intervene? When is it right to intervene? Who should take the action? What kind of and what level of action should be taken? How and where should an intervention be carried out? What should we do during and after intervention?

The *jus ad bellum* provides a set of general guidelines to advise and to instruct whether the use of force (humanitarian and non-humanitarian) is legitimate or illegitimate; just or unjust. Being part of the just war doctrine/theory (*bellum iustum*), the *jus ad bellum* can be traced back to the Roman “law of nations” (*jus gentium*) and the moral-theological writings authored by Saint Augustine of Hippo and Thomas Aquinas. The changing character of warfare\(^{55}\) has caused rounds of debate on the definition of the *jus ad bellum*, but the general framework of the concept has remained unchanged. Some traditionally recognised criteria are:

1. Just cause—the reason for going to war needs to be just;
2. Comparative justice—the injustice suffered by one party must significantly outweigh that suffered by the other;
3. Competent authority—only duly constituted public authorities may wage war;
4. Right intention—force may be used only in a truly just cause and solely for that purpose;
5. 

\(^{55}\) The character of warfare has significantly evolved in the past decades. The scale of war has been shrinking. The mode of warfare has shifted from colonial and inter-state wars to internationalised civil wars (including proxy wars), civil wars, and internal conflicts (Pinker, 2011, pp. 303-304).
probability of success—arms may not be used in a futile cause or in a case where disproportionate measures are required to achieve success; (6) last resort—force may be used only after all peaceful and viable alternatives have been seriously tried and exhausted or are clearly not practical; (7) proportionality—the anticipated benefits of waging a war must be proportionate to its expected evils or harms (Childress, 1978, pp. 427-445).

The Chinese translation and interpretation of “legitimacy” and “legality” are often misleading. It is common for the PRC scholars to identify “hefaxing”合法性 (which literally means “legality”) with “legitimacy” (Chen & Huang, 2008; Chen & Huang, 2009; Wang, 2009; Zhou, 2012). These scholars mix up the two terms. They focus more on the comparative cultural studies on “legitimacy”—they emphasise the legal meaning embedded in the Latin word “Legitimus” (Zhou, 2012, p. 3)—rather than separate “legality” from “legitimacy” and study the binary dynamics between them. Only Liu Yi (2007) has a more feasible presentation: “zhengdangxing”正当性 (which literally means “righteousness,” “appropriateness,” and “just”) for “legitimacy”; “hefaxing”合法性 for “legality.”

In any case, this chapter will only apply the common definitions discussed and used in the English academic world. Nicholas J. Wheeler (2002) argues: “Law can be the servant of particular interests rather than an expression of the general will. In these circumstances, a space opens up between legality and legitimacy” (p. 3). Drawing references from the legitimacy- legality struggle in late Weimar Germany and Carl Schmitt’s conservative theory, Richard Falk (2005) also clearly points out: “The distinction between legality and legitimacy originated and developed in the context of state/society relation, highlighting the significance of specific historical and structural circumstances of public order” (p. 34). Falk argues, legitimacy is a statist benchmark of reputation and propriety. It is disputed whether such reputation and propriety depends on the responsible and effective use of great power by a sovereign (note: this is similar to the Mencian concept of the kingly way/wang); or a respect for the core principles of international law (note: this is akin to the pre-Qin states’ respect of
The Rite of Zhou/Zhouli). A so-called “legitimate” intervention may not meet the requirements of legality, such as in the case of Kosovo and Iraq. A reliance of legitimacy is a signal of the need for a legal reform. One example is the call for the UNSC reform (Ibid., pp. 49-50). Legality may provide the ultimate answer to the legitimacy question; or it may be subjected to societal norms interpreted by courts. It may also surrender to the “state of exception” (Ausnahmezustand) issued by the sovereign, as suggested by Carl Schmitt (Ibid., p. 34). There are always challenges to uphold legality in a liberal constitutional nation, as well as in international relations.

I. Comparative International Political Theory

The Legitimacy Problematique

Let us begin with human rights. In The Law of Peoples (2002), John Rawls argues universal human rights are “intrinsic to the Law of Peoples and have a political (moral) effect whether or not they are supported locally” (p. 80). That said, human rights are binding on all peoples and societies, including outlaw states. Rawls’ liberal conception of justice identifies the legitimacy of the use of force with the self-defence of a population of freedom and constitutionally democratic institutions. He argues: “No state has a right to war in the pursuit of its rational, as opposed to its reasonable, interests” (Ibid., p. 91). Rawls does not openly support humanitarian intervention, but subtly channels it through what he calls “foreign policy,” as he writes: “[Well-ordered societies’] long-run aim is to bring all societies eventually to honor the Law of Peoples and to become full members in good standing of the society of well-ordered peoples. Human rights would thus be secured everywhere. How to bring all societies to this goal is a question of foreign policy” (Ibid., p. 93).

In Just and Unjust Wars (2006), Michael Walzer argues the Millian concept of
non-interventionism may not sound “very attractive” when the dominant forces in a state massively violates human rights. When the freedom of a community and the minimal liberty of the individuals are at stake; when there can be no help within the state to save people and their cultural, religious and racial endowment from enslavement, massacre and extinction, but to seek help from the outside; when a regime turns savagely upon its own people, “we must doubt the very existence of a political community to which the idea of self-determination might apply” (p. 101). Nevertheless, clear examples of humanitarian intervention are very rare. Walzer argues: “States don’t send their soldiers into other states, it seems, only in order to save lives” (Ibid.). What is the reason for such contradiction? Martha Finnemore relates it to “normative tensions” between self-determination and humanitarianism; between self-determination and intervention (Finnemore, 2008, pp. 206-214). What the *jus ad bellum* probably does not address is that normative imperatives for humanitarian intervention must be weighed against values we hold for self-determination and duty to protect one’s own citizens (Finnemore, 2003, p. 6).

On the one hand, those who favour humanitarian intervention insist on their just cause and right intention. For instance, Tony Blair argues: “We are all internationalists now, whether we like it or not … We cannot turn our backs on conflicts and the violation of human rights within other countries if we want still to be secure” (Blair, 1999, 22 April). On the other hand, those are in against humanitarian intervention believe there is a conflict between moral responsibility and great power politics. Every theory and practice of humanitarian intervention has a potential to be abused. No intervention action can provide a guarantee to future victims of mass atrocities. Jean Bricmont, Noam Chomsky and Terry Nardin label the dystopia of intervention “humanitarian imperialism” (Chomsky, 2008; Nardin, 2005). Nardin critiques the legitimacy claimed by the US as the rationale “focus[es] on the character of the regime to be overthrown, not on thwarting specific crimes against humanity or rescuing the victims of those crimes” (Nardin, 2005, p. 21).
In *Saving Strangers*, Nicholas J. Wheeler (2002) examines what kind of legitimacy should be attached to a legal order that institutionalises gross human rights abuses (p. 3). He looks at how international morality or legitimacy has become the product of dominant nations or groups of nations. NATO’s intervention in Kosovo is one example to show us the growing disagreements among states over the legitimacy of the use of force without the UNSC’s authorisation. Wheeler precisely points out:

> [T]he legitimacy of power is the power of legitimacy; rulers seek legitimization not only to satisfy their consciences but also to buttress their positions … [L]egitimacy is constitutive of international action … [S]tate actions will be constrained if they cannot be justified in terms of a plausible legitimating reason (p. 4).

On top of such argument, Alex J. Bellamy (2013) argues R2P in fact adds value to the whole international humanitarian effort by reshaping states’ identities and interests. Such changes in identities and interests has been internalised to some extent by the UNSC (p. 1).

Humanitarianism, when it is practised by the use of force, could become a symbol of killing but not life-saving. This reminds us of Blaise Pascal’s saying: “*Qui veut faire l’ange, fait la bête*” (He who wants to act the angel becomes the beast) (Rieff, 2005). The former UN Secretary-General Kofi Annan argues: “[We must] get right away from using the term ‘humanitarian’ to describe military operations … Military intervention should not […] in my view, be confused with humanitarian action. Otherwise, we will find ourselves using phrases like ‘humanitarian bombing’ and people will soon get very cynical about the whole idea” (Annan, 2000). In “R2P, R.I.P.”, David Rieff incisively writes:

R2P is a doctrine born of good intentions, but one of its great drawbacks is that it turns war into a form of police work writ large, guided by fables of moral innocence and righteousness. War, even
when it is waged for a just cause and with scrupulous respect for international humanitarian law, always involves a descent into barbarism (think of the way Qaddafi died). This is why even when R2P is applied well, it carries moral risks. And when it is distorted, as it was by NATO in Libya, R2P is not a needed reform to the international system, but a threat to its legitimacy (Rieff, 2011, 7 Nov).

On competent authority, Rory Stewart and Gerald Knaus (2011) argue the legitimacy of the international community is limited. Intervention is by nature unpredictable, chaotic, and uncertain. Instead of advancing the idea of creating a legitimate, accountable state, local and regional factors in fact determine more of the success of an intervention. James Pattison (2010) argues, “the legitimacy of an intervener depends on the combined contribution of the various qualities it possesses” (p. 33). “[A]n intervener does not have to possess all of [the relevant legitimating qualities] in order to have an adequate degree of legitimacy. It may, for instance, be effective, representative, and legal, but not use humanitarian means, and yet still be legitimate overall” (Ibid.). Magnus Reitberger (2013) radically argues the *jus ad bellum* does not need the legitimate authority requirement because it can be derived from the right to self-defence and the justifiability of exercising political power to protect human rights. It may benefit from the removal of the legitimate authority requirement (p. 64). Representing the cosmopolitan strand of IPT, Daniele Archibugi (2008) puts forward an institutional proposal, which includes first, the drafting of guidelines by the International Law Commission followed by the approval of the UNGA; second, the closer cooperation between the UNSC and the ICJ; third, the establishment of a joint committee of military and civilian humanitarian organisation; fourth, the establishment of a permanent rescue army deployed at the request of the UN Secretary-General (p. 204).

The last resort principle is hinted probably more by the PRC and Russia at the UNSC than the liberal Western members at the Council. In fact, previous pushy and rushy attempts
of interventions with and/or without the UN authorisation have been criticised by both Western and non-Western observers for failing to fully exhaust diplomatic solutions before the use of force. These criticisms stress a lot on the possible intervener’s genuine attempts to reach a peaceful resolution to the conflict before a military operation is launched. The ignorance of the last resort principle, together with a lack of consistency in the intervention policy, makes international observers doubtful on whether a humanitarian intervention is legitimate or not (Voon, 2004, pp. 51-52).

When it comes to R2P, legitimacy has to do with the ability of “constructive engagement” in prevention and follow-up. Michael Ignatieff argues: “Action, especially of a coercive kind, lacks legitimacy unless every effort has been made to avert the catastrophe; once action is taken, its legitimacy depends on staying the course until the situation is on the mend” (Ignatieff, 2002, pp. 121-122). Ignatieff offers us a fairly mature conclusion on the legitimacy problématique:

Intervening to defend human rights will never have anything more than conditional legitimacy, even when the cause is just and the authority right. We all aspire to perfect legitimacy … [but] [m]oral perfectionism is always the enemy of the possible and the practical. Doing the right thing appears to require the tenacity to do it when half the world thinks you are wrong (Ibid., p. 123).

**International Politics in the Pre-Qin Era**

In order to justify the comparability between the liberal Western principles of the *jus ad bellum* and the corresponding classical Chinese findings, this chapter puts comparative

56 Such as Bill Clinton’s intervention in Kosovo; George W. Bush and Tony Blair’s intervention in Iraq; François Hollande’s intervention in Libya.
international political theory (CIPT) together with the “international politics in the pre-Qin era” argument to create a platform for discussions in Chapter 4.2 and 4.3. Christopher Goto-Jones (2010), though does not make IR his research focus, describes comparative political thought (CPT) as culturally inclusive, in which comparison is used to transcend narrow-minded nationalism or even regional perspectives. It creates what Fred Dallmayr calls “planetary political thought” or what Roland Bleiker calls “global dialogue” (pp. 219 and 225). The ethical and intellectual necessity of applying a globally inclusive CPT can be arguably traced back to Johann Wolfgang Goethe’s holistic and transnational project of "Weltliteratur" (World literature). Such attempt to break borders of the political and linguistic traditions has “a grand utopian vision of global synthesis or underlying commonality. It is explicitly a universalist vision, in which the particularities of specific national traditions are both embraced for their own sakes and seen together as parts of a transcendent whole” (Ibid., p. 226). The use of canons is of the central importance for both International Politics and Literature/Art.

Speaking in a postcolonial tone, Goto-Jones is very alert of the problem of “compar[ing] a series of peripheral of Others with a central, established column of European political theory” (Ibid., p. 225). Such worry is valid but inevitable and unsolvable in the field of IR, because much of the current global norms, rules and institutions have been set up in a way closely affiliated with the Western tradition. By applying CPT, it is possible to identify units, categories and systems appropriate for comparison. This can be done through the reading of classical canons—which Goto-Jones believes is possible only with Comparative Literature but not Political Philosophy (Ibid., p. 226). In fact, he later mentions the Kyoto School of Philosophy in the early twentieth-century Japan, which mirrors well with the comparative method used in canon research for the study of politics. He argues, the Kyoto School philosophers were recognised not just because of their “Japaneseness,” but also because of “the way that their work actually engages with mainstream ideas, concepts, and debates from
the European history of political thought” (Ibid., p. 229).

In order to find close parallels and overlaps between liberal internationalist norms and classical Chinese conceptions of the *jus ad bellum*, we have to be convinced that an interstate system that is akin to the modern international system did exist in the pre-Qin China. Scholars who support such a view usually ask for a re-evaluation of the Eurocentric argument of “the international system began with the Peace of Westphalia in 1648” (Chan, 1999b; Ye, 2005; Waltz, 1979). It is intellectually spontaneous to wonder if CIPT—the IR version of CPT—may benefit such re-evaluation or not.

Statehood, which is akin to the concept of Westphalian sovereignty, can be found in pre-Qin China. Hsu Cho-yun (1965) argues, “all the [pre-Qin] states enjoyed *de facto* sovereignty” (p. 5). Yuri Pines (2012) refers pre-Qin to a period of fragmentation. China can be recognised as a multistate system, which “unmistakably recalls similar developments in early modern Europe … resulted in the formation of nation-states” (pp. 12, 15-16). Gerald Chan (1999b) describes pre-Qin under the Royalty of Zhou was an “elaborate feudal-aristocratic system” with five orders of nobility; thousands of vassal states or principalities (p. 150). These states can be called “city-states” (Ibid.). Lin Ganquan (2004) argues “city-states” in ancient China and ancient Greece share some commonalities: first, the political centre was in the city rather than the village; second, habitants were citizens with certain political rights; third, public and private property rights co-existed; fourth, the military force was formed by the citizens; fifth, city-states formed alliances; sixth, political power was on the hands of aristocrats (pp. 34 and 40). The concept of “cheng” 城 (territory built by inner walls) and “guo” 国 (territory built by outer walls) defined pre-Qin’s idea of state boundary. In fact, *guo* is now commonly used in the Chinese language to refer to the Westphalian sovereign state (Chan, 1999b, p. 153). Gerald Chan and Ye Zicheng both agree pre-Qin meets the criteria of modern sovereignty, namely territory, people, and government (Ibid., p. 152; Ye, 2005 pp. 20-21). Ye argues, the State of Qi was the first to gain the status of
an independent state. It happened in 651 B.C., when it tried to control the King of Zhou in the menghui 盟会 (akin to conference or meeting, see explanation below) in Kuiqiu. Since then, the State of Jin and the State of Zheng also became states independent of the King of Zhou; followed by the State of Chu; the State of Qin; the State of Wu, and the State of Yue, which all transformed themselves from barbarian tribes into states with proper status (Ye, 2005, pp. 17-19).

The conquest and absorption of states in pre-Qin witnessed the drastic evolution of interstate relations. The number of principalities decreased from 1,773 (when they were originally set up) to 170 after 722 B.C. Only 12 remained significant; 5 of them remained as ba (great power, protector, or hegemon) (Chan, 1999b, pp. 151-152). Pre-Qin states waged wars; intervened into each other’s politics; made alliances and changed alliances. Frequent warfare was a significant feature. Hsu Cho-yun’s statistics shows that during the 501 years of the pre-Qin era, only 127 years can be counted as peaceful. 1,680 battles took place (Hsu, 1965, pp. 56 and 64). Military colonialism, balance of power, and collective security were also main features found at that time.

Interstate diplomacy is another feature of the pre-Qin era. Activities were generally categorised into eight types: “chao” 朝 (court visit by ruler or prince); “hui” 会 (meetings of officials and aristocrats); “pin” 聘 (missions of friendly inquiries); “shi” 使 (emissaries sent from one to another); “shou” 狩 (hunting parties); “xiangyan” 飨燕 (banquets); “meng” 盟 (conferences and covenant drafted after a meng); “mibing” 弥兵 (disarmament conference and covenant). Treaties and agreements on political friendships, mutual aid, alliances, and leagues were drafted and signed by bilateral and multilateral means (Chan, 1999b, pp. 156, 158 and 160; Xu, 2004, pp. 102-113). In particular, the norm of “xin” 信 (trust and sincerity) was of utmost importance in China’s attitude in its external relations. According to Shuowen Jiezi Zhu 说文解字注, it carries the meaning of “words must represent the heart” (yanbi youzhong 言必由衷) (Duan, 2014). Confucius says: “If in word
you are conscientious and trustworthy and in deed singleminded and reverent, then even in
the lands of the barbarians you will go forward without obstruction” (言忠信，行笃敬，虽蛮貊之邦行矣) (XV. 6). The compliance of xin was read as a mandatory obligation by all
parties of a meng. It was crucial to the stability of an alliance. A violation of xin often led to
the collapse of an alliance. There were also a variety of schools of diplomacy existed in
pre-Qin. Philosophers and military strategists used conflict resolution mechanisms; also
strategies such as “hezong” 合纵 (balancing), and “lianheng” 连横 (bandwagoning), which
are similar to those found in neo-realist theory.

Some scholars compare the Royalty of Zhou to the UN (Lin, 2004; Ye, 2005). Ye Zicheng argues, the Royalty of Zhou is the political symbol of the union of pre-Qin states. It
functioned the same as the UN Secretary-General in creating and sustaining political
cooperation. It was the cultural and ideological pillar of the Spring and Autumn Period. It was
the origin of a collection of ritual canons, institutions, rules and norms. However, it was also
a tool manipulated by great power politics (Ye, 2005, pp. 14-15). Lin Ganquan points out, the
King of Zhou was the “gongzhu” 共主 (common leader) of states in the Spring and Autumn
Period. Lin quotes from Yin Zhou Zhidulun 殷周制度论 (1917) written by Wang Guowei, in
which Wang famously argues there was no ruler-subject (jun-chen 君臣) dichotomy in the
relations between the King of Zhou and the states; between “mengzhu” 盟主 (the leader of
states) and the states (Lin, 2005, p. 48). This may echo with the fact that in the pre-Qin era,
there was no real social authority higher than the state, but that the higher social authority
existed only in nominal form with some instrumental value for states to manipulate.
International anarchy was a feature of pre-Qin (Ni, 2008, p. 203). The interstate relations in
the pre-Qin era can be easily interpreted by realist IR theory, as the state was the basic unit of
international political life; the state’s interest was supreme; the Hobbesian “law of the jungle”
applied; universal moral principles of international idealism and those which were embedded
in rules and regulations were often tools for realist use (Ibid., pp. 204-205).
States’ obligations to the Royalty of Zhou are two-folded: “neifu” 内服 (to serve internally) and “waifu” 外服 (to serve externally). The King of Zhou nominated aristocrats from states to be ministers in the Royalty; in return, aristocrats from the Royalty took up important positions in the states. These ideas may sound radically inspiring to the UN today, as the appointment of an IGO official to a senior position in a state government can be seen as a challenge to state sovereignty. States were also obliged to visit (chaojin 朝觐) and to pay tribute (nagong 纳贡) to the Royalty of Zhou. States followed the moral norm of “zunwang rangyi” 尊王攘夷 (to respect the Royalty of Zhou and to expel the barbarians), but as the power of the Royalty decreased, states understood they were in reality both the supporters and the manipulators of the Royalty; also the power of legitimacy and legality held by it.

Gerald Chan (1999b) refuted the rejections on the pre-Qin-modern IR connections. He points out the Anglo-American-centric view based on Eurocentrism is partly responsible for the divide between the study of history and IR, hence the difficulty of academic innovation (pp. 165-166). While Chan’s focus is on the American intellectual hegemony’s prevention of a Chinese historical interpretation of key terms in IR, today we may add that Chinese exceptionalism, ethnocentrism, and narrow-minded nationalism function almost the same as the Western dominators in restricting the use of pre-Qin understanding of interstate relations to a regional and sub-regional context. The problem is with hermeneutics. Only when we apply an emancipated anti-foundationalist approach to the reading of the pre-Qin texts, we may come to notice that “this geographically confined ‘Chinese village’ shares some interestingly similar features with the contemporary ‘global village’” (Ibid., p. 162).

Some Western scholars, such as Chris Reus-Smit, have recently argued that the year 1648 may not be the “official” beginning of the modern international system because from the seventeenth century to the end of the Second World War, our world was dominated by “a system of empires pretending to be sovereign states,” but not sovereign states on equal basis. It was until the establishment of the UN in 1945 and the subsequent decolonisation
movement that created a system of states in its true meaning (Reus-Smit, 2014, 11 July). In the spirit of Goethe’s Weltliteratur, now is the time for the Chinese and the Western scholars to join hands in re-interpreting some of the stereotyped IR concepts. CIPT is a good candidate for such demanding task. In order to initiate rational dialogues and co-operations that lead to the reinvention of commensurably cosmopolitan values, we must transcend the limitations set by Eurocentrism and Sino-centrism. We must be critical to critical theories, such as post-colonialism, as many of them criticise too much but suggest too little.57

II. The Chronicle of Zuo

Justice in the pre-Qin era meant the restoration of social, political, and moral order of the utopian antiquity. It is arguable whether there were traces of human rights, but a humanitarian concern can certainly be observed. The transition from the Spring and Autumn period to the Warring States period witnessed the fact that interventionism was increasingly accepted and practised by states. Sovereign accountability was made an argument to defend the legitimacy of the use of force. In The Chronicle of Zuo, there are numerous descriptions of the removal of tyranny. The famous saying “By his many deeds of unrighteousness he will bring destruction on himself” (多行不义，必自毙) is found in the First Year of Duke Yin. Crimes were categorised. Cases of regicides and parricides were separated from the mass killing of the civilians (or what we called “genocide” today). For the first type, the Twenty-third Year of Duke Zhuang says: “There are punitive expeditions, to punish the juniors’ disobedience to the seniors” (征伐以讨其不然). The Fourteenth Year of Duke Ai describes Confucius’s position on the jus ad bellum for the punishment of those who disrupt political hierarchy:

57 For this reason, we may thank Christopher Goto-Jones for his introduction of CPT to us, but we do not necessarily have to agree with his postcolonial critique.
Chen Heng of the State of Qi murdered his ruler Ren in Shuzhou. Confucius fasted for three days, and then begged [the Duke] that he would invade Qi. Thrice he made the request, and the Duke said, “the State of Lu has long been kept in a state of weakness by Qi. If we should invade Qi, as you [propose], what could we do?” Confucius replied, “There are one half of the people of Qi who do not agree with Chen Heng in his murder of his ruler. If with all the force of Lu we attack one half of that of Qi, we shall conquer it.”

齐陈恒弑其君壬于舒州。孔丘三日齐,而请伐齐三。公曰:「鲁为齐弱久矣,子之伐之,将若之何?」对曰:「陈恒弑其君,民之不与者半。以鲁之众,加齐之半,可克也。」

To Confucius, public opinion is a crucial factor in determining the result of intervention. The argument of “justice means restoration of the hierarchical order of utopian antiquity” is further elaborated in a refutation to the non-aggression and non-intervention principle. In the Twenty-seventh Year of Duke Xiang, Zihan argues:

[W]ho can do away with the instruments of war? They have been long in requisition. It is by them that the lawless are kept in awe, and accomplished virtue is displayed. Sages have risen to their eminence by means of them; and men of confusion have been removed. The courses which lead to decline or to growth, to preservation or to ruin, of blindness on the one hand, of intelligence on the other, are all to be traced to these instruments.

谁能去兵? 兵之设久矣，所以威不轨而昭文德也。圣人以兴，乱人以废，废兴存亡，昏明之术，皆兵之由也。

Interventionism in the Spring and Autumn period required punishment and rectification to be
done immediately, as this may affect the legitimacy of intervention. The Fifteenth Year of Duke Xuan says: “If we do not punish the present criminal, but say: ‘Let us wait for his successor.’ Then proceed to punish him, whom may have reasons to allege why he should not be touched at all—will not our course be unreasonable?” (不讨有罪，曰：「将待后，后有辞而讨焉，毋乃不可乎？」).

The mass killing of civilians is narrated in a different way compared to regicides and parricides. The Fifteenth Year of Duke Cheng says: “When a ruler has dealt with his people without any regard to what was right, and the States punish and seize him, then we read that ‘the people of such and such a State seized him,’ but if his wickedness has not extended to his people, it is said, ‘the ruler of such and such a State seizes him’” (凡君不道于其民，诸侯讨而执之，则曰：「某人执某侯。」不然则否). The individual should take responsibility of what he has done. The Fourth Year of Duke Yin says: “For his military likings the multitude will not cleave to him; and for his cruelty his relatives will not. With the multitude rebellious, and his friends leaving him, it will be difficult for him to be successful. Military weapons are like fire; if you don't lay the fire aside, it will burn yourself. Zhouyu murdered his prince, and he uses his people oppressively, thus not making excellent virtue his pursuit, but wishing to succeed by violence; he will certainly not escape calamity” (阻兵无众，安忍无亲，众叛亲离，难以济矣。夫兵，犹如火也。弗戢，将自焚之。夫州吁弑其君，而虐用其民，于是乎不务令德，而欲以乱成，必不免矣).

For states, humanitarian intervention not only means to save the victims from suffering, but also to build reputation and great power status. When the State of Song was quarantined by coalition of states, Xian Zhen told Duke Wen of Jin: “Now you may recompense the favours received from Song, and relieve its distress. The opportunity is now presented to acquire the proper majesty and make sure of the leadership of the States” (报施救患，取威定霸，于是乎在矣) (The Twenty-seventh Year of Duke Xi). Notwithstanding, great powers did abuse the idea of humanitarianism in their interventions. The Fourth Year of Duke Xuan
describes the State of Qi’s illegitimate use of force in mediating the conflict between the State of Ju and the State of Tan: “States must be reconciled by the rules of propriety, and not by disorder. To attack Ju, without regulating [the difference by those rules], was creating disorder. By disorder to attempt to reconcile disorder, left no room for the [proper] regulation; and without such regulation, how could any rule of propriety be carried out?” (平国以礼, 不以乱。伐而不治，乱也。以乱平乱，何治之有？无治，何以行礼？).

*The Chronicle of Zuo* points out clearly intervention for the purpose of humanitarianism could be legitimate, while occupation and annexation of territories are strictly forbidden. This matches with the proportionality principle in the *jus ad bellum*. One famous story happened in the Eleventh Year of Duke Xuan. The State of Chen had civil unrest. King Zhuang of Chu sent his army to Chen and punished the rebel who killed his ruler; but King Zhuang did not stop there—he made Chen a county of Chu after intervention. Shen Shu’s criticism on King Zhuang explains the moral boundary of humanitarian intervention in the pre-Qin era:

The crime of Xia Zhengshu in murdering his ruler was great, and you performed a righteous deed in punishing and executing him. But the people have a saying: “He led his ox through another man’s field, and the ox was taken from him.” Now he led his ox to trample on another man’s field indeed committed an offence; but when his ox was taken from him, the punishment was too severe. The princes followed you in this enterprise, saying it was to punish a criminal; but now you have made Chen one of your districts, desiring its riches. You called out the princes to punish an offender, and you are sending them away after satisfying your covetousness—does not this seem improper?

夏徵舒弑其君，其罪大矣，讨而戮之，君之义也。抑人亦有言曰：「牵牛以蹊人之田，而夺之牛。牵牛以蹊者，信有罪矣；而夺之牛，罚已重矣。」诸侯之从也，曰：「讨有罪也。」今县陈，贪其富也。以讨召诸侯，而以贪归之，无乃不可乎？
Shen Shu’s argument echoes with Yan Ying’s persuasion to Duke Jing of Qi. In the aftermath of civil unrest, the State of Yan got a new ruler, who was agreeable to the local people. Duke Jing of Qi insisted to wage a war on Yan to restore the Qi-favoured Duke Jian to be the ruler of Yan. Yan Ying says: “[Our army] will not enter [the capital of] Yan. Yan has a ruler, and the people are not disaffected to him. Our ruler [desires] bribes; those around him flatter him; and so he commences a great undertaking, but not in good faith. Such enterprises have never been successful” (不入，燕有君矣，民不贰。吾君贿，左右谄谀，作大事不以信，未尝可也) (The Sixth Year of Duke Zhao). Similarly, the Fourteenth Year of Duke Xiang says: “Our best plan is to accede to its present circumstances, and settle it accordingly. [The State of Wei] has a ruler. If we attack it, we may not succeed as we should desire, and we shall be troubling the States” (不如因而定之。卫有君矣，伐之，未可以得志而勤诸侯).

In the same book, sovereign accountability is well-elaborated in a conversation between the musician Shi Kuang and Duke Dao of Jin:

[The Duke] said to him, “Have not the people of Wei done very wrong in expelling their ruler?” Kuang replied: “Perhaps the ruler had done very wrong. A good ruler will reward the virtuous and punish the vicious … could such a ruler be expelled? … If he make the life of the people to be straightened and the spirits lack sacrifices, then the hope of the people is cut off, and the altars are without a host—of what use is he, and what should they do but send him away? Heaven, in giving birth to the people, appointed for them rulers to act as their superintendents and pastors, so that they should not lose their proper nature … Heaven’s love for the people is great—would it allow the one man to take his will and way over them, so indulging his excessive desires and discarding the [kindly] nature of Heaven and Earth? Such a thing could not be.”
Sovereign accountability is furthered explained in Mencius’s philosophy, as we will see in the next section. Scholars such as Daniel A. Bell (2008; 2009), Luke Glanville (2010), and He Weifang (2012) argue the Mencian concepts are commensurable with modern liberal ideas of humanitarianism, human rights, and the rule of law.

III. Two Confucian Texts of Philosophy: Mencius and Xunzi

Source A: Mencius

Excerpt 1

“A man who mutilates benevolence is a mutilator, while one who cripples rightness is a crippler. He who is both a mutilator and a crippler is an ‘outcast.’ I have indeed heard of the punishment of the ‘outcast T’chou,’ but I have not heard of any regicide” (I B. 8).

曰：「贼仁者谓之贼，贼义者谓之残，残贼之人谓之一夫。闻诛一夫纣矣，未闻弑君也」（梁惠王章句下）。

Excerpt 2 (Mencius’s persuasion to King Hsüan of Ch’i on his plan to annex the State of Yen after “humanitarian intervention”)

“If in annexing Yen,” answered Mencius, “you please its people, then annex it … If in
annexing Yen you antagonize its people, then do not annex it … When it is a state of ten thousand chariots attacking another of equal strength and your army is met by the people bringing baskets of rice and bottles of drink, what other reason can there be than that the people are fleeing from water and fire? Should the water become deeper and the fire hotter, they would have no alternative but to turn elsewhere for succour” (I B. 10).

孟子对曰：「取之而燕民悦，则取之……取之而燕民不悦，则勿取……以万乘之国伐万乘之国，箪食壶浆，以迎王师。岂有他哉？避水火也。如水益深，如火益热，亦运而已矣」（梁惠王章句下）。

Excerpt 3 (Mencius’s reply to King Hsüan of Ch’i on his post-intervention aggression in the State of Yen)

The Book of History says, “In his punitive expeditions T’ang began with Ke.” With this he gained the trust of the Empire, and when he marched on the east, the western barbarians complained, and when he marched on the south, the northern barbarians complained. They all said, “Why does he not come to us first?” … He punished the rulers and comforted the people, like a fall of timely rain, and the people greatly rejoiced. The Book of History says, “We await our Lord. When he comes we will be revived.”

“Now when you went to punish Yen which practised tyranny over its people, the people thought you were going to rescue them from water and fire, and they came to meet your army, bringing baskets of rice and bottles of drink. How can it be right for you to kill the old and bind the young, destroy the ancestral temples and appropriate the valuable vessels? Even before this, the whole Empire was afraid of the power of Ch’i. Now you double your territory without practising benevolent government. This is to provoke armies of the whole Empire. If
you hasten to order the release of the captives, old and young, leave the valuable vessels where they are, and take your army out after setting up a ruler in consultation with the men of Yen, it is still not too late to halt the armies of the Empire” (I B. 11).

《书》曰：「汤一征，自葛始。」天下信之。「东面而征，西夷怨；南面而征，北狄怨。曰，奚为后我？」……诛其君而吊其民，若时雨降，民大悦。《书》曰：「徯我后，后来其苏。」

「今燕虐其民，王往而征之。民以为将拯己于水火之中也，箪食壶浆，以迎王师。若杀其父兄，系累其子弟，毁其宗庙，迁其重器，如之何其可也？天下固畏齐之强也。今又倍地而不行仁政，是动天下之兵也。王速出令，反其旄倪，止其重器，谋于燕众，置君而后去之，则犹可及止也」（梁惠王章句下）。

Excerpt 4

Only when a state invites invasion will others invade it. The T'ai Chia says: “When Heaven sends down calamities, there is hope of weathering them. When man brings them upon himself, there is no hope of escape” (IV A. 8).

国必自伐，而后人伐之。《太甲》曰：「天作孽，犹可违；自作孽，不可活」（离娄章句上）。

Excerpt 5

Mencius said, “Only when a man will not do some things is he capable of doing great things” (IV B. 8).
孟子曰：「人有不为也，而后可以有为」 (离娄章句下)。

Excerpt 6

The *Yi Hsün* says, “The punishment of Heaven began in the Mu Palace of Chieh. I came on the scene only at the city of Po” (V A. 7).

《伊訓》曰：「天诛造攻自牧宮，朕載自亳」 (万章章句上)。

Excerpt 7

Hence it is said, it is not by boundaries that the people are confined, it is not by difficult terrain that a state is rendered secure, and it is not by superiority of arms that the Empire is kept in awe. One who has the Way will have many to support him; one who has not the Way will have few to support him. In extreme cases, the latter will find even his own flesh and blood turning against him while the former will have the whole Empire at his behest. Hence either a gentleman does not go to war or else he is sure of victory, for he will have the whole Empire at his behest, while his opponent will have even his own flesh and blood turning against him (II B. 1).

故曰：域民不以封疆之界，固国不以山谿之险，威天下不以兵革之利。得道者多助，失道者寡助。寡助之至，亲戚畔之；多助之至，天下顺之。以天下之所顺，攻亲戚之所畔；故君子有不战，战必胜矣（公孙丑章句下）。
**Source B: Xunzi**

**Excerpt 8**

[The Lord Protector] preserves those who have lost their country and sustains those whose line of succession has run out; he protects the weak and restrains the oppressive. Yet he has no intention of acquiring territory; then the feudal nobles will be friends with him. His way is to treat enemies as friends; he respectfully meets the feudal nobles, and then the feudal nobles will be pleased with him. They make friends with him because he does not seek territory; if he appears to want territory, the feudal princes would be distant to him ... Hence he makes it plain that his motives are not to gain territory; he makes them believe in his way (Tao) of treating enemies as friends. If the empire is without a righteous King in control, such a man will always prevail. This is the true policy (Tao) of the man who knows how to be a Lord Protector (IX. 10).

存亡继绝，卫弱禁暴，而无兼并之心，则诸侯亲之矣。修友敌之道以敬接诸侯，则诸侯说之矣。所以亲之者，以不并也；并之见，则诸侯疏矣……故明其不并之行，信其友敌之道，天下无王，霸主则常胜矣。是知霸道者也（王制第九）。

**Excerpt 9**

To remove tyrant Jie and tyrant Zhou is like to remove a lonely man. Hence Taishi in *The Book of Documents* says: “Zhou, the loner” (XV. 11).

诛桀纣若诛独夫。故《泰誓》曰：「独夫纣」（议兵第十五）。
Excerpt 10

Whomever you kill, do not kill his subjects; kill those who cause the people to rebel; but if among the people there are those who defend these injurious individuals, they too are injurious. Hence those who yield to the sword shall live; those who resist the sword shall die; those who haste to obey shall be amnestied … The Kings had executions, but no battles. If a city was held, they did not attack; if the army was obstinate, they did not attack it. If the ruler and ruled were satisfied with each other, then they congratulated them. They did not massacre cities; they did not ambush armies; they did not hold down the people; they did not keep the army over the season. Hence the people of countries which were ill-ruled rejoiced at their government, and were not satisfied with their own rulers, but wished them to come (XV. 16).

凡诛，非诛其百姓也，诛其乱百姓者也；百姓有捍其贼，则是亦贼也。故顺刃者生，逆刃者死，犇命者贡……王者有诛而无战，城守不攻，兵格不击，上下相喜则庆之，不屠城，不潜军，不留众，师不越时。故乱者乐其政，不安其上，欲其至也（议兵第十五）。

Excerpt 11

When others defend the ramparts of their cities and send out knights to do battle with me and I overcome them through superior power, then the number of casualties among their population is necessarily very great. Where casualties have been extreme, the population is bound to hate me with vehemence. If the population detests me, then each day their desire to fight against me will grow … so as others grow more willing to fight, my own people will grow less willing to defend me. In this way the cause of my former strength is reversed and produces weakness (IX. 7).
Summary and Analysis

This section will summarise and analyse interpretations of *Mencius* and *Xunzi* by Lo Ping-cheung, Sumner B. Twiss, Jonathan K. L. Chan, and Aaron Stalnaker. The recent decade has witnessed a rise of liberal reinterpretations of selected pre-Qin classics for the innovation of Chinese approach to humanitarian intervention and R2P. Most of these rigorous studies solidly ground their scholarship not only in modern IR and international political theory, but also the textual, exegetical, historical, hermeneutical, and philosophical backgrounds of the classical canons. To many of these liberal interpreters, Confucianism is not totally pacifist. Their studies share common grounds with the cosmopolitan approach of this thesis, and they have demonstrated a better version of KACIR.

For Lo, Confucian military ethics has two major components: victory without using the force, and strong moral character of the military (Lo, 2015a, p. 399). The seemingly self-contradictory thesis of the love of peace on the one hand (*Mencius*, IV A. 14; VII B. 4; *Xunzi*, IX. 7), and the use of force on the other, is explained by Lo’s quote from Joseph C. W. Chan: “Martial arts and the use of force are supposed to be the very antithesis of the Confucian ideal of benevolence and harmony, yet they are necessary in the nonideal world and can, and should, be practised with a view to the ideal” (Lo, 2015b, p. 8; Chan, 2014, p. 16). Yet, for the sake of self-defense and the slay of tyrant and lessen suffering of the people, the use of force is considered as legitimate (*Mencius*, I B. 8, 10, 11, 13; IV A. 8, B. 8; V A. 7; *Xunzi*, IX. 10, XV. 11). This sounds extremely similar to the modern debate on the non-aggression principle, self-defense, and humanitarian intervention. What makes Mencius
and Xunzi’s ideas distinctively different from their Western counterparts is their emphasis on the human factor and integrity of the leader. Lo explains:

Logically, a punitive expedition launched in the name of morality (ren and yi) must be executed in accordance with morality. For Mengzi, the kernel of ren is the moral sentiment of not bearing to see others suffer. An expedition prompted by humane governance (governance by ren) is launched to deliver people from suffering; hence there must be proper conduct in such warfare. In particular, the people who are to be delivered from suffering should not be inflicted with further suffering during and after the war. During such a humanitarian expedition non-combatants and their property should be immune from injury. A proper intention to rescue and protect should be manifested by the proper conduct of the army (Lo, 2015a, pp. 403-404).

That said, when the tyrant is removed from power, the True King and his military force must continue to exercise humane governance (Mencius, I B. 11; Xunzi, XV. 1). Lo points out:

[B]oth Mengzi and Xunzi argue that the rightful authority to declare a morally justified war belongs to the virtuous True King … [O]nly someone who has a firm disposition to behave morally can launch a war guided by morality … A true King will practice humane governance (renzheng); he who governs humanely will conduct warfare humanely … “proper authority” here is not understood legally and politically, but morally … Only when power is under the guidance of full virtue can there be a rightful authority to declare war (Ibid., p. 404).

However, neither the Confucian Sages nor Lo has made it clear how the people can be sure a person is the True King. In other words, how can this person prove himself/herself that s/he can be trusted as the True King. Moreover, by describing just war as the “second best” option (Lo, 2015b, p. 7), Confucian military ethics—even if it should not be regarded as
totally pacifist—has made China over-reliant on non-confrontational solutions, thus complacent with inaction even in face of urgent and acute humanitarian disaster. Excerpt 5 is quoted to inspire a reverse reading for the PRC: Only when a state takes action, practice and experiment, it may truly understand when it should or should not do something (Mencius, IV B. 8).

Not even Confucius may support inaction. Confucius’s practice of benevolence, straightness, courage, righteousness, and love (The Analects, II. 24; XII. 22; XIV. 34; XV. 36; XVII. 13) can be translated into the modern language of negative responsibility—a philosophy of action underlying the ethics of liberal internationalism. It refers to “the responsibility for something which is not caused directly by the agent but which the agent fails to prevent from happening. The notion is derived from the distinction between action and omission or between intervening and letting things take their own course” (Negative Responsibility, 2004). One must take positive responsibility for what s/he acts (interventions included), but it is disputed to argue if there is a negative responsibility, let alone a negative state responsibility. Nevertheless, liberal internationalism embraces it. The most serious atrocities should never be condoned by any state government.

Twiss and Chan believe Mencius and Xunzi affirm the legitimate use of force on necessary conditions for the justifiable initiation of punitive expedition. They argue, “the Confucian understanding of a righteous punitive expedition is very similar to the emergent contemporary Western humanitarian doctrine of the responsibility to protect” (Twiss & Chan, 2015c, p. 153). Twiss and Chan trace such connection back to the concept of the Kingly Way (wangdao) (Mencius, II B. 1; IV A.1; V A.5 and 6; VII B. 14; Xunzi, IX. 9; XI. 1). They also discuss the moral limitation on the use of force: prohibition of attack on the defenceless; prohibition of indiscriminate slaughter of enemy forces; prohibition of abuse of prisoners; prohibition of plunder and destruction of civilian infrastructure; prohibition of annexing an enemy state without the express approval of its people (Twiss & Chan, 2015b, p. 104).
Mencius’s frequently quoted sections on the war between the Kingdom of Qi and the Kingdom of Yan (Mencius, I B. 10; I B. 11; II B. 8) are also discussed. Twiss and Chan are correct in pointing out Mencius denies Duke Xuan of Qi’s legitimate authority to attack, since he was not a Heaven-appointed officer or a True King with the Mandate of Heaven (ideally, it should be the Zhou King). Without consulting the people of Yan, Duke Xuan of Qi was just another tyrant in his own right (Twiss & Chan, 2015b, p. 107).

Xunzi has a similar account on the same event (Xunzi, VII. 1). The interpretation done by Twiss and Chan is as follows:

[Duke] Xuan’s actions appear to reveal him as being a so-called “lord-protector” in Xunzi’s earlier, less lofty view of a lord-protector: the kind of ruler who cloaks his “belligerence in a show of deference, relying on the appearance of humaneness, but treading the path of selfish gain” (Twiss & Chan, 2015b, p. 108).

Xunzi is more morally demanding than many liberal internationalists of today. The principle of proportionality in the *jus ad bellum* is discussed in XV. 16. Today, it is no surprise to see intervention forces stay over the season, as it was in the case of Afghanistan and Iraq. When the ruler and his/her people are satisfied with each other, some governments do not congratulate them, but think hard how to topple the regime that does not share their values and interests (compare with Xunzi, XV. 16). Realpolitik suggests it is impossible for great powers not to acquire territory (compare with Xunzi, IX. 10). Saddam Hussein and Muammar Gaddafi were loners at the end (compare with Xunzi, XV. 11). Xunzi was demanding because he calls for self-restriction to *li* (rite) in a Hobbesian world that practises the “law of the jungle.”

By categorising two Western models of humanitarian intervention (the legalistic model and the revisionary moral model), Twiss and Chan summarise three comparisons between
Confucian military ethics and the Western models of humanitarian intervention:

[First], apart from criminal justice, Confucianism is not particularly legalistic but rather is oriented to moral-political concepts and norms of humane and just rule—responsible sovereignty—focusing on the welfare of peoples—within states and the empire as a whole. Thus, the Confucian understanding is more immediately resonant with the responsibility to protect model, which itself is grounded in a normative notion of morally responsible sovereignty.

[Second], the Confucian notion of such a punitive expedition is multi-dimensional … [It] is quite explicit about the need for regime change, and it incorporates the notion of punishment of a tyrant for both past and occurrent abuses of the people.

[Third], the Confucian understanding appears to set a threshold standard for military intervention … lower than, both of the Western models—that is, “severe tyranny” that may not involve massive human rights violations on the scale of, say, genocide or ethnic cleansing … a Confucian true King or lord-protector could undertake military action against a tyrant sooner than the Western models seem to permit, thus possibly having the effect (again, in principle) of saving more lives and mitigating more suffering (Twiss & Chan, 2015a, p. 127).

Twiss and Chan innovatively argue Xunzi’s normative lord-protector system—a competent, trustworthy, and moderately just lord-protector leads an alliance of states by agreement—may be compared to the UN Security Council and even regional security bodies led by a hegemon, such as the NATO under the US’s control (Ibid.). Twiss and Chan also question how we can be sure the lord-protector really holds the moral authority for the True King’s punitive expedition (as comparable to the US’s use of force in the name of the UN and the NATO).

Mencius’s opinion on righteous war matches with Michael Ignatieff’s “constructive
engagement” and “conditional legitimacy” (see Chapter 4.1)—both are mature arguments of humanitarian intervention. Mencius reminds us humanitarianism and the right to intervene are prone to the manipulation of great powers. Intervention may end up in annexation and more violence (Mencius, I B. 10; I B. 11). The intervener, if it is not benevolent, will be intervened (or at least be condemned) by the international society (Ye & Jiang, 2012, p. 19).

For Twiss and Chan, the possible contemporary implications of liberal reinterpretations of Mencius and Xunzi are: First, the Confucian standard is closer to the Western concept of crime against humanity, for it suggests severe tyranny serves as a just cause for intervention. The Confucian threshold standard for legitimate intervention is lower than the generally accepted paradigms of genocide and ethnic cleansing, and is focused in extreme physical abuses of a population by reason of a government’s perverse policy to commit such abuse or neglect, or inability in preventing it. Second, Confucian ethics also highlights and recovers the aim of punishment of tyranny as a just cause, incorporating retributive justice and avenging the victims, protecting the people from further harms, and deterring other potential offenders from committing such crimes. Third, responsible sovereignty under the guidance of ren and yi entails a right and duty to rectify a severely tyrannical situation. This echoes with Luke Glanville’s study on Mencius: “Recognition of this non-European heritage of sovereign accountability opens up new possibilities for dialogue between those who would promote present-day concepts of ‘sovereignty as responsibility’ and those who perceive these concepts as merely Western and alien principles grounded in Western and alien values” (Glanville, 2010, p. 323). Fourth, Confucian ethics embraces the multi-dimensional R2P model, with aims of prevention, rescue, reconstruction, and criminal justice (Twiss & Chan, 2015a, pp. 129-131).

Lo, Twiss, Chan, and Stalnaker have unprecedented contribution in translating the ancient, obscure classical Chinese conceptions into a language that is comprehensible to modern IR. What they have not covered, is how to make classical Chinese conceptions truly
cosmopolitan—not just exclusively for the Chinese but also something belongs to the non-Chinese as well. Anyone who is serious about the application of classical Chinese conceptions to ethical issues in contemporary Chinese IR and general IR should look forward to see wider participation from scholars whose nations have been suffered directly from mass atrocities and other kinds of disasters and injustice. After all, it is these nations that feel the unspeakable pain every day. Today’s participation is too much a club confined to the Sino-Anglophone dialogue. Only when a constitutional change in international political values and international law has been made possible—by negotiating global consensus on common moral ground—then every global citizen will know and is able to check who the True King is.

IV. Conclusion

This chapter has discussed the problems of legitimacy in humanitarian intervention and R2P by using CIPT. It has attempted to locate some overlaps and parallels between classical Chinese conceptions and liberal internationalist norms in international politics. The argument of “international politics in the pre-Qin era” suggests the Westphalian constructs of international anarchy, sovereign states, modern wars, and modern diplomacy find substantial parallels in the pre-Qin era. While the last resort principle was highlighted by many military strategists, The Chronicle of Zuo and the two Confucian texts of philosophy reveal that interventionism was widely considered as legitimate in the pre-Qin era for various reasons. States, especially great powers, had the rights and responsibility to intervene individually and collectively by force so as to uphold the hierarchical order prescribed in The Rites of Zhou (Zhouli 周礼) (Pines, 2002, pp. 107-118).

Another just cause and right intention for intervention is retributive justice. Tyrannicide and the removal of a tyrant by foreign armies were considered as legitimate given innocent
people were jailed, slaughtered and starved. This is most evident in *Mencius*, as it elaborates the concept of sovereign accountability in some length. The Mandate of Heaven, in the eyes of many pre-Qin philosophers, is conditional. The dethronement of King Zhou of Shang dynasty was the first case. When a ruler wages war on his own people, he deprives himself the Dao of Heaven. His sovereign impunity thus is also deprived—he is not the King, the Duke, the Marquis, or the Earl anymore, but the “outcast” (*Mencius*, I B. 8) and the “loner” (*Xunzi*, XV. 11). The Fifteenth Year of Duke Cheng in *The Chronicle of Zuo* states clearly an intervention for the removal of an oppressive ruler should be recorded in history as “the people seize the tyrant.”

Perhaps it is then possible to argue the eleventh-century B.C. China in fact challenged sovereign impunity much earlier than John Cooke did in the trials and execution of Charles I in the 1649 England—which Geoffrey Robertson QC regarded as the forerunner of trials of Augusto Pinochet, Slobodan Milošević, Saddam Hussein, and Charles Taylor (Robertson, 2005, p. 6). John Cooke himself rightly points out in a letter from prison in September 1660 that tyrannicide is a “noble principle of preferring the universality before particularity” (Ibid., opening quotation page). *The Chronicle of Zuo* echoes him when it talks about extradition: “Wickedness is the same all under heaven” 天下之恶一也 (*The Twelfth Year of Duke Zhuang*). Some may insist the Chinese case is different because China has never been a constitutional democracy. Sovereign impunity is never challenged by means of the rule of law in China. This is partially correct. In the next chapter, we will see there is a Chinese root for the aphorism “Be ye ever so high, the law is above you” (Ibid., p. 18) when we define the law as natural law. Although there was no court trial for the pre-Qin tyrants, the legality of the sovereigns’ rule was deprived once they breached the Way of Heaven (“*Tiandao*” 天道) and rite (“*li*” 礼).

Last but not least, liberal internationalism’s stress on negative state responsibility finds an echo in The Fifteenth Year of Duke Xuan in *The Chronicle of Zuo*. Modern arguments
such as: “Those who by-stand crimes are criminals too” and “When exposing a crime is treated as a crime, then you are ruled by criminals” may look agreeable to the Confucian thinkers. Interestingly, some of the pre-Qin texts have also shown an awareness of the saying: “The road to hell is paved with good intentions.”
CHAPTER FIVE
Problems of Legality in the *Jus ad Bellum*

[I]f international law is, in some ways, at the vanishing point of law; the law of war is, perhaps even more conspicuously, at the vanishing point of international law.

- Hersch Lauterpacht 58

The great affairs of a State are ritual sacrifice and warfare.

国之大事，在祀与戎。

- The Thirteenth Year of Duke Cheng, *The Chronicle of Zuo*

The restructuring of international society leads to the transformation of international law, which ceases to be a European public law and has become a law of universal application … the differences of historical and cultural heritages[, w]ell accommodated, can yield even more fruitful results. The goal is to establish an effective universal international law … [T]he task of international lawyers is to take account of different histories and cultures of various countries and to find out principles of law and justice which are common to all.

- Wang Tieya 59

The rule of law on the *jus ad bellum* has been notoriously fragile in the face of *realpolitik* for centuries in human history. The dualism of the desire to use force and the quest of non-use of force/non-intervention is ever-present. The state of nature, in the Hobbesian view, grants humans to use violence as they wish. Every war can be potentially interpreted as

58 Lauterpacht, 1952, p. 382.

“legitimate” without the restriction from the law. In *De Jure Belli ac Pacis Libri Tres* (On the Law of War and Peace: Three Books, 1625), Hugo Grotius argues the lack of restraint in relation to war is common in both the Christians and the barbarians: “I observed that men rush to arms for slight causes, or no cause at all, and that when arms have once been taken up there is no longer any respect for law, divine or human” (Grotius, 1925, Prol. Sect. 28).

In Europe, it was Saint Augustine of Hippo (354-430) and Thomas Aquinas (1225-1274) who developed three criteria of a just war\(^{60}\), so the legitimacy and legality issues of human violence were questioned together under Christian theology. Francisco de Vitoria (c. 1483-1546) went further with humanitarian intervention. His argument on “the Spanish dominion in America might be justified on grounds that it is right to save the innocent from egregious harm, cannibalism and human sacrifice” evokes parallel arguments concerning the prevention and punishment of genocide, war crimes, and crimes against humanity in today’s world (Bain, 2013, pp. 70-71). Drawing references from the Christian God’s command: “Love thy neighbour as thyself,” Vitoria justified his position in defending the innocent aliens in the America. To him, the Indians were “all our neighbours, and therefore anyone, and especially princes, may defend them from such tyranny and oppression” (Ibid., p. 71).

The separation of natural law discussions on just war from Christian theology marked the birth of customary international law. Francisco Suárez (1548-1617) argued the authority of a sovereign is not divine, but of human origin. People have the rights to use violence against a tyrannical ruler. The humanist leap in natural law is most evident in the thought of Hugo Grotius (1583-1645). He secularised natural rights; he also developed *jus naturale* (natural law) into the *jus gentium* (the “law of nations”). Grotius believed humanitarian intervention should be applied to punish grievous violations of the laws of nature (Tuck, 2013, p. 105). Such “laws of nature” was no longer a religious one based on the medieval order. How does a

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\(^{60}\) Competent authority, just cause, and right intention.
secularised natural law justify itself to be universally applicable? What are its moral and legal sources? Can it be free from the manipulation of realpolitik? These questions are still highly relevant in today’s debates among natural law scholars (liberal internationalists), legal positivists (non-interventionists), and legal realist on humanitarian intervention and R2P.

Before Grotius, every party in a war was free to claim its cause, intention, and action to be just, so it may kill whenever it pleased. Since Grotius, all parties to war have been checked by (not bound by) legal rules that are based on sovereign equality and natural justice. The concept of self-defence was proposed. The *jus ad bellum* has been placed under the examination of international law, which was founded largely on the restriction of the use of force. The introduction of international law to the *jus ad bellum* marked the separation of legality from legitimacy. Such legality was born with the mission to maintain peace and justice. International law was created to counter-balance the human’s ever-lasting potential to use violence. It was created to regulate state behaviour rather than to offer the licence to use force. That is why a legal positivist interpretation of international law is always at odds with liberal internationalism.

Grotius’s secularisation of natural law and the idea of restricting the use of force were further developed by Samuel Pufendorf (1632-1694), Christian Wolff (1679-1754), and Emerich de Vattel (1714-1767), who distinguished voluntary law from natural law. Pufendorf rejected all ideas of intervention initiated by foreign forces. To him, humanitarian intervention is legal only if the oppressed specifically request it (Ibid. p. 110). Vattel’s *Droit des Gens* (The Law of Nations, 1758) treats each sovereign state as independent, equal, and protected from intervention; but it also states the system of states bears toward one another, and each other’s citizens, universal duties of humanitarianism and human rights (Pitts, 2013, p. 132).

The rise of legal positivism in the nineteenth century paved the path for the legislation and institutionalisation of international legal instruments for non-aggression. Legal positivism
argues states are the only source of international law. There is no just or unjust war. The quest for non-aggression and non-interventionism under the influence of legal positivism reached its peak in 1945, with the establishment of the UN and the adoption of the UN Charter, which clearly states the use of force among states is strictly forbidden except for self-defence or with the UNSC’s authorisation. The revival of interventionism began to hit its high note in 1999 with NATO’s intervention in Kosovo, followed by the Blair and the Bush Doctrine. The adoption of R2P in the World Summit 2005 marked a decline in liberal internationalist agenda of humanitarian intervention, but the debates on legitimacy and legality have been on-going till present time.

I. Comparative Jurisprudence

The Legality Problematique

The contemporary problems of legality in humanitarian intervention and R2P focus on the jurisprudential analysis and debate on the *jus ad bellum*. They cover the issue of legal norm-making and enforcement; law-making and institutionalisation; interpretation of the law; implementation of the law and decision-making; compliance and effectiveness; legal reform, etc. The traditional approach to the *problematique* has a Westphalian character: it identifies the maintenance of international peace and security with mutual non-aggression and non-intervention. This is evident in the sources of public international law (bilateral and multilateral treaties; customary international law). Some major legal instruments include:

1. *The Hague Conventions* (1899; 1907)
3. *Two Conventions for the Definition of Aggression* (1933)
(4) Principle VI (A) in The Nuremberg Principles (1945)

(5) Article 1, 2:4, 33, 39 (non-aggression); Article 51 and Chapter VII (the use of
force) of Charter of the United Nations (1945)

(6) UNGA Resolution 377 (V) “Uniting for Peace” (1950)

(7) UNGA Resolution 378 (1950) and the definition of aggression adopted by the
International Law Commission (ILC, 1951)

(8) Declaration on Principles of International Law Concerning Friendly Relations and
Co-operation among States in Accordance with the Charter of the United Nations
(UNGA Resolution A/RES/2625, 1970)

(9) UNGA Resolution 3314 on the definition of aggression and aggressive war (1974)

(10) Article 5:2 of The Rome Statute of the International Criminal Court (2002) and The
Kampala Declaration on the definition of aggression (ICC Resolution RC/Res. 6,
2010)

Should morality and legality be treated separately? Should the law be left as purely
functional, instrumental and rational, or should it be the ultimate moral yardstick? Natural
law and legal positivism have different answers to these questions. As aforementioned, the
legality of international law on the use of force has been influenced by legal positivism since
the nineteenth century. Public international law is created through the consent of states. The
general prohibition of the use of force as stated in Article 2:4 of the UN Charter\(^{61}\) has been
read by legal positivists as a *jus cogens* (peremptory norm) accepted by the international
society. No derogation (exemption) is permitted. L. F. L. Oppenheim (1992) has a

\(^{61}\) Interestingly, Ian Brownlie argues humanitarian intervention was understood as legally defensible before the
adoption of the UN Charter in 1945. By the end of the nineteenth century, a right of humanitarian intervention
existed. It was the UN Charter that made it illegal (Brownlie, 2002, pp. 1-19).
The inviolability of a state’s territory is now so firmly and peremptorily established by Article 2(4) of the Charter of the United Nations, and the prohibition of aggression and other unlawful uses of armed force is so fundamental a rule of international law, that self-preservation can no longer be invoked to justify such violations (p. 416).

On intervention, Oppenheim argues that “it is, as a rule, forbidden by international law … Its prohibition is the corollary of every state’s right … This prohibition is also, and separately, reflected in customary international law” (Ibid., pp. 428-429). He quotes from the 1965 Declaration on the Inadmissibility of Intervention adopted by the UNGA, which states no state has the right to intervene, directly or indirectly, for any reason whatever, in the internal and external affairs of any other state (Ibid., p. 430). In a timely response to the Kosovo Intervention, Louis Henkin (1999) argues: “unilateral intervention, even for what the intervening state deems to be important humanitarian ends, is and should remain unlawful” (p. 824), because the international society finds the justification of humanitarian intervention often ambiguous and uncertain (Ibid., p. 825). Christine Gray (2006) points out Article 2:4 and even the whole Charter were drafted only to prevent interstate war but not internal conflicts. The application of the Charter to civil wars and humanitarian interventions is always problematic (p. 589), despite “indirect aggression” and “subversive intervention” were condemned by some UN resolutions and declarations (Henkin, 1979, p. 156).

The main exception to the prohibition of the use of force is self-defence. This is provided by Article 51 of the UN Charter and customary international law. The preventive use of force is considered as universally unacceptable by international law, but there exist other contested issues: the pre-emptive use of force (one example is “war on terror”); the questions of necessity and proportionality; the meaning of armed attack (one example is the use of drones);
the enforcement of international criminal justice and universal human rights as *jus cogens*; the complementary and competing roles of the UNSC, UNGA, ICJ, ICC, and ILC. Article 33 and Chapter VII further explain the exceptional conditions.

The UNSC was originally designed to have a standing army—an idea that the Chinese delegates strongly supported in the 1944 Dumbarton Oaks Conference (see Chapter 1.2)—in which centralised actions are to be taken by the Council under Chapter VII (Gray, 2006, pp. 590 and 605). The plan failed. 62 Instead, there is “coalitions of the willing,” which unilaterally legitimises military operations outside the UN framework. Now the UNSC does not even decide which party has the legal right of self-defence. It has never offered an authoritative meaning of Article 51. *Nulla poena sine lege* applies—no penalty exists since there is nothing legally binding. Intervention operations are now all on the hands of the UN member states. “Coalitions of the willing” has led to a vicious cycle of diplomatic deadlocks at the UNSC. It has deepened the PRC and Russia’s scepticism on humanitarian intervention. The more they veto, the more difficult it is for the US, the UK, and France to obtain the UNSC’s authorisation. This leaves the liberal West no option but to seek justification of intervention outside the UN framework, which leads to more Chinese and Russian vetoes.

The UN and its Charter are fundamentally responsible for the deadlocks, because their position on the problems of legality has been ambiguous. In Chapter VII, what it means by “threats to the peace, breaches of the peace, and acts of aggression” was not clearly defined

62 Ironically, the only use of Chapter VII of the UN Charter for collective use of force under the name of the UN was the Korean War (1950-1953), in which the PRC was identified as an “intervener” by the UNGA Resolution 498 (V). The legality of the UN’s operation in the Korean War was controversial (Gray, 2004, p. 25). Even in the case of the launch of coalition against the Islamic State of Iraq and the Levant (IS) in September 2014, actions of collective security were implemented “under Chapter VII” as described in the UNSC Resolution 2178, but ultimately by the American-led forces.
back in 1945 by an agreement between the non-aggression principles, the pre-Charter customary right of anticipatory self-defence, and the humanitarian-human rights norms. Indeed, the Charter is self-contradictory. Michael C. Davis (2006) argues it reflects a “dual commitment to both peace and security and to human rights” (p. 10). Anthony Clark Arend (2003) even proclaims “the UN Charter framework is dead” (p. 102), and that the consequence is “the Bush doctrine of preemption may, in fact, be lawful—even if it is politically unwise” (Ibid., p. 89). Legal positivists cannot make their words clear as well. L. F. L. Oppenheim (1992) argues under exceptional conditions a state may intervene, but it must “act consistently with the prohibition against the use of threat of force laid down in the United Nations Charter” (p. 439). The question is, if Article 2:4 has been read a *jus cogens*, then how is it possible to justify the “exceptional conditions”? Oppenheim also argues when a state “commits cruelties against and persecution of its nationals in such a way as to deny their fundamental human rights and to shock the conscience of mankind,” intervention “in the interest of humanity might be legally permissible” (Ibid. p. 442). Does that mean Article 2:4 should not be read as a *jus cogens*?

In any case, Oppenheim rightly argues intervention may be, and has been, abused by states. This is agreeable with legal realists, who believe “might is right.” Louis Henkin (1979) succinctly points out “international law is widely disregarded” (p. 80). To him, all laws are political in that they are part of foreign policy and affect political relations between nations. Laws of non-aggression and non-intervention are particularly vulnerable. They risk high chance of being violated because they are uncertain, confusing, and ambiguous (Ibid.). Experienced the devastating Second World War, Henkin’s belief in “peace will serve justice better than justice will serve peace” (Ibid., p. 164) is unshakable.

The post-War generations may look different. They have witnessed an increasing tension between non-aggression and non-intervention based on the principle of sovereignty on the one hand; and the international society’s responsibility to protect human rights and to prevent
mass atrocities on the other hand. Liberal internationalists find the need to be creative with the interpretation of international law and the innovation of legal norms. They want a broad definition of Article 2(4) as to make their use of force legal. They stand close with the natural law tradition to justify a kind of humanitarian intervention that is based on universal values. International lawyers who argue in favour of intervention rest their case on moral grounds; that is, the need to “do something” in the face of evil (Welsh, 2004, p. 56; Chesterman, 2001, p. 236). They insist to bring the following legal instruments into consideration:

(1) *The Charter of the International Military Tribunal* (also known as *The Nuremburg Charter* or *The London Charter*, 1945)


(3) *Universal Declaration of Human Rights* (UDHR, 1948)

(4) *The International Covenant on Civil and Political Rights* (ICCPR, 1976)


Some also suggest the UN Charter no longer legitimately present customary state practice and the evolution of international norms. Jennifer M. Welsh (2004) argues:

The evolution of international humanitarian law suggests that responses to genocide could be seen as another legitimate exception to Article 2(4) ... the general prohibition on the use of force, enshrined in Article 2(4), could and should be stretched to accommodate other important principles of the UN such as human rights. In other words, the original objective of outlawing force must be amended to permit interventions that promote a humanitarian purpose (pp. 54-55).
Welsh also points out the legality debate, in an attempt to establish a “right to intervene,” has overlooked justice after intervention (Ibid., p. 57). That said, the legality of intervention may be assessed in light of how the intervening forces “wrap up the mess” after force has been used. Liberal internationalists also suggest intervention may gain legality through the practice of the UNGA Resolution 377 (V) “Uniting for Peace” (1950), which allows the UNGA to take the “final responsibility” of maintaining peace and security when the UNSC is paralysed. Some even argue the great power veto should be suspended in urgent situations of humanitarian crises, in which the R2P norms may apply (Yiu, 2009).

The uncertainty of legality remains fundamental and irresolvable. As Ian Hurd (2011) puts it, humanitarian intervention is “both legal and illegal at the same time” (p. 293). The UNSC may authorise the practice of R2P case-by-case; but in a strict sense, it has not made legal. Simon Chesterman (2011) argues such difficulty has made states reluctant to justify the legality of their actions (pp. 2-3). To Hurd, international law should be regarded as a resource used by states, rather than as a fixed standard against which we can assess behaviour (Hurd, 2011, p. 293). Jutta Brunnée and Stephen J. Toope (2010) echo with Hurd by arguing: “formal sources of law are relevant, but not determinative of legal norms that have obligatory force” (pp. 278-279). In their view, a legal norm exists only when it meets the test of legality and when it is continually supported by a practice of legality (Ibid., p. 278). Norm entrepreneurship does not guarantee the making of customary international law. Even R2P is at best a candidate norm. The survival of a new norm relies on the norm’s power to persuade the majority of international actors and to generate adherence and shared understanding among them (Ibid., pp. 324 and 348).

Solutions to the legality problematique may involve a re-evaluation and innovation of the existing soft laws, hard laws, and institutions such as the UNSC. We must take the post-Westphalian turn in international politics into consideration. Kofi Annan pointed it out in 1999: “Emerging slowly, but I believe surely, is an international norm against the violent
repression of minorities that will and must take precedence over concerns of State sovereignty” (Gray, 2004, p. 44). What concerns this thesis research is, however, whether classical Chinese conceptions may contribute something in the realm of international law on the use of force. Can these conceptions be engaged in any norm entrepreneurship project?

There are three considerations: first, the PRC’s engagement with the current international legal order and the global rule of law; second, the PRC’s political bargaining power in the international society; third, the (re)-interpretation of classical Chinese resources that can be used in legal norm entrepreneurship. The PRC’s growing hard power is of no question. What we should reflect seriously is its obsession with legal positivism and its defensive, sceptical view on the international legal order, which derived from the overly politicised historical memory of “a century of humiliation.” Michael C. Davis calls it “old sovereigntism” (Davis, 2006, p. 21).

The real fascinating question is: Is there a natural law tradition in China? The Chinese making of an innovative norm or principle of humanitarian intervention and R2P requires a transformation in the PRC’s approach to international law; that is, to reinvent an indigenous natural law tradition that is complementary to its current legal positivist position. Drawing references from H. L. A. Hart’s (1994) “empirical (positivist) version of natural law” (p. 254), Nikolaos K. Tsagourias (2000) has already pointed out “positivist theories are not insular … they succumb, even if inadvertently, to values” of humanitarian intervention (pp. 40-41). The first step for the Chinese norm-making, however, requires the construction of a methodological platform for comparison.

*Traces of Public International Law in the Pre-Qin Era*

This thesis will use the term “comparative jurisprudence” to describe the method applied in justifying the comparability between traces of international law in the pre-Qin era and
modern international law. The method, together with the "gongfa zhongyuan" (the Chinese origin of international law) debate will serve as a platform for the context-textual study in Chapter 5.2 and 5.3, which investigates legal overlaps and parallels between liberal Western principles of the *jus ad bellum* and the corresponding classical Chinese findings.

The Western monopoly in the definition of “international law” has posed difficulty for us to label the method as “comparative international law,” because the universalistic feature of the Eurocentric “international law” has made cross-ethnocultural comparison unnecessary. One may wonder what is left to compare within the framework of *jus gentium* (law of nations) and Francisco de Vitoria’s conception of *res publica totius orbis* (republic of the whole world). The Western monopoly has also prevented us from using “comparative law,” because the study of comparative law generally denies the existence of international law in non-Western cultures and legal traditions. “Comparative jurisprudence,” thus becomes a survival gap and a higher entry point. *The Oxford Dictionary of Law* defines “jurisprudence” as: “the theoretical analysis of legal issues at the highest level of abstraction” (Jurisprudence, 2014). When Jeremy Bentham first coined the English term “international law” in *An Introduction to the Principles of Morals and Legislation* (1789), he mentioned it in the discussion of jurisprudence, in which he differentiates “international jurisprudence” from “internal jurisprudence” (Bentham, 1907, p. 326). William Ewald (1998) argues for a jurisprudential approach to comparative law. In his view, jurisprudence should “lay the methodological foundations for comparative law” (p. 701). Werner Menski (2006) mentions “comparative jurisprudence” and “global jurisprudence” in a hope to build legal pluralism by combining natural law, legal positivism, and socio-legal traditions. He advocates for a global redefinition of law by reflecting Western law and analysing non-Western legal traditions, including Chinese law (pp. 129-131; 173-190).

What comparative law is yet to do may actually be achieved by comparative
jurisprudence. Peter de Cruz (2007) defines comparative law as: “the systematic study of particular legal traditions and legal rules on a comparative basis” (p. 3). Chinese law, including legal findings in the pre-Qin era, is usually marginalised by comparative law as nothing more than a regional strand of law titled the “Asian legal tradition” alongside common law and civil law. The connection between Chinese law and international law is very rarely mentioned in the study of comparative law. The cosmopolitan vision of international law has remained a utopian dream. Nevertheless, some scholars still try to link up universality of international law and comparative law by some beautiful rhetoric:

International law is a distinct body of law, and one of its sources is listed in the Statute of the International Court of Justice as the “general principles of law recognised by civilised nations” (Art 38 (1)(c)). The interpretation of this principle can only be rooted in the comparative law method (De Cruz, 2007, p. 9).

International organizations must also be made subject to a supranational normative legal order. That legal order can be nothing other than international law, which ascertainment is and can only be the product of comparative legal inquiry … neither customary international law nor general principles of law can be ascertained without a comparative inquiry into the laws and practices of multiple legal orders (Bermann, 2012, pp. 251-253).

The ICJ’s use of “civilised nations” is discriminatory. What is the standard of civilisation, anyway? What should be regarded as “generally accepted legal principles” is also disputed. There has yet been a proper comparative study of which legal principles are universally accepted. These are exactly the tasks awaits comparative jurisprudence. A good starting point
could be what Peter de Cruz called “theories of convergence.” In particular, the natural law theories argue “the common nature of human beings will eventually lead to the creation of similar social structures, laws and legal systems. This common nature will therefore be observed and expressed by law” (De Cruz, 2007, p. 506). Comparative jurisprudence may follow such vision and characterise itself as a method capable to engage globalisation; to critically re-examine legal agenda, heritages of ideas, and conceptual tools; to be interested in both the local and the global; to utilise the techniques of comparative law and to think in more global terms, so as to maintain a pluralist and democratised perspective of international law (Ibid., pp. 519 and 522).

Some may wonder why this thesis does not apply the Third World Approaches to International Law (TWAIL) as a method. TWAIL puts colonialism and imperialism at the heart of international law. It argues they are ingrained in international law as we know it today; and that we should not forget international law’s imperial past and violent origins (Anghie, 2004; Orford, 2013). Anthony Carty argues legal values are incommensurable. International law is rooted in racial violence. “It is only by unravelling from its very origins the poison of liberal humanitarianism that it will be possible to imagine a concept of humanity in international society” (Carty, 2007, pp. 137 and 227). To Carty, any Habermasian dialogue for the achievement of Kantian goals is “the kind of romantic nonsense that ignores the political nature of the human condition” (Ibid., p. 242).

Similar to what we have observed from Christopher Goto-Jone’s postcolonial view on CPT, TWAIL has reminded us in the study of international law, there are a non-Western voice and a critical voice from Western scholars who are sympathetic to the oppressed Third World. We thank them for pointing out the historical fact that there exist non-Western alternatives to

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63 Theories of convergence consist of four philosophies: return to the Roman-Canonic jus commune; legal evolution; the natural law theories; the Marxist thesis (De Cruz, 2007, p. 506).
the international legal order. However, we must also remember one can hardly innovatively construct something concrete by standing at the periphery all the time. For Carty, his critical lens is ultimately Western lens. He criticises Western idealism by standing on the platform of Western idealism.

Despite honestly admitting international law has been a product of Western European and Christian civilisation during the sixteenth and seventeenth centuries, L. F. L. Oppenheim (1992) argues: “International law does not recognise any distinctions in the membership of the international community based on religious, geographical or cultural differences” (p. 87). International law is, in practice, “a permanent feature of international society” (p. 95). The international legal order has a universal character because it applies throughout the whole international community (p. 91). TWAIL scholars may argue these are colonial and imperialist arguments. Comparative jurisprudence, instead, takes them as useful resources.

The gongfa zhongyuan 公法中源 (the Chinese origin of international law) debate is also known as Zhongguo gushi gongfa 中国古世公法 (ancient international law of China) debate, and xianqin guojifa 先秦国际法 (Pre-Qin international law) debate. Rune Svarverud (2007) argues it was part of the xixue dongyuan 西学东源 (the Chinese origin of Western knowledge) intellectual movement in the late nineteenth century China (p. 153). The hermeneutic method used by scholars involved is called “geyi 格义 (matching concepts/meanings)—a Chinese Buddhist method of interpretation originated from the third century. It aims to make sense of the concepts found in the Sanskrit canons to the Confucian scholars by comparing those concepts with the similar ones found in classical Chinese canons.

The debate had a bitter beginning. For modern China, the learning of international law came with foreign aggression during the “century of humiliation.” As a practical and psychological response, China desperately yearned for something within its own indigenous language and culture that is comparable to modern international law. It wanted to make
international law locally comprehensible. This marked the birth of the *gongfa zhongyuan* debate. The findings of the debate are twofold: first, international law may exist in the pre-Qin China; second, international law in the pre-Qin era maybe applicable to the rest of the world.

In China, the debate can be divided into four phases. The first phase runs from 1861 to 1895 during the Self-strengthening Movement. On 9 September 1881, the American Presbyterian missionary William A. P. Martin (Chinese name Ding Weiliang 丁韪良) presented a paper titled “Traces of International Law in Ancient China” (later translated into Chinese as *Zhongguo gushi gongfa lunlue* 中国古世公法论略) at the Berlin Congress of Orientalists. This work was published later in *The International Review* in New York in 1883. Martin argues: “The Chinese States … were the fragments of a disintegrated empire, inheriting its laws and civilization, as the States of modern Europe inherited those of Rome” (Ibid.). According to Martin, the Spring and Autumn Period features: first, a family of nations carrying on intercourse; second, the interchange of embassies; third, treaties solemnly drawn up and deposited in a sacred place called “*mengfu* 盟府”; fourth, a balance of power studied and practiced, leading to a check of the hegemon and protection of the weak; fifth, the rights of neutrals being recognised and respected; sixth, a professional class of people called diplomats, who enjoyed high social status domestically and internationally (Wang, 1990, p. 209). There also existed traces of laws of war (the *jus ad bellum* and the *jus in bello*) in the pre-Qin era (Martin, 1883, pp. 74-76). Martin concludes with a significant message:

> enough remains, as we have shown, to prove that the States of ancient China had a law, written or unwritten, and more or less developed, which they recognized in peace and war. The Book of Rites and the histories of the period attest this … Chinese statesmen have pointed out the analogy of their own country at that epoch with the political divisions of modern Europe. In their own records they find usages, words and ideas corresponding to the terms of our modern international
law, and they are by that fact the more disposed to accept the international code of Christendom, which it is no utopian vision to believe will one day become a bond of peace and justice between all the nations of the earth (Ibid., p. 77).

Martin has found a Grotian and Kantian echo in The Book of Rites (Zhouli) and The Spring and Autumn Annals, aka Chunqiu (this refers to what he called: “the histories of the period”). These two classical Chinese canons are the central texts for the search of traces of international law and laws of war in the pre-Qin China.

The second phase of the debate features the Hundred Days Reformers’ radical arguments. In Du Mengzi Jieshuo 读孟子界说 (On Mencius, 1898), Liang Qichao argues: “Hugo Grotius wrote international law, while Confucius wrote Chunqiu as eternal laws for the world” (Zhang, 2007, p. 21). Liang also asks: “Why should [we] have to be based upon a European book on international law for the principles of inter-state affairs?” (Svarverud, 2007, p. 158). Tan Sitong argues: “Grotius’s On the Law of War and Peace is a work of righteousness and benevolence. It elaborates the rules illustrated in Gongyang’s Interpretation of Chunqiu” (Zhang, 2007, p. 21). Song Yuren argues: “It was the will of the early Kings to make Chunqiu the text of state administration, which is also the law of nations and the law of eternity” (Wang, 2005, p. 89).

The third phase of the debate runs from the 1920s to the 1940s during the liberal internationalist era we have covered in Chapter 1.2. In Ancient China’s League of Nations (1944, 23 August), Wellington V. K. Koo compares the pre-Qin international legal order with the League of Nations. He draws references from Confucius and Mozi when he talks about universal human rights: “The thought of universal brotherhood has been deeply rooted in the minds of the Chinese for more than two thousand years.” In Zhongguo guojifa suyuan 中国国际法溯源 (Sources of Chinese International Law, 1934), Chen Guyuan attempts to systematically summarise elements of international law found in the two classical Chinese
canons. He wanted to make contribution to justice and peace in a world of what E. H. Carr labelled “Twenty Years’ Crisis.” Written from an ethnocentric point of view, Chen tries to bridge classical Chinese conceptions with legal norms found in modern international law. He argues: international law in the pre-Qin China includes *li* 礼 (rite), which can be read as international rules; *xin* 信 (credibility), which can be read as international morality; *jing* 敬 (respect), which can be read as international manner; *yi* 义 (righteousness), which can be read as international justice (pp. 9-16). Other notable advocates of the pre-Qin international law argument in the Republican era include: Xu Chuanbao; Hong Junpei; Liu Renxi, and Zhang Xinzheng.

The fourth phase of the debate witnesses the PRC’s transformation in its approach to international law: from isolation to integration. In his lecture given to The Hague Academy of International Law in 1990, Wang Tieya—the most eminent international law scholar of the PRC so far and the former judge of the International Criminal Tribunal for the former Yugoslavia (ICTY)—asks: “Was there an international law in ancient China?” (p. 203) Having analysed the existence of diplomacy, conferences and treaties in the pre-Qin era, Wang argues “the history of international law in China is rather peculiar … some principles and rules emerged in the relations among the feudal principalities under the Zhou dynasty, which may be said to be analogous to those of modern international law. They did not develop further, however” (Ibid., p. 353). Wang keeps open the possibility that the pre-Qin findings can be regarded as international law, quasi-international law, or rudimentary international law. He suggests the pre-Qin regulations and practices can be described as “embryonic forms of international law,” similar to those of the ancient Greek city-states (Ibid., p. 213; Svarverud, 2007, p. 159).

The *gongfa zhongyuan* debate has an overseas extension. In “A League of Nations in Ancient China” (1926), Evan Morgan tries to prove there was “a league of states” in the pre-Qin era by giving an analysis of the conferences held among states. Chen Shih-tsai (1941)
has an article published in the *American Journal of International Law* (AJIL), in which he argues equality between pre-Qin states can be observed in arbitration, the stipulations of treaties, annexation of territory, and funeral diplomacy (pp. 645-646). The only inequality existed in the Spring and Autumn Period is the relations between the states under Zhou dynasty’s jurisdiction and the barbarians on the periphery; yet this kind of inequality was caused by cultural reasons, not racial reasons (Ibid., p. 650). Chen insists culture, predominantly the Confucian culture, has a determinative role in the explanation of international law in the pre-Qin era. When a state was charged as “barbarous,” it means it was excommunicated from the culture, hence ineligible for the rights of sovereign equality. International law has a judicial boundary defined by the standard of civilisation. Once a political entity is out of such boundary, all the rights, responsibilities, and punishments become invalid. This is the case in both modern IR and the pre-Qin China. Our question today, is how to extend the “standard of civilisation” to the whole human race, so international law can be universally applied except when it comes to the extraterrestrials.

Shih Ching-cheng’s doctoral dissertation on international law in the Spring and Autumn Period was completed at the University of Chicago in 1946. His findings include: sources of international law; states as subjects of international law; objects of international law; diplomacy; treaties; war; conduct of hostilities; leagues and alliances, etc. In *The Principles of International Law in the Light of Confucian Doctrine*, Keishiro Iriye presents an argument similar to the Hundred Days Reformers’ one. He argues the ritual system of Confucianism represents the order that maintained a system resembling modern international law. The embryonic forms of international relations are found in Confucianism but not the interstate relations of the pre-Qin era (Iriye, 1967; Svarverud, 2007, p. 157). Another work of Iriye titled *International Law in the Chinese Classics* (中国古典と国際法, 1966) should be of high relevance to our discussion, but regrettably due to the language deficiency of the author of this thesis, it is yet to be carefully studied.
The implication of the *gongfa zhongyuan* debate is: different interpretations of the two classical Chinese canons (*The Book of Rites* and *The Spring and Autumn Annals*) result in different understandings of international law; different orientations to international ethics, and different worldviews. The hermeneutics of the two canons are of fundamental importance to the innovation of thoughts in Chinese IR today. Table 5.1 illustrates that before the arrival of modern international law, China’s worldview of *Tianxia* (All-under-Heaven)—based on the concentric, hierarchical model of tributary system; also the loftiest ideal of ancient Chinese international ethics “*shouzai siyi*” 守在四夷 — was sustained by the Confucian-Legalist orthodoxy. Being the President of *Jingshi Tongwenguan* 京师同文馆 (The Imperial School of Common Learning) under *Zongli Geguo Shiwu Yamen* 总理各国事务衙门 (OMAAFC), William A. P. Martin tactfully introduced the idea of “traces of international law in ancient China” with a hope to make the Qing dynasty officials and intellectuals comfortably understand and be more receptive to modern international law. His “non-pushy” approach is evident in a script titled “Prince Kung’s Discovery of International Law” written in 1864:

Martin [presented] four volumes of the *Wan-kuo lü-li*, saying that it should be read by all countries having treaty relations with others … Martin [p]oints out that although the *Ta-Ch’ing lü-li* has now been translated by foreign countries, China has never compelled foreign countries

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64 This is described in the Twenty-third year of the Duke Zhao in *The Chronicle of Zuo*: “Anciently, the defences of the sons of Heaven were the rude tribes on every side of the kingdom; and when their authority became low, their defences were the various States” (古者天子守在四夷。天子卑，守在诸侯).

65 The Chinese translation and paraphrase of Henry Wheaton’s *Elements of International Law* (1836). It is also known as “*Wanguo Gongfa*” 万国公法.
to act by it. It cannot be that when a foreign book is translated into Chinese, China should be forced to follow it (Fairbank & Teng, 1954, p. 98).

While Martin strove to bridge the old imperial China with modern international legal order, the late Qing intelligentsia aspired to rebuild the self-confidence of traditional Chinese culture amid the lamentable years of lost wars and civil unrests. The re-interpretations of the two classical Chinese canons can be read as a reactive measure to the pressure from Western modernity. Scholars such as Feng Guifen, Zhang Sigui, Guo Songtao, Wang Tao, Xue Fucheng, Zheng Guanying, Ma Jianzhong, and Huang Zunxian compared and contrasted the Westphalian system with the interstate system of the pre-Qin China. In particular, the Hundred Days’ Reformers controversially argued Confucius and *The Spring and Autumn Annals* are the origins of international law. They found commonalities between the idealistic side of modern international law—“*Tianxing*” 天性 (the Way/the way of the Heaven) and “*lixing*” 理性 (human reason)—and the Confucian ideals discussed by the two canons. The Reformers believed the Confucian concepts of *ren* 仁 (benevolence); *yi* 义 (righteousness); *li* 礼 (rites), and *datong* 大同 (the Great Unity) are commensurable with those found in the moral theory of Kant and Grotius. Confucius, Kant, and Grotius share common grounds in understanding justice in war, equality and balance of power in interstate relations, and the utopian world. The exercise of international law, thus was regarded by the Reformers as the same as the exercise of *The Spring and Autumn Annals*—both are capable to save China from the injustice of colonialism. The Hundred Days’ Reformers followed Kang Youwei’s *Sanshishuo* 三世说 (Theory of World Development in Three Stages) in his study of Gongyang’s *Interpretation of Chunqiu*. They believed an international law built on the foundation of *The Spring and Autumn Annals* can bring the whole human race into *Taipingshi* 太平世 (the perpetual peace stage) (Tian, 2000; Zhang, 2007).
<table>
<thead>
<tr>
<th>Text</th>
<th>Interpreter</th>
<th>Approach</th>
<th>Worldview</th>
<th>Ethics</th>
</tr>
</thead>
<tbody>
<tr>
<td>SAA</td>
<td>Zuo; Gongyang; Guliang for SAA</td>
<td>Confucian-Legalist orthodoxy</td>
<td>Sino-centrism: Traditional Confucian concept of <em>Tianxia</em> (All-under-Heaven)</td>
<td>Confucianism (shouzai siyi: peace and security to be kept by barbarians)</td>
</tr>
<tr>
<td>SAA</td>
<td>William A. P. Martin</td>
<td>Western Universalism</td>
<td>Christendom in Confucian clothes</td>
<td>Christianity and Confucianism</td>
</tr>
<tr>
<td>SAA</td>
<td>Late Qing intelligentsia</td>
<td>Confucian Universalism; ethnocentrism</td>
<td>Confucian-Kantian-Grotian combination</td>
<td>Confucianism plus a mixture of Chinese Buddhism, Christianity, and Western utopianism</td>
</tr>
<tr>
<td>SAA</td>
<td>Wellington V. K. Koo; Chen Guyuan, and others</td>
<td>Liberal internationalism; liberal institutionalism; ethnocentrism</td>
<td>Liberal Confucianism</td>
<td>Liberalism; Confucianism</td>
</tr>
<tr>
<td>Nil</td>
<td>Nil (only commentaries on the previous interpretations)</td>
<td>Marxist-Leninism; political nihilism</td>
<td>From proletariat internationalism to political nihilism</td>
<td>Used to be proletariat altruism. Now unknown.</td>
</tr>
<tr>
<td>CZCT</td>
<td>This thesis research</td>
<td>KACIR</td>
<td>Reinvented cosmopolitanism</td>
<td>Universal conscience, esp. negative state responsibility</td>
</tr>
</tbody>
</table>

**SAA:** *The Spring and Autumn Annals*

**BR:** *The Book of Rites*

**CZCT:** *The Chronicle of Zuo* and the two Confucian texts of philosophy

**Table 5.1: Hermeneutics of classical Chinese canons, international law, and Chinese IR**
On the other hand, the Chinese intellectuals understood the brutal side of modern international law—how it was manipulated by great powers in colonial warfare and economic aggression. The Republican era witnessed a short emergence of liberal internationalism and liberal institutionalism. The use of the two classical Chinese canons was more regarded as China’s dream of constructing a new international order based on the rule of a strong international organisation; trustworthy international rule of law, and protection of the interest of non-Western, and less developed states. There has been no re-interpretation of the two canons for the use of Chinese IR since the establishment of the PRC in 1949. Most of the discussions in the *gongfa zhongyuan* debate have been commentaries on the previous interpretations.

In Chinese history, each attempt to reinterpret the two classical Chinese canons is a political thermometer for China’s attitude in reshaping its position on international ethics and worldview. Today, the significance of re-evaluating the canons is not just about how the PRC reconstructs its position on international ethics and worldview, but how the reconstructed Chinese norms and principles may influence the ethics and worldview of the West, the rest, and other actors in IR. In the past one-and-a-half century, in the face of a rapidly changing international order and the urge to reform its indigenous culture, Chinese intelligentsia and government officials had to think hard for special ways to adapt to Western legal norms and values. They looked into classical canons for answers. Now the same issue remains: the PRC has to position itself—that is, to find its “Self”—in the contestation between Westphalian and post-Westphalian values. There is an urgent need to look into the canons for answers again. In the view of this thesis research, the method of “*geyi*” should be used with KACIR. We should look beyond legal positivism and investigate if there has ever been a Chinese tradition that is akin to natural law, so overlaps and parallels between liberal internationalism and classical Chinese conceptions of humanitarian intervention and R2P can be located.
Before we examine the two Confucian texts of philosophy in Chapter 5.2 and 5.3, we shall briefly compare and contrast the basics of Western and Chinese jurisprudence. There exists a universal conscience (or universal reason; higher law). In the Western tradition, it appears in the form of natural law (Christian and secular); while in the Chinese tradition, it appears as  

\[ li \] (Confucian rite) (See Figure 5.1). In Western legal theory, there is dichotomy between natural law and legal positivism; while the Confucian  

\[ li \] (Confucianism) and the Legalist  

\[ fa \] (penal law) (Fajia, aka Legalism) are oppositions of social control instruments in the Chinese legal tradition. Benjamin Schwartz (1957) correctly points out: “One would conveniently assume the Chinese legal tradition has evolved from the concept of  

\[ fa \]. However[,] as  

\[ li \] and  

\[ fa \] both cover some meanings of the law in the Western definition” (p. 105).

Figure 5.1: Comparing Western and Chinese jurisprudence

\[ Li \] is moral persuasion. It refers to the relational fulfilment of an individual’s life as fulfilment of communitarian role by ritual and propriety (Glenn, 2014, p. 328). It advocates a return to the moral social hierarchy in the historical past. Confucius says: “To return to the observance of the rites through overcoming the self constitutes benevolence” (克己复礼为仁)
The Confucian utopia indicates that harmony of the world is sustained by a hierarchical order of social relations. Contrastingly, \( Fa \) is the sovereignty command of coercion by law. Such penal law is directly based on the sanction by force (Schwartz, 1957. p. 109). \( Fazhi \) actually means the “rule by law,” not the “rule of law.” For centuries, none of the Chinese power holders have put the law above themselves. Schwartz argues: “Harsh despotism, heavy reliance on brute force, oppressive demands on the people by an interventionist state—all these are the orthodox associations with \( fazhi \)” (Ibid., p. 110). By using incentives of reward and fear, the reliance on \( li \) is neglected (Ibid.). Ideally speaking, \( li \) is superior to \( fa \), and \( fa \) should grow out of \( li \) (Pan, 2011, p. 248). The “Confucianisation of law” indicates the penal sanctions of \( fa \) should be recruited to enforce the moral values embedded in \( li \). However, in reality, \( li \) has been manipulated by \( fa \) in the “legalisation of Confucianism” (Ruskola, 2012, pp. 262-263). \( Fa \) has been the \textit{realpolitik} foundation of generations of the Chinese regimes since the State of Qin unified China in 221 B.C. In the West, legality has been separated from legitimacy, hence the saying: “Good people disobey bad laws.” In China, however, \( fa \) is too powerful to be challenged. Its subtle manipulation of \( li \) makes civil disobedience difficult to be practised, or even imagined.

On the international level, the Chinese view on the \( li-fa \) relationship is different. \( Li \) is almost a synonym of the East Asian \textit{jus gentium} (Ibid., p. 257). Many Chinese intellectual find it comfortable to take \( li \) as the principle of international ethics and international law. For example, Pan Junwu (2011) argues, “international law and international \( li \) are generally inseparable … [B]efore the establishment of international \( li \), international law cannot be called real law” (p. 248). Pan hints a reform of the international legal order should revise \( li \) at the international level. Nevertheless, the PRC has been a loyal practitioner of legal positivism in international law largely because of the sense of fear and insecurity generated by the “century of humiliation.” Such schizophrenic dilemma in international law can only be
alleviated by bridging natural law with the corresponding classical Chinese elements, including *li*.

Schwartz argues, *li* resembles natural law. Both of them assume the existence of “an eternal ‘natural’ order underlying both the human and the nonhuman world” (Schwartz, 1957, p. 105). Such order is normative, in the way it tells us what human society ought to be or what it really is. What is distinctive about *li* is: If a society is governed by *li*, then conflicts of interest can be easily resolved because both parties are self-controlled and ready to make concessions (*rang* 令). Schwartz succinctly points out: “In such a society any highly explicit system of civil law would be unnecessary” (Ibid., p. 107). We may wonder if similar outcomes can be derived when *li* is applied on the international level. Can an international legal order backup by *li* bring “*rang*” to Israel and Palestine? Can *li* bring peace to the Syrian Civil War and resolve the crisis initiated by IS? If *li* is properly practised, do we still need the UN Charter and all the legal instruments of the law of war?

If there is a universal conscience, universal reason, or higher law, what is it? While Christian natural law and Confucian *li* are value-laden, Grotius, Pufendorf, Wolff, and Vattel did not make it very clear what secular natural law actually means. The Antigone’s Law may illustrate better. It means something closer to the universal inner voice and the ultimate intuition that guide human’s moral judgment regardless of race and culture.\(^66\) Being a higher law in opposition to positive law, the Antigone’s Law in Sophocles’ depiction is “a law that binds gods as well as men”; “a law that even the gods follow”; a law that is “unsayable, and it does not originate from any beings” (Martin Heidegger’s concept of *Seiendes*); a law “not of today and yesterday; they live forever; none knows when first they were” (Nonet, 2006, pp. 315 and 319).

\(^66\) Although we have to admit that the Antigone’s Law is a product of the Aegean culture. It can be read as value-laden as well.
In the history of Western philosophy, the Antigone’s Law finds an echo in the concept of *logos* (λόγος), which is discussed in the writings of Heraclitus, Aristotle, and the Stoic philosophers. What is truly fascinating is that the Law also have an echo in the Chinese concept of *dao/tiantao* 道/天道 (the Way/the Way of the Heaven) and *li/Tianli* 理/天理 (rationale of the Heaven)—originated from *Zhouyi* 周易 (aka, *I-Ching* 易经, The Book of Changes) and discussed in the Confucian and Taoist canons. Some of the above concepts cover both ontology (explanation of the world) and normative ethics (guidance and judgment of human and/or state behaviour), while others are not.

<table>
<thead>
<tr>
<th></th>
<th>Ontology</th>
<th>Normative ethics</th>
<th>Ontology-ethics relations</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Antigone’s Law and logos</strong></td>
<td>Yes</td>
<td>Yes</td>
<td>Ontology synchronises ethics</td>
</tr>
<tr>
<td><strong>Christian natural law (God and</strong></td>
<td>Yes</td>
<td>Yes</td>
<td>Ontology synchronises ethics</td>
</tr>
<tr>
<td><strong>the Word)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Secular (Grotian) natural law</strong></td>
<td>No</td>
<td>Yes</td>
<td>Ontology unclear</td>
</tr>
<tr>
<td><strong>“Dao” and “tianli” in I-Ching</strong></td>
<td>Yes</td>
<td>Yes</td>
<td>Ontology synchronises ethics</td>
</tr>
<tr>
<td><strong>“Li” in Confucianism</strong></td>
<td>No</td>
<td>Yes</td>
<td>Ontology borrowed from I-Ching</td>
</tr>
<tr>
<td><strong>“Dao” in Taoism</strong></td>
<td>Yes</td>
<td>Yes</td>
<td>Ontology synchronises ethics</td>
</tr>
<tr>
<td><strong>Chinese Buddhism</strong></td>
<td>Yes</td>
<td>Yes</td>
<td>Ethics goes against ontology</td>
</tr>
</tbody>
</table>

Table 5.2: Western and Chinese paths to universal conscience

Notably, Chinese Buddhism separates normative ethics from ontology. The concept of *yuan* 缘 (dependent origination; Pratītyasamutpāda); *ye* 业 (Karma); *yinguo* 因果 (also Karma), and *kongxing* 空性 (emptiness; śūnyatā) provide ontological explanations of the

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67 To be moral means to follow the world as it naturally is.
world, but the normative ethics is to be found in many other ways, such as the mainstream doctrine of bazhengdao 八正道 (the Noble Eightfold Path; āryāṣṭāṅgamārga). The various paths to universal conscience show us the Confucian li may not be the only resource for a Sino-liberal Western dialogue on natural law and higher law. The broader the scope of resources, the more possible it is to find overlaps and parallels between liberal internationalist norms and classical Chinese conceptions; the more it benefits the reinvention of cosmopolitan hermeneutics. More discussion will follow in Chapter 7.

II. The Chronicle of Zuo

The natural law tradition described in The Chronicle of Zuo is presented in dualism: “Tiandao” 天道 (the Way of the Heaven) and “renshi” 人事 (human affairs). The primitive interpretation of “Tiandao” has to do with a belief in supernatural beings and the use of omen (“buwu” 卜筮). The humanist transformation from reliance on superstitious ritual to empirical analysis of human affairs indicates the rationalisation of “Tiandao.” This is comparable to the Medieval-Renaissance transformation witnessed by Francisco Suárez and Hugo Grotius, in which they secularised natural law. In The Chronicle of Zuo, rulers and military strategists did not deny the role played by the gods and spirits, while they refused the predominance of primitive religion in the explanation of human affairs.68

The Thirty-second Year of Duke Zhuang says: “When a State is about to flourish, its ruler receives his lessons from the people; and when it is about to perish, he receives his lessons from Spirits. The Spirits are intelligent, correct, and impartial. Their course is

68 For pre-war fortune-telling, sometimes states refuted the result (the Nineteenth Year of Duke Xi); sometimes they deliberately altered the result (the Seventeenth Year of Duke Zhao); sometimes they refused to do it (the Twenty-third Year of Duke Ai).
regulated by the feelings of men” (国将兴，听于民；将亡，听于神。神聪明正直而壹者也，依人而行). The Sixth Year of Duke Huan says: “What I mean by being ruled according to Reason, is showing a loyal love for the people, and a faithful worship of the Spirits … The state of the people is what the Spirits regard. The sage kings therefore first secured the welfare of the people, and then put forth their strength in serving the Spirits” (所谓道，忠于民而信于神也……夫民，神之主也。是以圣王先成民，而后致力于神). In the Twenty-eighth Year of Duke Xi, Rongji tells his son: “A Spirit cannot ruin a minister like me. If the minister does not do his utmost in the service of the people, he will ruin himself” (非神败令尹。令尹其不勤民，实自败也).

The marriage between the semi-secularised natural law and warfare in the pre-Qin China is best summarised by a famous saying in the Thirteenth Year of Duke Cheng: “The great affairs of a State are ritual sacrifice and warfare” (国之大事，在祀与戎). In his comment on the saying, Frank A. Kierman, Jr. (1974) argues: “Warfare was part of the system of ritual which kept the [pre-Qin] society in touch with the ancestral spirits and the cosmic order” (p. 28). All these are closely related to the practice of  

69 The connection between ritual sacrifice and the law as described in The Chronicle of Zuo may make an interesting study of comparative jurisprudence with “the Binding of Isaac” in Five Books of Moses (aka The Pentateuch or Torah), in which Jehovah asks Abraham to sacrifice his son Isaac on Mount Moriah. The angel’s last minute intervention may inspire some thoughts on humanitarian intervention. While the Hebrew story has remained central to Judaism, Christianity, and Islam, ritual sacrifice in ancient China did not evolve likewise. The Spring and Autumn Annals and The Chronicle of Zuo are never religious canons.
importance of *li* in regulating interstate politics and warfare is vividly described in *The Chronicle of Zuo*. The Eleventh Year of Duke Yin says: “It is propriety which governs States and clans; gives settlement to the tutelary altars; secures the order of the people, and provides for the good of one’s future heirs” (*礼，经国家，定社稷，序民人，利后嗣者也*). The normative function of *li* is described in the Twenty-fifth Year of Duke Zhao: “‘Ceremonies are founded in] the regular procedure of Heaven; the right phenomena of earth, and the actions of men.’ Heaven and earth have their regular ways, and men take these for their pattern … ‘Ceremonies [determine] the relations of high and low; they are the warp and woof of Heaven and Earth; they are the life of the people. Hence the ancient kings valued them’” (*「夫礼，天之经也，地之义也，民之行也。」天地之经，而民实则之……「礼，上下之纪，天地之经纬也，民之所以生也，是以先王尚之」*).

In practice, before the use of force, the intervening state must justify to all other states why it intended to wage a war by ritual drums and bells. The Twenty-ninth Year of Duke Zhuang says: “An expedition with bells and drums was called *fa* (an attack or invasion); one without them, *qin* (a stealthy incursion)” (*凡师，有钟鼓曰伐，无曰侵*). It was agreeable with *li* that states being intervened may send envoy to the intervening state to ask why armies were sent. Both sides would make strong arguments (*youci* 有辞). If the envoy could make the intervening state feel unjustified (*liqu* 理屈), the sent armies would be called back (*tuibing* 退兵, see the Thirty-first Year of Duke Xiang). Moreover, states that did not act according to *li* may not gain victory. They had to cultivate virtue before proceeding to the use of force (the Nineteenth Year of Duke Xi). King Zhuang of Chu confessed in the Twelfth Year of Duke Xuan that he had not cultivated enough virtue. To him, the use of force means to keep peace; to stop tyranny, and to renounce war (*我徂维求定……夫武，禁暴，戢兵*).

Extradition of criminals existed in the pre-Qin era. In the Twelfth Year of Duke Zhuang, the State of Cao led a coalition to punish the rebels in the State of Song. The intervention was not considered as an encroachment on the internal affairs of Song (Iriye, 1967, p. 30). When
the State of Song asked the State of Wei for extradition of rebels, Shi Qizi says: “Wickedness is the same all under heaven. If we protect the man who has done wickedly in Song, of what advantage will our protecting him be?” (天下之恶一也，恶于宋而保于我，保之何补?) Such argument gets quite close to the spirit of universal jurisdiction on criminal offence in the modern time. However, the pre-Qin text does not give a clear message on whether such principle applies to regicide only or it also covers crimes against humanity and genocide. Regicide and genocide: which crime is more serious in the eyes of the pre-Qin philosophers? The usurper and the tyrant: who is more evil and punishable?

The interstate relations in the pre-Qin era were closely related to the international legal status of the Zhou royalty. One way to realise the protection of the system of li and the values of “de” 德 (virtue) and “yi” 义 (righteousness) is “qinwang” 勤王 (the protection of the Zhou royalty, as recorded in the Twenty-fifth Year of Duke Xi). States acted in the name of; in the legal and ethical responsibility of the Zhou royalty. Li was the legal source that creates and regulates international norms (including norms for intervention) commonly understood by states. By acting according to li, states respected each other; regulated each other, and defamed each other. Even in the case of self-defence, the pre-Qin states had to justify their military actions were not considered as “wuli” 无礼 (breaching li, aka being illegal and illegitimate).

The Zhou royalty used to have more power than today’s UN does in regulating states’ behaviour. From the pre-Qin perspective, “coalition of the willing” and the current debate on the UN authorisation of the use of force stated in Chapter VII of the UN Charter are exactly what Confucius criticised: “When the Way does not prevail in the Empire, the rites and music and punitive expeditions are initiated by the feudal lords” (XVI. 2) (天下无道，礼乐征伐自诸侯出). Should the UN hold greater power—including those advocated by the Chinese diplomats and jurists in the Dumbarton Oaks Conference in 1944 (see Chapter 1.2)—then Confucius’s ideal may be realised, as he says: “When the Way prevails in the Empire, the
rites and music and punitive expeditions are initiated by the Emperor … the Commoners do not express critical views” (Ibid.) (天下有道，礼乐征伐自天子出……庶民不议). By cross-referencing *The Analects*, *The Chronicle of Zuo*, the history of liberal internationalism and liberal institutionalism in the Republican era, there are substantial evidences for us to argue that China has an idealist tradition of IR. Such tradition is perhaps too utopian and too globalist even in nowadays definition. It dreams to build a supranational authority that has teeth in it.

The decline of Zhou’s authority after King Ping moved to Luoyi implied a decline in the compliance of “international law” (*li*) among states; that there were more Hobbesian annexations and territorial conquests, and finally the demise of all states except the State of Qin which unified China into a single empire. Today’s UN may share some similar pathology with the Zhou royalty. These two “supranational authorities” are militarily impotent; hence they are nominally maintained to serve the interests of the states. Despite this, states still take the legal canons—the UN Charter and *The Rite of Zhou*—as normative guidance, also as a weapon to accuse other states of not behaving in a legitimate and legal way.

Today’s debate on the global rule of law perhaps could take some lessons from the decline of the legal authority of Zhou; but in any case, our globalising world may not end up with a “World Empire” conquering all states. The “universal monarchy” or “universal empire” argued by Dante Alighieri (1265-1321) in *De Monarchia* (1312) sounds like an extended version of the Qin Empire in global scale. The Holy Roman Emperor’s authority from God is another version of the “Mandate of Heaven” enjoyed by the Chinese emperors. The only difference is: our *planet* has never been ruled by one empire; while the Chinese *world* of “*Tianxia*” was unified long ago in 221 B.C. To make classical Chinese conceptions applicable to contemporary IR, we should make use of the pre-Qin pluralistic mentality rather than stayed imprisoned by the orthodoxy of imperial universalism. The natural law tradition of China must be revived.
III. Two Confucian Texts of Philosophy: *Mencius* and *Xunzi*

Source A: *Mencius*

Excerpt 1

“May I ask what this ‘flood-like ch‘i’ is?’ “It is difficult to explain. This is a ch‘i which is, in the highest degree, vast and unyielding. Nourish it with integrity and place no obstacle in its path and it will fill the space between Heaven and Earth. It is a ch‘i which unites rightness and the Way. Deprive it of these and it will collapse. It is born of accumulated rightness and cannot be appropriated by anyone through a sporadic show of rightness. Whenever one acts in a way that falls below the standard set in one’s heart, it will collapse” (II A. 2).

「敢问何谓浩然之气？」曰：「难言也。其为气也，至大至刚，以直养而无害，则塞于天地之闲。其为气也，配义与道；无是，馁也。是集义所生者，非义袭而取之也。行有不慊于心，则馁矣」（公孙丑章句上）。

Excerpt 2 (On the greedy State of Ch‘i’s military intervention in the corrupted State of Yen)

Had [Shen Tung] asked, “Who has the right to march on Yen?” I would have answered, “A Heaven-appointed officer has the right to do so.” Suppose a man killed another, and someone were to ask, “Is it all right to kill the killer?” I would answer, “Yes.” But if he further asked, “Who has the right to kill him?” I would answer, “The Marshal of the Guards has the right to kill him.” As it is, it is just one Yen marching on another Yen. Why should I have encouraged such a thing? (II B. 8).
彼如曰：「孰可以伐之？」则将应之曰：「为天吏，则可以伐之。」今有杀人者，或问之曰：「人可杀与？」则将应之曰：「可。」彼如曰：「孰可以杀之？」则将应之曰：「为士师，则可以杀之。」今以燕伐燕，何为劝之哉？(公孙丑章句下)

Excerpt 3

When the world declined and the Way fell into obscurity, heresies and violence again arose. There were instances of regicides and parricides. Confucius was apprehensive and composed the *Spring and Autumn Annals*. Strictly speaking, this is the Emperor’s prerogative … Confucius completed the *Spring and Autumn Annals* and struck terror into the hearts of rebellious subjects and undutiful sons (III B. 9).

世衰道微，邪说暴行有作，臣弑其君者有之，子弑其父者有之。孔子惧，作《春秋》。《春秋》，天子之事也……孔子成《春秋》而乱臣贼子惧（滕文公章句下）。

Excerpt 4

Mencius said, “In the *Spring and Autumn Annals* there were no just wars. There were only cases of one war not being quite as bad as another. A punitive expedition is a war waged by one in authority against his subordinates. It is not for peers to punish one another by war” (VII B. 2).

孟子曰：「《春秋》无义战。彼善于此，则有之矣。征者上伐下也，敌国不相征也」（尽心章句下）。

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Excerpt 5

One who puts benevolence into effect through the transforming influence of morality will become a true King, and his success will not depend on the size of his state … When people submit to force they do so not willingly because they are not strong enough. When people submit to the transforming influence of morality they do so sincerely, with admiration in their hearts. An example of this is the submission of the seventy disciples to Confucius. The Book of Odes says, “From east, from west / From north, from south / There was none who did not submit” (II A. 3).

Source B: Xunzi

Excerpt 6

This benevolent (Jen) man loves others. He loves others, hence he hates what injures others. This just (Yi) man follows principle. He follows principle, hence he hates those that lead others astray. These armies are for the purpose of stopping tyranny and getting rid of injury, not to contend and take things from others. Hence when the armies of the benevolent (Jen) man remain in a place, it is like a God being there; when they have passed, civilization develops (XV. 19).
Excerpt 7

If one only reproves and does not instruct, then punishments will be numerous but evil will still not be overcome. If one instructs but does not reprove, then dissolute people will not be chastened (X. 14).

故不教而诛, 则刑繁而邪不胜; 教而不诛, 则奸民不惩 (富国第十)。

Excerpt 8

When King Wu killed Chou, it was not until the morning of Chia-tze that he conquered—this was all because of their previous cultivation—this is what I mean by armies governed by benevolence (Jen) and justice (Yi). Now you do not seek for it at the source, but search for it at the end—this is wherein the present generation is misled (XV. 22 and 21).

武王之诛纣也, 非以甲子之朝而后胜之也, 皆前行素修也, 所谓仁义之兵也。今女不求之于本, 而索之于末, 此世之所以乱也 (议兵第十五)。

Excerpt 9

Rites are the highest expression of order and discrimination, the root of strength in the state, the Way by which the majestic sway of authority is created, and the focus of merit and fame … If [Kings and Dukes] proceed in accordance with the Way of ritual principles, then they will succeed; if they do not, then they will fail (XV. 4).
礼者，治辨之极也，强国之本也，威行之道也，功名之总也……由其道则行，不由其道则废（议兵第十五）。

Excerpt 10

To annex lands and population is easily done; it is the consolidation of a firm hold on them that is difficult. Qi was able to annex Song, but unable to consolidate its hold; thus Wei stole it away. Yan was able to annex Qi but unable to consolidate its hold, thus Tian Dan was able to recover it … Hence, if one is able to annex territory but unable to consolidate a hold over it, then it is certain to be stolen … When the rites had been reformed, the knights offered fealty, and when the ordinances were applied fairly, the people became content. The knights’ offering fealty and the people’s being content—this may indeed be described as the Great Consolidation (XV. 6).

兼并易能也，唯坚凝之难焉。齐能并宋，而不能凝也，故魏夺之。燕能并齐，而不能凝也，故田单夺之……故能并之，而不能凝，则必夺……礼修而士服，政平而民安；士服民安，夫是之谓大凝（议兵第十五）。
Summary and analysis

[T]here is a rich history of legal thinking about the rights of states to protect those beyond their borders from tyranny and persecution … I have recently argued that these ideas can also be found in the works of philosophers in Ancient China.

- Luke Glanville 70

On the relations between rites (li) and the (inter and intra-state) rule of law, Xunzi believes “[o]nly when the whole country’s ways of life are regulated by rites will there be a stable social and political order. Rites, as action guides, are expressions of the Confucian cardinal virtues” (Lo, 2015a, p. 403). The close connection between rites and warfare is clearly stated in the saying: “The great affairs of a State are ritual sacrifice and warfare” (国之大事，在祀与戎) in the Thirteenth Year of the Duke of Cheng in The Chronicle of Zuo. Lo argues, “most major thinkers in the Warring States Period in China urgently engaged the topic of war. The cruel reality of unremitting wars was reflected in poems, recorded in historical writings, and, above all, intensely discussed and debated by the great thinkers of that age … there were heated and extensive debates on the need to distinguish justified from unjustified wars in ancient China” (Lo, 2015b, p. 4). By taking the topic of just war to the discussion of rites, Xunzi has in fact established the foundation for classical Chinese conceptions on the legality of humanitarian intervention and R2P (Xunzi, XV. 4; XV. 6).

Twiss and Chan argue the very concept of a punitive expedition implies the Confucian understanding of criminal law and punishment, which is then applied to heads of state and their actions. Xunzi indicates punishments are largely intended to protect and restore social order in the victimised state. The intervening force, thus, must prohibit acts of violence, instil

70 Glanville, 2012, p. 5 and n12.
hatred of evil acts, and deter their future occurrence (Twiss & Chan, 2015b, p. 100; Xunzi, XVIII. 3). For Mencius, all human beings have natural sympathies. The Mencian interpretation of compassion (ceyin 恻隐) is comparable to the parable of the Good Samaritan—both carry the spirit of humanitarianism. Tyrannicide is justified by ren, yi, natural law and divine law. The spirit of the Nuremberg principles and that of Raphael Lemkin speak to us in Mencius: International criminal justice is done by the punishment of the individual criminals—They are held responsible for their bad deeds (Mencius, I B. 8; III B. 9; IV A. 8; V A. 7). Judicial procedure was not mentioned by Mencius, but death penalty sounded agreeable to him. Those who violate benevolence and rightness are deprived of their legitimacy (Mencius, I B. 8). Reading Mencius from the legal perspective, He Weifang prematurely argues Mencius puts human rights above sovereign rights, rejecting the principle of non-intervention[; while] consistently emphasizes filial piety and assigns it a higher value than law (He, 2012, p. 56 and 58). Just like Thucydides did not hear the term “realism” during his lifetime, Mencius was not aware of what rights and laws mean in the modern Western context. Is it fair and professional for He to make such an argument? He, exiled to Xinjiang by the PRC regime (Ibid., p. 42), is one of those very few Chinese scholars who completely lean on liberal internationalism in his thought. While Yan Xuetong is chauvinistically hawkish, He Weifang may sound immaturally idealistic or irrationally reactive. Many readers, even those in the liberal West, will doubt his hypothesis, which he puts: “Therefore, if Mencius lived today, he would surely nod to the Iraq War led by the United States” (Ibid., p. 57). Sensible intellectuals will neither kow-tow to the authority in Beijing nor the one in Washington D.C.

What is more important, perhaps, is the philosophy of international law implied in Mencius and Xunzi’s thought. In his analysis of natural law in the Chinese tradition, Hu Shih (1951) argues: “The concept or concepts of Natural Law or Natural Right have always played the historical role of a fighting weapon in mankind’s struggle against the injustice and the
tyranny of unlimited human authority” (p. 234). He quotes from the German-American jurist Ernst Levy: “[H]igher law [holds] out the promise of ensuring [people’s] basic individual rights against the encroachments of tyrannical powers” (Ibid., p. 218). Hu summaries four sources of Chinese natural law: first, the Way of Heaven or Nature (Tao 道) as taught by Laozi; second, the Will of God (T’ien-chih 天志) as taught by Mozi; third, the Sacred Canon of Confucianism (Ching 经); fourth, Reason or Law (li 理/礼) or Universal Reason or Law (T’ien-li 天理 or Tao-li 道理)—Natural Law in the sense of “common right and reason” (Ibid., p. 220). Inheriting from the liberal internationalist tradition of the Republican era, the ROC general and jurist Geng Yunqing (2003) argues natural law existed in the pre-Qin era; and that it should be revived to save modern China (under the Communist rule) and the world from moral and political crisis. To him, the Confucian li; the Mohist “zhishan zhi Tianyi” 至善之天意 (the virtuous Heaven); the Taoist dao are all sources of natural law in the Chinese tradition.

Mencius talks about “ch’i” (气) that unites rightness and the Way. It requires integrity and it fills the space between Heaven and Earth (Mencius, II A. 2). On the roles and functions of the supra-state authority, Mencius makes it clear only the “Heaven-appointed officer” and “the Marshal of the Guards” have the right to kill (Mencius, II B. 8). Kim Sungmoon (2010) rightly points out: Ideally, the Mandate of Heaven is the only source for the implementation of humanitarian intervention. However, “the authority of the Zhou Court had completely collapsed, so the practice of punitive expedition itself seemed impossible. Who could legitimately claim that he is the Heaven-appointed officer[?]” (p. 48). The King of Zhou in the pre-Qin era was respected then disrespected by the states, just like what states have been doing to the UN today. Jean Bricmont, Noam Chomsky and Terry Nardin may find echoes in Mencius’s statement: “[I]t is just one Yen marching on another Yen” (Mencius, II B. 8). The Spring and Autumn Annals is like the UN Charter. It owns the prerogative of being the constitution of the supra-state authority. It provides ethical guidance. The modern implication
of “Chunqiu wu yizhan” 春秋无义战 (Mencius, VII B. 2) is that: only the standing army of the UN (with authorisation by the UNSC) has the legitimacy and legality to initiate military interventions on states. This was fervently supported by the Chinese diplomats and jurists during the liberal internationalist era of 1930s and 1940s.

Xunzi argues the benevolent army is like “a God being there” (Xunzi, XV. 19). He argues universal morality is internally cultivated by the individual; externally realised by li (rite) in governance (Xunzi, XV. 22 and 21). To him, punishment should be balanced by instructions (Xunzi, X. 10). The complication of today’s problems of legality in humanitarian intervention and R2P may in fact be a result of the lack of instructions (“jiào” 教) on the global level—but this is extremely difficult and debatable, as in the liberal, secularised and postmodern West, moral instructions may invite accusations of indoctrination, brainwashing, and encroachment on the first-person singular “I.” That said, any practice of the Xunzian or even general Confucian “jiào” in a non-Chinese context may effectively be identified as what William A. Callahan called “Sino-speak” (see Chapter 3.4).

Aaron Stalnaker compares Xunzi’s hierarchical social order (differentiated with clear roles and responsibilities) with Immanuel Kant’s idea of world citizenship (Stalnaker, 2015, p. 147). It is not surprising to find Xunzi’s “all under Heaven” does not match with the decentralised character of German cosmopolitanism. That, as I will argue, is the potential danger of Xunzi’s thought. The “perpetual peace” in the Xunzian discourse is different from the Kantian discourse. The former advocates despotism, the latter civil society. As Stalnaker argues, Xunzi believes “the ideology of perfect harmony is profoundly destabilizing, because it motivates constant striving for hegemonic status … a hegemonic power is far from perfect, it could and should be supplanted by any state that could do a better job, by its leaders’ own lights” (Ibid., p. 150). In other words, the struggle among great powers is inevitable. The UN being the True King is almost impossible.

No wonder Yan Xuetong focuses solely on Xunzi rather than finding a balance between
Mencius and Xunzi—Mencian ideas are too benign for the construction of a Machiavellian theory of great power politics (*Mencius*, II A. 3). Mentioning nothing on humanitarian and human rights (Yan, 2009; Yan, 2011a; Yan, 2011b; Yan, 2013; Yan, 2014; Yan & Huang, 2011; Yan & Xu, 2008; Yan & Xu, 2009), Yan is absolutely clear in making his application of classical Chinese conceptions irrelevant to humanitarian intervention, R2P, and cosmopolitanism, as he proclaims: “My main purpose in reinterpreting Xunzi’s interstate political philosophy is less to introduce an ancient author’s view of interstate relations than to learn something relevant to the strategy of China’s present rise” (Yan, 2011a, p. 99). It is correct to say Xunzi does not agree with Mencius in some sense (Xu, 2011, p. 162). However, as we have seen in Lo, Twiss, and Chan’s interpretations, Xunzi can be reinterpreted liberally to be useful to the discussions on global humanitarian topics. Let us not forget virtues explain themselves. They are good in their own rights. In his application of *Mencius* to Chinese IR, the Tsinghua scholar Xu Jin, being intentional or not, puts down phrases such as: “to transcend the political ideals and social system of the West,” “increasing [China’s] power,” “expanding [China’s] political ideas and model” (Ibid., pp. 179-180). We could not help but ask: Would any nation or people be spontaneously attracted to such hidden agenda? Is this the virtuous attitude of a True King, or is it merely a modern representation of the hypocritical Duke Xuan of Qi?
IV. Conclusion

This chapter has discussed the problems of legality in humanitarian intervention and R2P by applying *geyi* to comparative jurisprudence. Tables 5.1 and 5.2 are of crucial importance. They explain different hermeneutics may lead to different understandings of international law, international ethics, and worldviews. The chapter has also attempted to locate some overlaps and parallels between classical Chinese conceptions and liberal internationalist norms in international law. The discovery of a Chinese tradition in natural law holds the key to the solution of the Sino-liberal Western conundrum. In the pre-Qin China, natural law was divine-justified, as well as human-centred. This mirrors Hugo Grotius’s *jus gentium*. The humanisation and secularisation of *Tiandao* and the practice of *li* share similar jurisprudential foundation that supports universal human rights. *Tiandao*, *li* and human rights justify their legitimacy by divine, while they are ultimately regulated by humanity. They serve humanity.

In the pre-Qin China, justice is a means to restore hierarchical order because the hierarchical order prescribed in *li* is the source of justice. This, rather than defensive warfare and cautious war, was made the *jus cogens* in the pre-Qin law of war—this is exemplified by the use of judgmental phrase “*liye*” (this is done according to *li*, thus legitimate and legal) in *The Chronicle of Zuo*. In Western civilisation, justice is the end, not the means. Natural law does not guarantee the restoration of hierarchical order. The *raison d’être* of justice is to uphold equity and fairness in a Hobbesian world; to safeguard individual and national liberty. The utopian emphasis on a *junzi*’s compliance with *li* and self-improvement for the achievement of benevolence (*ren*) is admirable, but it has handicapped the Chinese civilisation the capability and courage to advance in critical jurisprudential reasoning. This is particularly true with positive law’s (*fa*) manipulation of *li*. After all, who dares to question if the law is illegal in the face of a mind-controlling autocratic political tradition of two millennia? The maxim “*Lex iniusta non est lex*” (An
unjust law is no law at all) may find a modern Chinese translation “efa feifa” 惡法非法 but the idea is certainly unimaginable in the Chinese legal tradition. Thomas Jefferson’s argument—“If a law is unjust, a man is not only right to disobey it; he is obliged to do so”—is also unimaginable. It is for this reason this thesis argues the reading of the pre-Qin natural law should not be confined to the conservative interpretation of “the restoration of hierarchical order.” In fact, retributive justice\textsuperscript{71} and the human-centred approach to Tiandao and li may open up inspiring dialogues with Western natural law.

As a parallel observation to the argument “Chinese nationalism is both a product of and an obstacle for China’s entry into the international society” (Lee, 2008), the PRC’s obsession with non-interventionism and legal positivism is in fact a defensive reaction to the West’s predominating use of legal positivism in international law—the law has been parochially defined and practised in such state-centric model for over a century. For the PRC, a better engagement with the global rule of law requires a farewell to the comfort zone of legal positivism and a talk to the West in the language of natural law. This may serve as a good exit for China’s century-long schizophrenic dilemma in international law (obsession and scepticism), which was generated by the painful experiences with unequal treaties; extraterritorial rights; the League of Nations’ failure in stopping the Imperial Japan’s aggression, and the biased ruling of the International Military Tribunal for the Far East (IMTFE, 1946-1948).

What we have observed from the gongfa zhongyuan debate then is quite encouraging. The scholars of late Qing and the Republican era showed a passion to negotiate commensurability between the Western natural law tradition and the Confucian ethics. They began their understanding of “the family of nations” by taking Henry Wheaton’s Elements of

\textsuperscript{71} Elements of restorative justice, transformative justice, and transitional justice are yet to be found in classical Chinese resources.
International Law as ethical philosophy. Some believed yi 义 (righteousness) and li 理 (reason/rationale/principle) are universal values. Xingfa 性法 (natural law) and gongfa 公法 (public international law) implement the combination of Tiandao 天道 (the Way of the Heaven) and rendao 人道 (humanity)—concepts that the neo-Confucian philosopher Cheng Yi 程颐 (1033-1107) suggested. In the view of Gongfa Bianlan 公法便览 (1877), international law finds a higher origin in natural law. Its elements are commonly found in different places regardless of geographical and cultural limitations (Zhang, 2007, p. 25). William A. P. Martin even brought together classical Chinese canons; international law, and the Christian God’s law.73

To its [international law’s] fundamental principle, the Chinese mind is prepared to yield a ready assent. In their state ritual as well as their canonical books, they acknowledge a supreme arbiter of human destiny, to whom kings and princes are responsible for their exercise of delegated power; and in theory, no people are more ready to admit that His law is inscribed on the human heart. The relations of nations, considered as moral persons, and their reciprocal obligations as deduced from this maxim, they are thoroughly able to comprehend (Covell, 1978, pp. 148-149).

Is international law real law? Or is it realpolitik presented in beautiful rhetoric? The Dutch judge at the IMTFE Bert Rölling once said: “The road to hell is paved with good Convention” (Robertson, 2006, pp. 197 and 638). The legality problematique of humanitarian intervention and R2P shows us there is an urgent need to reform the current international legal order. Constitutional change is an urgent call. One solution is to “take account of

72 This is the Chinese translation of Theodore D. Woolsey’s Introduction to the Study of International Law (1860)—the first book on the law of war introduced to China.

73 From the English preface of Wan-kuo Kung-fa published in Beijing, 1864.
different histories and cultures of various countries and to find out principles of law and justice which are common to all,” as Judge Wang Tieya argues.74 The natural law tradition in China should be revived to reduce or reconcile the Sino-liberal Western conceptual gap; to join the global effort in the making of a more effective UN and universal international law. Let us not forget: Modern China is a legitimate victim of war crimes, crimes against humanity, and genocide. For any Chinese regime of the present and the future, there is no reason not to support the global rule of law on stopping, punishing, and preventing mass atrocities. The Chinese should do some justice for themselves and for those who suffer the same in all corners of the world by speaking up in the legal language.

74 See opening quotation of this chapter.
CHAPTER SIX
Fundamentalist Hermeneutics in the Autocratic Tradition of Chinese Politics

[T]he Confucian ideal of a benevolent and paternalistic government [provides] everything for its subjects can be smoothly transformed into a Legalist all-powerful state that controls all aspects of social life … One of China’s ancient Legalists’ most potent influences on the modern period [is] their preparation for the institution of Communist totalitarianism in China.

- Fu Zhengyuan 75

Power was developed and exercised through the control of knowledge and that powerful interests created and maintained particular discourses to minimise any challenge from others also interested in these forms of knowledge.

- Michel Foucault 76

In previous chapters, we have covered the Sino-liberal Western conundrum, the current study on classical Chinese conceptions of the *jus ad bellum* and its deficiency, the KACIR methodology and its deficiency, and the context-textual analysis of the selected pre-Qin texts. The research problem of this thesis now requires us to delve deeper into the puzzle why is it difficult for the classical Chinese conceptions of the *jus ad bellum*, as understood in selected classical Chinese texts, to be developed into an innovative norm or principle of humanitarian intervention and R2P that is compatible to liberal internationalism? (Sub-question No. 3, see Chapter 1.1). While there is serious shortage of Western-educated scholars who excel in both international ethics and classical Chinese studies, many Chinese academics are mind-blocked

75 Fu, 1996, pp. 30 and 127.

by the social-political impact of the autocratic tradition of Chinese politics. The construction of innovative ideas in international ethics is hence handicapped. This chapter argues: the PRC’s doctrine of non-interventionism has a deep structure in the intellectual history of China. It is part of the nexus between fundamentalist hermeneutics applied to the pre-Qin canons and the Confucian-Legalist grand narrative of orthodoxy, which has been steering the cognitive mapping of the PRC authorities and scholars in three dimensions of international ethics—cosmology; worldview; positive/negative state responsibility—presented through classical texts.

A better understanding of the problem of hermeneutics requires us to return to the anti-foundationalist/interpretivist approach (see Chapter 1.3) and the methodology of Knowledge Archaeology of Chinese International Relations (KACIR, see Chapter 3.5). The archaeological quest for the past is inevitably shaped by the excavator’s present. The discoveries at ancient sites intersect the pressures of the modern world. The interpreter has a set of “truths” in his/her mind before s/he comes to interpret a text. The interpreter’s world dominates the whole meaning of the text. Positivists may argue such subjective reading of texts yields no scientific truth, thus it is meaningless. They have overlooked it is the intersubjectivity among numerous contending interpretations that brings us knowledge advancement. In the case of China, alternative discourses should be allowed to survive together with the orthodox doctrine so as to stimulate open debates and to foster new ideas.

I. A Return to Methodology: with Hans-Georg Gadamer

Redefining China

Confucianism is almost a synonym of the Chinese tradition, the Chinese culture, and the Chinese civilisation. Its monolithic presence in the Chinese history has created a stereotyped
image of “Chineseness,” despite there exists a tradition of rich intellectual diversity in the pre-Qin era. One may notice from an ideological but not religious point of view, that while there are non-Catholic French; non-Anglican English; non-Lutheran German; non-Puritan American, it is rare to find a Chinese whose way of thinking, basic values, and discourse pattern are not principally underlain by the cultural sedimentation of Confucianism. Even intellectuals who severely criticised Confucianism—such as Lu Xun, Hu Shih, Chen Duxiu, and Qian Xuantong during the May-Fourth Movement (1919) and the New Culture Movement (mid-1910s to 1920s)—were not able to deviate fundamentally from thinking and behaving in the “Chinese” way defined by the Confucian standard. The only exception in modern Chinese history could arguably be Mao Zedong, who made China exceptionally “untraditional” by indoctrinating his proletarian utopianism during his rule—particularly during the Great Proletarian Cultural Revolution (1966-1976), when Confucianism was labelled as a “reactionary force.” Otherwise Confucianism, a school of thought originated in the pre-Qin era subsequently manipulated by Legalism, has been an integral part of China’s national trait and political tradition for over two millennia. Other schools do exist, but they are in no position to question the legitimacy and to challenge the hegemony of Confucian-Legalism, intellectually and politically. This is a static view of the Chinese tradition.

Wang Gungwu (1991) argues in another way. To him, “almost every aspect of Chineseness underwent considerable change during the past 3,000 years” (Wang, 1991, p. 1). How the Chinese see their tradition may not be the same as how outsiders see it. Chineseness is a complex organism of ideas, values and institutions, which is living and changeable. It is “the product of a shared historical experience whose record has continually influenced its growth” (Ibid., p. 2). Wang’s dynamic view of Chineseness has prompted him to argue that Confucian ideas and values are not monolithic. They have a changing nature and fate, as observed from Han dynasty in the first century to Ming dynasty in the fourteenth century. The view of a changeless China thus can be refuted (Ibid., p. 3). It is dangerous, Wang argues, to identify
Chineseness with Confucianism, because such conventional, elitist definition of the Chinese tradition is supportive of Great Han chauvinism; familism; clannishness; localism, and particularism (Ibid., p. 6). Speaking from the perspective of an overseas Chinese, Wang is able to deconstruct the ossified, rigid definition of Chineseness by distancing himself from the mainstream stereotypes. He also implies the connection between Chineseness and the modern predicament faced by Chinese IR, which has not improved much since he published The Chineseness of China more than twenty years ago:

The Chinese Government … will find conscious discussion of Chineseness embarrassing unless it can define it to fit its present situation … As long as the future Chineseness is still unclear, the world outside will continue to be ambivalent about China’s traditional self-image (Ibid., pp. 1 and 7).

Wang may imply that the search for traditional self-image and the redefinition of Chineseness based on the PRC’s present needs are the prerequisites for the innovation of thoughts in Chinese IR. He wonders if the future China will renew the key links and build afresh on the best features of the rich civilisation heritage of three thousand years of continuous history (Ibid, p. 7). This opens up interesting possibilities for redefining Chineseness; redefining the Chinese tradition, culture and civilisation; redefining the Chinese nation, and repositioning China in contemporary international relations. However, what he said about “based on the PRC’s present needs” is ambiguously puzzling. Who is legitimate to define the PRC’s present needs? How may the PRC authorities justify they truly understand what the nation and its people need—particularly from the macro perspective of socio-historical context, such as the longue durée?77

77 This is a concept suggested by the French Annales School of historiography. David Armitage argues, recently
Shih Chih-yu argues “sovereign China” was modern China’s response to Western imperialism. The notions of “China” and “Chineseness” thus have lost their fluidity and spontaneity since they were locked by nationalism and patriotism. The persistent presence of rigid moral rhetoric has damaged the PRC’s ability to adjust (Shih, 1993a, p. 35; Shih, 2002, pp. 2 and 4). Similarly, the author of this thesis points out the danger of locking China’s self-image in a rigid psychological framework:

China’s overreliance on historical memory of national humiliation is like taking a palliative … The manipulation of historical memory desensitises people from looking for a real solution to political complications. It promotes a sense of insecurity and paranoia. It opens the floor for people to draw endless parallels between current events in Chinese international relations and China’s “semi-colonial” past. Without a satisfactory answer to “a century of humiliation” puzzle, China can never sincerely embrace the post-Westphalian global norms, rules and institutions. It can never be a truly responsible stakeholder in global affairs and a confident member of the international society (Lee, 2013c December).

For China and the world, nothing is more dangerous than combining the Confucian-Legalist orthodoxy with “sovereign China.” This is where Chinese fundamentalism was born. It was born on the bed of absolutisation of moral values and culture; autocratic governance; rigid hierarchy; Machiavellian calculation; narrow-minded nationalism; ethnocentrism and

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a revival of the tradition of long-range intellectual history has been observed under the names of “world history,” “big history,” “deep history,” “transnational history” and “history of the Anthropocene” (Armitage, 2012, p. 493). The longue durée, now appears as a global discourse of historiography of broadening horizons rather than affiliating itself with the old Cambridge School of imperial worldview, may be borrowed into the Chinese context to fit the needs of a globalising PRC.
xenophobia. Only by deconstructing, redefining and repositioning the Chinese tradition and the way we perceive modern China, we may then be able to understand and to critique on the fundamentalist hermeneutics applied to classical Chinese canons; hence to reinvent a cosmopolitan hermeneutics that better suits the PRC’s present needs in international relations (for example, to develop a norm or principle of humanitarian intervention and R2P). This also helps the world to free their stereotypes on China and to understand it better. To get this done, we shall borrow a theory of hermeneutics from the German philosopher Hans-Georg Gadamer (1900-2002).

Hans-Georg Gadamer

In his magnum opus titled *Truth and Method* (Wahrheit und Methode, 1997; first published in 1960), Hans-Georg Gadamer presents a theory of hermeneutics that features two dimensions: first, conservative agreement; second, reflective and critical integration (Warnke, 1987, pp. 106 and 156). On the conservative side, Gadamer argues, a text’s meaning is dependent on the context of interpretation, which has to do with an interpreter’s “consciousness of being affected by history” or “historically-effected consciousness” (wirkungsgeschichtliches Bewußtsein) (Gadamer, 1997, p. 301). Gadamer’s anti-historicist and anti-positivist stance derives from his belief that humans are historical and historically constructed. There is no objective rule for us to observe in history. Nobody is free from the influence of prejudices generated by his/her historically-effected consciousness. Nobody is able to break away from the tradition, which shapes a person’s historically-effected consciousness. In *Gadamer: Hermeneutics, Tradition and Reason* (1987), Georgia Warnke explains:
We are drawn into the tradition … the normative authority that makes a claim on us, that pulls us out of our concerns and imposes its norms upon us. Indeed, this “enchantment” occurs before we can come to ourselves and assess the claim the tradition makes upon us … We adopt the tradition’s view of the truth and, moreover, “come too late” if we attempt to justify or question it for we have always already adopt it (p. 106).

Gadamer argues we should accept that prejudices are conditions of the understanding of a text because interpretations are all made of prejudices; while meaning is created by intersubjective communication between prejudices (Ibid., pp. 247-249 and 277). A text is the result of a fusion of the interpretations of a tradition. Gadamer calls it “fusion of horizon” (Horizontverschmelzung), which means a harmonious inclusion of all previous opinions about the text. When the reader comes across with a text (that is, the object of hermeneutic understanding), s/he in fact is in a dialogue with a tradition (Ibid., p. 90). The relation between dialogue and understanding is one of the main themes in Gadamer’s writings. Gadamer believes the dialogue between the past and the present; the alien and the familiar; the tradition and the interpreter is part of any sincere attempt to reach understanding or consensus (Verständigung) (Ibid., p. 103).

The conservative and deterministic side of Gadamer’s theory tells us we are destined to be part of the tradition because we are oriented by it. Nevertheless, the more critical side of his theory tells us we can modify the tradition “in seeking the truth of the subject-matter with which we and it are concerned, mediating its truth-claims with our changed historical circumstances and even assessing its values in light of other norms and principles that we have inherited from it” (Ibid., p. 106). Gadamer suggests a Hegelian (dialectic) solution, which involves a synthesis of different prejudices within the same tradition for a more refined point of view understood as a “better moment of view” (aufgehoben). The hermeneutic understanding of a text, hence, has to do with a task of separating the justifiable aspects from the unjustifiable
aspects in one single tradition (Ibid., p. 156). To Gadamer, “tradition” (or “traditionary texts,” neologism translated from the German word Überlieferung) is “an effort of understanding we feel ourselves required to make because we recognize our limitations, even though no one compels us to do so. It precludes complacency, passivity, and self-satisfaction with what we securely possess; instead it requires active questioning and self-questioning” (Gadamer, 1997, p. xvi).

The questions that an interpreter poses, and the position that s/he takes in the tradition determine the meaning s/he makes in and adds to an interpretation of a text. Warnke elaborates further on this:

[The] hermeneutic Verständigung [reaching understanding or consensus] can include disagreement: we simply agree to disagree. Although we cannot break out of the tradition to which we belong, we can break with it on any given issue by emphasizing other elements of the tradition, showing the way in which the older opinion has to be modified in light of the way the evidence now looks to us and so on. In this case our agreement with the tradition consists in the fact that we can justify our new opinion only by coming to terms with its counter-position and understanding in just what way we do disagree with it. Hence, the possibility of distinguishing our own position on a given subject-matter from that of a text or of the tradition as a whole is not precluded (Warnke, 1987, p. 103).

According to Warnke, the prerequisite of revising the main prejudices we have inherited from a tradition is that we should assume other prejudices within the same tradition to be as valid as the main one (Ibid., p. 91). A critical examination of one’s tradition involves appropriation and integration within the interpreter’s own understanding: that is, to make use of both agreements and disagreements to the main prejudices of the tradition to create a more holistic and innovative picture of the tradition. Both perspectives are preserved. The consensus or synthesis
between agreements and disagreements marks the interpreter’s arrival with his/her own “truth” (interpretation). A new version of the tradition is then created. In other words, the tradition enters into a new stage (Ibid., pp. 103 and 104). Ideally speaking, such genuine conversation between the two discourses shall not yield the victory or dominance of either side. The result shall be “a unity or agreement that goes beyond the original positions of the various participants” (Ibid., p. 104).

However, Warnke criticises Gadamer for failing to adequately distinguish the two dimensions of his theory—the conservative and the reflective/critical—particularly when a comparison is made with Jürgen Habermas’ universalism. Warnke accuses Gadamer for being unwilling to allow a debate with Habermas for the reason that humans are historically situated, so they can make no universalistic claims (Ibid., pp. 106 and 134). It appears that Gadamer’s ambiguous conservatism has disappointed some critical theorists. His theory of hermeneutics stands in a dilemma between the conservative and the reflective/critical dimension. When contrasting with Thomas S. Kuhn, Gadamer apparently focuses more on the enrichment and self-adjustment mechanism of the tradition, but not a complete shift of tradition; while Kuhn’s idea of paradigm shift in scientific revolution implies replacement but not enrichment and internal adjustment. Gadamer safeguards the relativist tradition of humanities; Kuhn speaks from the perspective of the philosophy of natural science. The difference between them can be traced back to their ontological positions: the former believes there is no “objective reality” at all; the latter argues we can get closer and closer to it.

**Gadamer and China**

Warnke’s conservative-reflective/critical paradox does not necessarily exist when Gadamer’s theory is applied to China. When it comes to the Chinese context, Gadamer’s explanation of “tradition” requires a flexible double interpretation. The first reading observes
that it is agreeable to define “tradition” as the continuous presence of the monolithic and dominating tradition of Confucian-Legalism in the Chinese history. The second reading observes that it is feasible to put official orthodoxy in parenthesis, and to define “tradition” as a rich intellectual entity that includes not only Confucianism and Legalism, but also a diversity of other schools of thoughts. For the first reading, ideational innovation means a Kuhnian shift of paradigm (for instance, a shift from Confucian-Legalism to liberal internationalism). For the second reading, ideational innovation means a Gadamerian self-adjustment and enrichment (a redefinition of the Chinese tradition by incorporating a wide diversity of elements within the tradition). Whether we apply the first or the second reading is a matter of perspective. The point is we have to keep the definition of “Chineseness” open and flexible. We have to emancipate the term from the imprisonment of Confucian-Legalism and Westphalian sovereignty.

Gadamer argues no interpretation is able to escape from the influence of the interpreter’s prejudices, which is generated by historically-effected consciousness. That said, it is impossible to critique fundamentalist interpretations of classical Chinese texts without understanding the structure of historically-effected consciousness and the prejudices of Confucian-Legalism. It is also impossible to innovate a reinvented cosmopolitan hermeneutics without understanding the structure of historically-effected consciousness and the prejudices of the pluralistic Chinese tradition—though China has been impeded in reconnecting with such tradition for almost two millennia, arguably since Emperor Wudi of Western Han dynasty (206 B.C.-9 A.D.) adopted the suggestion made by the Confucian scholar Dong Zhongshu for “abolishing all schools but Confucianism” (bachubaijia duzunrushu 罢黜百家,独尊儒术), making Confucianism the only official ideology of China; or even earlier, since the unification of China in 221 B.C. and the burning of books and burying of scholars (fenshu kengru 焚书坑儒), a suggestion made by Chancellor Li Si to Qin Shi Huang. Both events, one apotheosised Confucianism while the other sabotaged it, were
directed by the same ideology—Chinese Legalism, the very origin of the autocratic tradition of Chinese politics.

There is a continuous presence of historically-effected consciousness and prejudices for the production of subsequently-derived interpretations, but which tradition are we referring to? Should we define the Chinese tradition as Confucian-Legalist or pluralist? Should we interpret classical Chinese texts by using Confucian-Legalist hermeneutics or hermeneutics derived from the pluralistic tradition? This thesis argues we could use both of the Gadamerian dimensions of hermeneutics to analyse the Chinese case: we can take a critical stance to examine the monolithic tradition of Confucian-Legalism by using the universalist lens of cosmopolitanism, globalism and liberalism—particularly when we separate Confucianism from Legalism and make the latter the target to criticise. This approach shares some similarities with Thomas Kuhn’s paradigm shift and Gerald Chan’s social evolution (see Chapter 1.4), which indicate competition among discourses and spontaneous replacement.

While this thesis points out some defects of the Confucian ideas found in fundamentalist hermeneutics, it believes the merits should be developed into something useful for Chinese IR. What will be, and should be replaced are the Legalist genes in Confucian-Legalism. In fact, Confucianism and Legalism have irreconcilable differences. While the Confucians emphasise benevolence (ren 仁), the Legalists are obsessed with power games. Legalism sets the foundation for imperial autocracy with “absolutist monistic authority, centralized bureaucracy,

78 Comprised of fa 法 (penal law); shu 术 (Machiavellian tactics), and shi 势 (political position/legitimacy), Chinese Legalism is anti-liberal. Fu Zhengyuan identifies Legalists with totalitarians (Fu, 1993, p. 38). He argues, “the central idea of [Legalism] is the supremacy of authority and centralization of power in the person of the ruler. Legalists were noted for their unabashed insistence on the total subordination of the people to the ruler. Whereas other schools of thought gave verbal concessions to the interest of the people and justified the authority of the sovereign as ensuring the welfare of the people” (Ibid., pp. 38-39).
state domination over society, law as a penal tool of the ruler, a mutual-surveillance and
informer network, literary prosecution, and political practices of coercion and intimidation”
(Fu, 1993, p. 46). Fu Zhengyuan relates Legalism to autocracy—“the most enduring and
significant characteristic of Chinese political tradition” (Ibid., p. 1).

The Legalist genes must be replaced because such state-imposed official ideology does not
allow other schools of thought to function naturally. It dictates the cognitive mapping of the
interpreter. The concentration of power in a highly centralised political system does not give
room for alternative interpretations to survive when it comes to the understanding of the
tradition and classical texts. Only the official hermeneutics is legitimate, moral and legal. It
serves the interests of the ruling minorities. The author of this thesis cannot see how an
innovative norm or principle of international ethics (which covers humanitarian intervention
and R2P) can be derived from such suffocating ideology. Legalism is the medieval theology of
the Chinese civilisation. It reinforces the fundamentalist feature of the orthodox hermeneutics.
Its values neither fit into the current development of global norms, nor the fast-changing
historical circumstances. It deserves no Gadamerian amnesty of dialogue, understanding or
consensus (Verständigung). It is unjustifiable for the use of Chinese IR. Therefore, it has to be
replaced.

This thesis has to make it clear, though, by taking a critical stance it does not mean to
completely eradicate the Chinese tradition, as this will be highly impractical. Humans will
never be able to totally break away from the tradition to which they belong to. The Kuhnian
paradigm shift, if there is any, happens with interpretation, not with tradition. The
fundamentalist hermeneutics is to be replaced and/or modified by a reinvented cosmopolitan
hermeneutics. However, one may wonder since tradition interrelates interpretation (according
to Gadamer’s theory), how can we challenge an interpretation by keeping the tradition
untouched? This leads to the second reading of the Chinese tradition (see Table 6.1). If we can
free ourselves from the conventional, static view of Chineseness and redefine the Chinese
tradition as a pluralistic one, then we can say the paradigm shift from one hermeneutics to another is in fact a kind of self-adjustment made within the same (aka, one single) tradition. The shift is made, while the tradition’s content is enriched. The fusion of horizon and intersubjective communication suggest that replacement does not simply mean the victory of a new prejudice over an old one. Instead, prejudices question, understand, and shape each other in the process of dialogue. The Confucian tradition (after de-legalisation or “qu fajia hua” 去法家化) and the reinvented cosmopolitanism may agree and disagree with each other, but it is this clash and synthesis between the two that generates “a better moment of view” (aufgehoben), which is more holistic and innovative. A new version of the pluralistic tradition thus is derived.

<table>
<thead>
<tr>
<th>The First Reading</th>
<th>The Second Reading</th>
</tr>
</thead>
<tbody>
<tr>
<td>Identifies the Chinese tradition with Confucian-Legalism</td>
<td>Defines the Chinese tradition as pluralistic, which includes Confucian-Legalism</td>
</tr>
<tr>
<td>The replacement of the Confucian-Legalist hermeneutics means the replacement of the Chinese tradition</td>
<td>The replacement of the Confucian-Legalist hermeneutics does NOT mean the replacement of the Chinese tradition</td>
</tr>
<tr>
<td>Accepts the Kuhnian paradigm shift; rejects the Gadamerian self-adjustment/enrichment</td>
<td>Accommodates both the Kuhnian paradigm shift and the Gadamerian self-adjustment/enrichment</td>
</tr>
<tr>
<td>Impractical; aggressive; unhistorical</td>
<td>Practical; suits the present needs of China; honest with history</td>
</tr>
</tbody>
</table>

Table 6.1: Double interpretation of the Chinese tradition
In other words, the second reading requires us to make use of the conservative dimension of Gadamer’s theory: to step back and to take a macro, more holistic view of the Chinese tradition by defining the Chinese tradition as a pluralistic intellectual entity that includes a wide variety of thoughts, based on the foundation set by “Hundred Schools of Thought” (zhuzi baijia 诸子百家) in the pre-Qin era. In this case, the criticism made towards Confucian-Legalism needs not be a denial of Gadamer’s idea that we are all living within a tradition that we cannot escape from. All we need to do is to initiate self-understanding for the pluralistic tradition by standing in a counter-position: to question Confucian-Legalism critically; to reflect on its limitations, and to add to the dialogue new elements (in this research, for example, a reinvented cosmopolitanism). This is, as Gadamer puts it, “an effort of understanding we feel ourselves required to make because we recognize our limitations” (Gadamer, 1997, p. xvi). Similarly, Karl Popper (2002) argues great men should be questioned for the survival of civilisation:

> If our civilization is to survive, we must break with the habit of deference to great men … Their influence, too rarely challenged, continues to mislead those on whose defence civilization depends, and to divide them. The responsibility for this tragic and possible fatal division becomes ours if we hesitate to be outspoken in our criticism of what admittedly is a part of our intellectual heritage. By our reluctance to criticize some of it, we may help to destroy it all (p. xxxiii).

Gadamer’s theory of hermeneutics does not necessarily have to be read as self-contradictory. By drawing references from the two dimensions of his theory, the following sections will explore the obstacles posed by the Confucian-Legalist grand narrative of orthodoxy. We will question and critique its hermeneutics, so in return the prejudices; the interpretations; the meaning constructed; the historically-effected consciousness, and the tradition will be better understood. This will lay the cornerstone for the discussion in Chapter

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II. The Confucian-Legalist Grand Narrative of Orthodoxy

Fundamentalist Hermeneutics

The word “fundamentalism” is commonly known in religion, economics, and political ideology. Fundamentalism believes “certain principles are recognised as essential ‘truths’ that have unchallengeable and overriding authority, regardless of their content” (Heywood, 2000, p. 71). It implies inflexibility, dogmatism, and authoritarianism. It requires selflessness and devotion to principle. It proclaims: “politics is religion” (Ibid.). Fundamentalism stands in the opposite to liberty, plurality, tolerance, and humaneness. When it is applied to hermeneutics, it refers to the strict adherence to extremely dogmatic interpretation of the founding text of an ideology—political or religious. Only one interpretation is accepted as legitimate.

“Chinese fundamentalism,” in William A. Callahan’s view, is Chinese racism. It offers an inward-looking and exclusive perspective of the uniqueness and superiority of the Han race. It is a kind of “yellow supremacism” that focuses more on the competitions among civilisation models rather than the traditional security dilemma in realpolitik (Callahan, 2013, pp. 98-99 and 102). It is:

a question of exceptionalist identity: an essentially unique, fixed, separate, and pure entity called the “Chinese race” (Zhonghua minzu) that needs to be defended against impurities both local and global (Ibid., pp. 102-103).

To Callahan, the modern rise of Chinese fundamentalism took its origin from Sun Yat-sen’s
Three People’s Principles (Sanmin Zhuyi 三民主义); but as Callahan points out, Sun’s nationalist theory is the product of China’s long transition from empire to nation-state. It was a weapon used to fight against the Manchurian corruption and foreign imperialism at the time when China would face the danger of “the loss of our country and the extinction of our race” (wangguo miezhong 亡国灭种).

The idea of “race-nation” (minzu 民族) was defined by blood kinship; common language; common livelihood; common religion, and common habits (Ibid., p. 103). It is related to the reinterpretation of Huangdi (the Yellow Emperor) as the mythical foundation for the Han race’s cultural and racial identity. The fundamentalist discourse is also connected to “race-state” (guozu 国族) (Ibid., p. 106). The emphasis on the struggles between races in a hierarchical world system is an unfortunate fusion of Social Darwinism and the Legalist reading of the Confucian world order. The lack of self-reflection and self-criticism is one defining feature of Chinese fundamentalism and its application to the interpretation of classical canons.

“Fundamentalist hermeneutics” has the following features: first, it is used and propagandised by the PRC elites who believe in the superiority of the unique China model; second, it is an inadequate form of KACIR; third, it is in control of a static, unchallengeable definition of the Chinese tradition. It allows neither Gadamerian nor Kuhnian approach of interpretation; fourth, its definition on “Chineseness” has been shifting from culture/civilisation to statism; from nationalism to racism.

The Autocratic Tradition of Chinese Politics

This thesis argues fundamentalist hermeneutics in the PRC is a representation of the autocratic tradition of Chinese politics, which originated from the Confucian-Legalist orthodoxy established in Western Han dynasty under the rule of Emperor Wudi. Hsiao
Kung-chuan (1977) labels the tradition as: “Legalism with a Confucian façade” ("rubiao fali" 儒表法里). The oppressiveness of the quest of the individual’s’ total submission to the power-holder in Confucian-Legalism comprises of the utopian elements in Confucianism and the totalitarian elements in Legalism. Its predominance has been continuous and far-reaching. Fu Zhengyuan (1993) argues: “There is a basic congruence between the PRC official Marxism-Leninism-Maoism and Chinese imperial ideological orthodoxy (An amalgam of Legalism and reconstructed Confucianism)” (p. 3). The congruence is found in the presence of a centralised power structure; the domination of the ruling power over society; the use of the law as a penal tool; the implementation of political movements and practices of persecution (Ibid.). In his comment on Mao Zedong, Stuart Schram (2002) argues: “The blend of Confucianism and Legalism that defined, on the whole, the orthodox view of the state in late imperial times, was hierarchical and authoritarian, and so too was Leninism … he was following in this not only Lenin but also the monistic and state-centered vision of the social order that had prevailed in China for two thousand years” (p. 446).

The hermeneutics of one text has established a political power that in return controls the hermeneutics of all texts. That key text is *The Spring and Autumn Annals*. It does not only affect domestic politics, but also shapes foreign relations. In China, the canonisation of the pre-Qin texts took place no earlier than Western Han dynasty. When Kang-i Sun Chang, Stephen Owen, and Martin Kern critically re-examined the political filtration in Chinese Literature, they found the real watershed in fact has nothing to do with “the burning of books and burying of scholars” under Qin’s tyranny. Once we free ourselves from the political interpretation (which is largely Confucian-Legalist) of the classical texts and literary history, we will see a much more pluralistic and dynamic view of the pre-Qin world (see *The Cambridge History of Chinese Literature*, 2010).

The Confucian-Legalist grand narrative of orthodoxy was built by the Gongyang School’s 公羊学派 (the imperial and official) interpretation of classical canons. *Gongyang’s*
Interpretation of Chunqiu begins with: “What does it mean by the first month of the King of Zhou? It means to respect the King’s rule of the Great Unity” (何言乎王正月?大一统也) (The First Year of Duke Yin). Since the implementation of “abolishing all schools but Confucianism” (bachubaijia duzunrushu 罢黜百家，独尊儒术), The Spring and Autumn Annals and The Rite of Zhou have been read as the sources of orthodoxy “zhengtong” 正统, which features “juzheng” 居正 (conform to Confucian orthodox ethics, namely “daotong” 道统) and “yitong” 一统 (Unity). This is explained in Dong Zhongshu’s Luxuriant Gems of The Spring and Autumn (Chunqiu Fanlu 春秋繁露). Anything which does not comply with such standard will be read as “yiduan” 异端 (illegitimate sect).

The historiography and political theory of zhengtong emphasise the dichotomy between the Chinese civilisation and the barbarians (“huayi zhibian” 华夷之辨). The imperial Chinese worldview is concentric, with the Son of Heaven at the core and the barbarians at the periphery. It stresses the importance of suppressing usurpation and restoring order (“boluan fanzheng” 拨乱反正) and expelling the barbarians in protection of the Royalty (“zunwang rangyi” 尊王攘夷). The legal-political concept of “fatong” 法统 refers to the legitimate and legal inheritance of political power and the succession of the Confucian tradition. Any violation will be regarded as “jianwei” 僭伪 (counterfeit). The Gongyang School hermeneutics used a method called “zhuxin” 诛心, which involves “ji” 讥 (ridicule/criticism) and “bian” 贬 (demotion) through “weiyan dayi” 微言大义 (indirect comment by descriptions, allegories, and symbolism). In criminal justice, The Spring and Autumn Annals was revised by Dong Zhongshu into Chunqiu Jueshibi / Chunqiu Jueyu 春秋决事比 / 春秋决狱 (The Book of Adjudication by Chunqiu)—the source of penal law in Western Han dynasty.

Although the study of Gongyang’s Interpretation of Chunqiu and New Text Confucianism (Jinwenjing xue 今文经学) declined during the fifth and sixth century and did not revive till late Qing period with the support of the Hundred Days’ Reformers, the impact
of **zhengtong** has penetrated into the Chinese politics, society and psychology. It is still controlling the cognitive mapping and the discourse pattern of the PRC authorities, scholars, and even the public. The study of Chinese classics (**jingxue** 经学) in imperial China was the indoctrination of the official ideology of Confucian-Legalism. Through the support of the Imperial Examination System (**keju zhidu** 科举制度) and scholar-officials (**shidafu** 士大夫), **jingxue** offered directions to governance, the society, and the individual’s life.

The problem of fitting the pre-Qin classics into the framework of **zhengtong**—especially **yitong**—is that resources of pluralistic and dynamic background (pre-Qin) are not compatible with cultural absolutism and political totalitarianism (imperial China). Such tension has been endured in China for two millennia till today. For modern China, there is one more complication: after the collapse of **jingxue** (that is, the 1905 abolishment of the **keju** institution and social class of **shidafu**), there has been an institutional vacuum in the metanarrative of Chinese foreign relations. **The Spring and Autumn Annals** and **The Rite of Zhou** have lost their constitutional-like status. Notwithstanding, such vacuum has not undermined the deep-seated mentality of **zhengtong** in people’s thought and the way of interpreting the increasingly irrelevant classical canons.

We may wonder how **jingxue** used to instruct the imperial China’s foreign relations. In today’s situation of “seeking solutions everywhere because **li** has lost” (**礼失而求诸野**), if we want to revive the use of classical canons for Chinese IR, should we follow the orthodox (**jingxue**) mentality? Should we follow the CPC’s interpretation? Or should we revisit the pluralistic and dynamic nature of the pre-Qin era hence get the two-millennium tension of wrong-fitting solved? This thesis will not comment on separatism in China, but it insists to invoke a reflection and a criticism on the Chinese way of thinking. **Jing, li, and dao** must not be revisited anymore through the lens of **hua-yi** (Chinese-barbarian) relations. Instead, we should read through the lens of multilateralism and natural law, which bridges better with global politics and global justice of the twenty-first century.
Fundamentalist “Scholarships”

Fundamentalist hermeneutics interprets plurality by monolithic way of thinking. It expects such interpretation to be historical, true, ethical, and most importantly, normal. In her rebuttal to the exceptionalist arguments made by the PRC scholars Xin Wanxiang and Zeng Xianghong, Victoria Tin-bor Hui (2010) points out the fallacy of taking “dayitong” (the Great Unity) as a postulate or axiom. She reminds us the danger of confusing historical truth with cultural tradition (pp. 125 and 138). Xin and Zeng originally argue:

We disapprove the kind of interpretation of the pre-Qin history and classical texts that violates the original historical context. We also disapprove the distortion of the pre-Qin history for the solution of current problems … “Dayitong” in China and the concept of sovereign states in Western international relations are fundamentally different (Xin & Zeng, 2011, p. 163).

Xin and Zeng believe since “dayitong” was the controlling ideology during the pre-Qin era, there was no international relations and international law at that time (pp. 153-154). Li Jiashan (1985) argues: “We cannot identify domestic inter-ethnic relations with international relations. Therefore, we cannot agree there was international law … [such identification] destroys the completeness and continuation of the Chinese history” (pp. 37-38). Li has completely ignored the inspirations we may have by taking pre-Qin as a pluralistic and dynamic period. The Chinese history has been firmly controlled by the CPC’s Legalist monopoly over historiography. The so-called “historical facts”—such as “dayitong” is described as inevitable, non-negotiable, moral, and sacred. Just like the imperial time, “shi” (historical “facts”) and “lun” (historical interpretations and theories) serve the interests of the power holders. The reconstruction of the past by non-officially approved
agencies or individuals will be regarded as “yiduan.” Hermeneutics is the continuation of politics by other means.

Another example of fundamentalist is Zhang Weiwei. He summarises his book *The China Wave: Rise of a Civilizational State* (2012) in an argument: “China is a civilization-state, and the Chinese Communist Party is a continuation of China’s long tradition of a unified Confucian ruling entity” (Zhang, 2014, 26 September). There are four observations: first, the word “unified” demonstrates the CPC’s wish of succeeding the Confucian-Legalist tradition of *zhengtong* and the status of *fatong*; second, the use of “civilization-state” indicates Chinese exceptionalism (*Zhongguo teshulun* 中国特殊论); third, considering the CPC’s previous difficult history with Confucianism and the sudden passion not only to support but also to claim the inheritance of Confucianism, Zhang’s argument sounds flawed; fourth, the unacademic and politically unsophisticated use of Confucianism for the creation of a new national ideology negatively affects the legitimacy of the CPC’s rule. Zhang has convinced us today’s CPC is part of the autocratic tradition of Chinese politics that features Confucian-Legalism and fundamentalist hermeneutics.

Chinese fundamentalists assume the world will, and should think the same—the same as what the PRC elites think. The mentality of “yixiang qingyuan” 一厢情愿 (think only in the way as one wishes and expect others to accept it) is the deficiency of empathy. Zhao Tingyang’s “Tianxia” theory (*Tianxia tixi* 天下体系) argues there should be a “universally-accepted political institution” that promotes “universal harmony between all peoples” (Zhao, 2009, p. 5). However, Zhao did not mention how to make such institution universally acceptable. He frequently uses the concept of “harmony,” but how should it be achieved? Is it by mutual-respect, negotiation, and consensus-making; or by pacification, coercive force and Machiavellian tactics used in hierarchical power play? Will Zhao be honest with the fact that the Confucian ideal of “harmony without sameness” (*he’er butong* 和而不同) has long been hijacked by Legalism’s *realpolitik* desire for absolute unity?
Zhao is a utopian who wants to seek a problem-free world. He is not satisfied with the “failed world” (Ibid.) and refuses to accept this is the world as it is. He wants to apply the Chinese concept of family (Ibid., p. 11) to his world theory, but has totally ignored that Chinese paternalism and patriarchy may not be compatible with the rest four-fifth of the world’s population. He aspires to produce “a philosophy of the world” (Ibid., p. 7). However, without putting himself in other’s shoes, he is not able to offer anything that is authentic enough to represent every global citizen. Zhao even wants to get rid of the UN (Ibid., pp. 16-17), but suggests no substantial alternative to global governance. He also narrowly defines pluralism as “resistant nationalism to protect the local interests of less developed nations” (Ibid., p. 7).

Callahan (2008) is right to criticise Zhao for mixing up “the world” with “empire” (p. 751). It worries readers if Zhao wants to conquer and convert all the non-Chinese into the single set of “moral world” that pleases paternalistic dictatorship (Ibid., pp. 755-756). “Tianxia” theory shows us “a new hegemony where imperial China’s hierarchical governance is up-dated for the twenty-first century” and it is ready for “a clash of empires” (Ibid., p. 759). Edward Luttwak argues “Tianxia” should be more meaningfully to be interpreted as “the rule of all human.” Those who are already being respectful to such mentality are too few; while those arrogantly vainglorious are a lot (Luttwak, 2014, 15 September). From a private interview with Xu Jin, Tsinghua scholar now works at Chinese Academy of Social Sciences (CASS), the author of this thesis was told: “All contemporary IR issues are issues of central-periphery relations.” The hidden message fits well with Callahan and Luttwak’s critiques.
III. The Origin of Chinese Non-interventionism

This thesis suggests the international ethics of humanitarian intervention and R2P can be summarised into three dimensions (see Table 6.2). By applying them to the analysis of the PRC’s doctrine of non-interventionism, we will see lines of continuation from the past: first, the autocratic tradition of Chinese politics (Confucian-Legalism) inherited by the PRC authorities prefers monism over pluralism in cosmology. The concept of “dayitong” sets a strong foundation for non-interventionism when combined with the principle of Westphalian sovereignty; second, exceptionalism is the PRC’s response to the pressure given by Western universalism and globalisation. The PRC’s ambivalently detached response to global injustice is related to the concentric worldview, which can be traced back to the orthodox thought of zhengtong and huayi zhibian; third, the PRC authorities largely ignore negative state responsibility because of the impact of the concentric worldview and the hierarchical order sustained by Confucian-Legalism.
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Table 6.2: Three dimensions of international ethics
The concept of “dayitong” is the intellectual backbone of the PRC’s position of non-interventionism. Confucian-Legalism’s worship of monism is the political religion of China. Shih Chih-yu (1993) argues “Chinese psychoculture does not tolerate nonconformity … [it] connotes the inability of the Chinese regime to appreciate pluralism” (p. 34). Fu Zhengyuan (1996) argues: “The ideal of a centralized and unified polity under the rule of a single absolutist monarch was expounded by the Confucians and later passed on to the Legalists” (pp. 29-30). We may add that such monist ideal, when applied to Chinese IR, is intertwined with the PRC’s obsession with the sovereignty principle; territorial integrity, and national (re)unification. The concepts of “zhengtong,” “daotong,” and “fatong” have influenced how the PRC authorities evaluate civil unrest and political change (especially usurpation) in foreign states. Dong Zhongshu famous argues: “The ultimate origin of dao is the Heaven of Unity. If the Heaven of Unity does not change, dao (as the only truth in the Universe) will not change” (道之大原出于天。天不变, 道亦不变) (Biography of Dong Zhongshu, The Book of Han; 汉书·董仲舒传). The monist cosmology inter-relates the Confucian-Legalist ethical values, which are used to judge the legitimacy of the use of force. When the PRC authorities inherited the political tradition from Confucian-Legalism, it also unintentionally inherited the mentality of zhengtong. This is where the PRC’s fundamentalist hermeneutics comes from.

Han Chinese supporters of “dayitong” frequently reason their belief entirely on the stereotyped understandings of “zhi” (order) and “luan” (chaos) in Chinese historiography, as if stereotypes can be taken for granted without a second thought. Even arguments made by Western sinologists are to be called into question. It is sensible for Yuri Pines to say: “The notion of Great Unity is probably the most distinctive production of China’s political ideology. Having been formed long before the empire came into existence, it was repeatedly
reinforced through official rhetoric, imperial historiography, and other means of ideological production, turning into the pivotal principle of Chinese political culture” (Pines, 2012, p. 41). However, Pines’ Hobbesian application of “dayitong” is flawed. When explaining the hypothesis “the quest for unity was very much a reality” (Ibid., p. 42), Pines argues:

As China never developed adequate means of peaceful coexistence between contending regimes, and as their conflicts were not confined to border incidents but were wars of mutual extermination, the only way to stop such bloodshed was unification … The saying “Stability is in unity” was self-evident for the people of China throughout the imperial millennia and beyond (Ibid., p. 43).

The danger of such argument is: Chinese IR’s application of a legal-political model consist of a highly-centralised authority and “dayitong” could mean very similar to the realist IR theory’s application of a supreme-powered Leviathan eliminating “bellum omnium contra omnes” (the war of all against all). Does “dayitong” in Pax Sinica mean anything different from messianic imperialism in Pax Americana? Can the superpower PRC stop bloodshed and bring permanent stability to the Middle East, Northern Africa, Sub-Saharan Africa, and Central America by applying “dayitong” to global politics and legal order? History has demonstrated even at the time of unification, large-scale bloodshed and torture took place in imperial China. One should not forget the so-called “heping” (peace), “wending” (stability), and “jia” (family) have been rhetorical delusion sustained by high internal pressure—massive political struggles, cruel pacification, suppression of the dissents, cover-up and distortion of facts, etc. Are these what the twenty-first century world wants? Are these what the rest four-fifth of world’s population wants? Can “dayitong” emancipate and bring perpetual peace and stability?

Just as the same as Thomas Hobbes’s theory, the discourse of “dayitong” has been built
on the foundation of fear. The Confucian-Legalist interpretation of “Tianxia” (All-under-heaven) thus is not liberally cosmopolitan, but utterly realist. Liang Qichao, one of the most prominent thinkers of the late Qing and Republican China, thus argues: “The Confucian and the Mohist Schools advocate for unification of a world confederation by peace; while the Legalist School advocates for unification of an empire by the use of force”则儒墨可谓主张联邦的统一，平和的统一；法家可谓主张帝国的统一，武力的统一也 (Liang, 2013, p. 171). The Legalist-polluted “dayitong,” when applied in IR, may even violate the PRC’s Five Principles of Peaceful Co-existence, because it is about the centre (zhongyang) unilaterally forcing its own Will on the periphery (bianyan), rather than showing active listening, active understanding, and unconditional toleration to peaceful co-existence on equal terms. “Dayitong” is a realist discourse going against Westphalianism.

*Worldview*

The Chinese standard of civilisation developed from the parochial Sino-centric worldview and tribute system indicates states that are out of China’s boundaries are considered as barbarians. That means they are not to be regarded as independent states that exercise equal rights and duties as the states of the Middle Kingdom (Zhongguo 中国) do. Fairbank (1968) argues: “The Chinese tended to think of their foreign relations as giving expression externally to the same principles of social and political order that were manifested internally within the Chinese state and society. China’s foreign relations were accordingly hierarchic and nonegalitarian” (p. 2). Chinese collectivism necessitates an “Other.” It is deeply embedded in the notion of exclusivity and exclusion. The further away this “Other” locates in the concentric model, the fewer attention the Chinese rulers and people will give to it. It is for this reason, Qin Yaqing’s (2010) argument on the absence of ego (pp. 36-37) is flawed, though he rightly points out the lack of an awareness of internationalness in Chinese
IR has to do with the traditional Chinese worldview. China’s problem is with the hierarchical logic, not the absence of the first person singular. The Chinese “I” being a tough imperial will is effectively discussed by Lydia H. Liu (2004), let alone Callahan and Hui’s critique.

When analysing the Confucian dispositions towards non-interventionism, Shih Chih-yu and Huang Chiung-chiu (2013) argue the PRC’s style of global governance is reactive rather than proactive; problem-solving rather than goal-driven. There is no tradition in Chinese political thought that recognises or lays the foundation for dealing with duties of the states beyond the PRC’s borders (p. 351). The Chinese style of global governance is self-governance. “The Chinese cultural and ideological background is so introspective that Chinese narratives on their nation’s duty in the world unanimously point to China’s responsibility for handling its own domestic problems well enough to avoid causing global troubles” (Ibid., p. 365). Therefore, failing states that are geographically distant do not concern the PRC (Ibid., p. 364). The PRC’s more subtle and relational way of intervention through balance of relationship is labelled by Shih and Huang as “harmonious intervention” (Huang & Shih, 2014). Mass atrocities in foreign states are cognitively read by the PRC as “none of my business.”

Positive/Negative State Responsibility

As mentioned in Chapter 3 and 4, negative responsibility means to take active action in relieving suffering or bringing aid. The violation of such responsibility involves an agent’s allowing harms to occur or be brought about. Bernard Williams (2006) defines “negative responsibility” as: “that if I am ever responsible for anything, then I must be just as much responsible for things that I allow or fail to prevent, as I am for things that I myself, in the more everyday restricted sense, bring about” (p. 95). Williams is concerned with what comes about if an active action is not done. Extreme impartiality in ethical judgment means there is
no difference between a person’s impact on his/her environment and the impact of any other people. His high-minded consequentialism leaves “a locus of causal intervention in the world” (Ibid., pp. 95-96). In some legal systems, negligence of negative responsibility can lead to complicity. A person will be held criminally responsible if s/he is aware of the occurrence of a crime; is capable of intervening, but fails to stop or report it. The bystander could be charged as a conspirator and *de facto* accessory to the crime. Whether such a concept will someday be applied to universal jurisdiction in international law is another question.

Both Andrew Linklater (2011) and Luke Glanville (2012) quote Cicero (106 B.C.-43 A.D.) when they discuss positive duties (aka negative responsibility in Williams’s language). The “natural duties,” as put by Linklater (p. 78) is what Glanville called “positive duties to protect others from harm” (p. 5). In *On Duties*, Cicero argues: “the man who does not defend someone, or obstruct the injustice when he can, is at fault just as if he had abandoned his parents or his friends or his country … [Those who suggested otherwise] tear apart the common fellowship of the human race” (Ibid.). After quoting Cicero, Glanville goes on to quote from Alberico Gentili (1552-1608), who defended war waged on behalf of foreigners, since “the subjective of others do not seem to me to be outside of that kinship of nature and the society formed by the whole world” (Ibid.). The use of force for the purpose of rescuing foreigners and punishing tyrants has been featured by such duty/responsibility.

Negative duties, or positive responsibility in Williams’s words, underlie the principle of non-aggression (thus “thou shalt not kill”) in Article 2:4 of the UN Charter; legal positivism in international law, and the PRC’s non-interventionist doctrine. They are all Westphalian. The post-Westphalian aphorism of “saving strangers and foreigners” is at odd with all these. A fundamentalist interpretation to the pre-Qin classics for sure do not read from the perspective of positive duties or negative responsibility, as this has nothing to do with realist or ethnocentric concern. The traditional mentality of “internal prior to external” (*xiannei hou wai* 先内后外) and “discrimination between acquaintances and strangers” (*qinshu youbie* 亲
疏有别) has hindered a sense of “common fellowship of the human race,” thus yields no negative state responsibility. However, it does not mean there are no traces of negative responsibility in the pre-Qin texts. If we read from the perspective of cosmopolitan obligations, as we have seen in Chapter 4 and 5, it is possible to argue two millennia ago, the pluralistic China was ready for the creation of norms and principles that serve the increasing human interconnectedness with the vulnerable others in the twenty-first century.

IV. Conclusion

How are we using history? Is only one interpretation available to us? Should we accept it? A. Norton (2010) argues the traditional way of understanding history through the imposition of temporal boundaries not only restricts what we can know, but also serves to reinforce existing political orders and orthodoxies. History is by nature multidimensional and multidirectional. It is constructed and reconstructed through its articulation. It is able to be emancipatory (p. 348; also quoted in Savigny & Marsden, 2011, p. 272). This chapter has tried to illustrate that Confucian-Legalism is the hermeneutic control-panel that fits any ideologies to the benefits of the ruling minorities. A century ago it was jingxue; fifty years ago it was Marxist-Leninism; today it is the CPC’s revival of Confucianism, tomorrow it could be something else. Something more endurable is needed, such as a re-negotiated natural law based on universal conscience.

It is only by deconstructing the orthodox knowledge of the pre-Qin era and the concept of zhengtong, we are able to make better use of the classical canons and come to a better version of KACIR. Gadamer’s theory of hermeneutics and his ideal of reaching consensus (Verständigung) by intra-tradition dialogue are powerful weapons. The double interpretation of the Chinese tradition is a starting point, but we should remember fundamentalists do not listen. One cannot handle any meaningful dialogue without active listening. The abolishment
of jingxue has left China an intellectual niche of no model answer to follow (though the Chinese mentality still stubbornly yearns for it in every aspect of life). The traditional way of distinguishing the Chinese and the barbarians by standard of civilisation, culture, and conduct is gradually giving way to nationalism, statism, and even racism. None of these can help to reconcile or reduce the Sino-liberal Western conceptual divergence on humanitarian intervention and R2P. None of these will make the PRC a more acceptable member of the international society. Such niche should be filled by reinvented cosmopolitanism. Classical Chinese canons should be reinterpreted. The Chinese civilisation should be redefined. The Chinese tradition is dead, long live the Chinese tradition.
CHAPTER SEVEN
Reinventing Cosmopolitan Hermeneutics

He, who knows himself and other, will also recognise that East and West cannot be separated.

- Johann Wolfgang von Goethe 79

When we understand what someone says to us, we understand not just that person, nor just his or her “view,” but we seriously consider whether that way of looking at a subject has some validity for us too.

- Hans-Georg Gadamer 80

When discussing the emerging world society, Alex Inkeles (1998) argues: “One does not run much risk of contradiction in asserting that studies of China have been and continue to be overwhelmingly dominated by particularists” (p. 97). Is there a cure? To solve the Sino-liberal Western conundrum, we must break away from the self-imposed deterministic view of Confucian-Legalism, rigid principle of sovereignty, and legal positivism. Fundamentalist interpretation of KACIR is largely “nostalgia without memory” (see Chapter 3.5). The memory loss of a pluralistic and dynamic China is caused by the continuing domination of Confucian-Legalism. How innovative can KACIR be with Chinese IR depends on how innovatively the classical canons are interpreted.

The Gadamerian definition of “understanding” (Verstehen) implies that comprehensive, thorough and systematic knowledge (Wissenschaft) can only built on a self-consciously rational basis and a receptive, empathetic attitude in communication (Gadamer, 1997, pp. xvi

Similarly, the PRC and the liberal West may reconcile conceptual divergences in global ethics only by discovering communicable elements from each other’s history and philosophy that make sense to them. Both parties enrich the aggregate world knowledge (*Weltwissenschaft*) by contributing their share in the global dialogue.

The redefinition of the Chinese tradition needs not to be read as Westernisation. The history of human civilisation is a history of mutual learning and refinement. Developmental turning points in Europe were informed by the assimilation of Eastern inventions, and *vice versa*. It is futile and meaningless to argue what is “yours” and what is “mine.” John M. Hobson (2004) rightly quotes from Edward Said: “[W]e need to concentrate on the slow working together of cultures that overlap, borrow from each other, and live together” (p. 322).

In the spirit of rediscovering the global collective past for a better future for all, underpinnings of current norms and institutions for the protection of the weak and small from injustice should be reviewed and re-negotiated. For this reason, liberal internationalism should be revisited. Traces of Chinese cosmopolitanism should be explored.

I. Rethinking Liberal Internationalism

Liberalism has strong commitment to tolerance and value pluralism, but it is also puzzlingly notorious for its insensitiveness to non-Western cultures. Neoliberalism and aggressive liberal internationalism are good examples. To sustain one universal normative position (at the expense of other voices), they divide humanity into “us” and “them” instead of approaching everyone with the same level of kindness and respect. They are obsessed with otherness rather than cultivate collective solidarity of the humanity. Critical theorists and anti-Western scholars hence found reasons to attack liberalism and cosmopolitanism as a whole, including the relatively moderate arguments. When Diogenes the Cynic proclaimed: “I am a citizen of the world” (*a kosmopolités*), he did not anticipate cosmopolitanism and the
later-derived thoughts and institutions (such as liberal internationalism and international law) may trigger debates on the standard of civilisation. Universality, in Gerrit Gong’s (1984) view, is the extension of the European international society. While it is totally valid to critique colonialism and imperialism, non-Western exceptionalism and cultural relativism have become the dogmatic political correctness of the twenty-first century. Neither view is beneficial for the development of a genuinely empathetic, hospitable, and representative cosmopolitanism.

“Common humanity” is only one of the many identities each human holds. Over time, identities changed, flowed, overlapped, were contested and reconstructed. To adopt which identity depends on what we need in each specific circumstance. One can be indigenously Chinese and fervently liberal and global. There are multiple, overlapping standards of civilisations. In cosmopolitanism, this is presented through its pluralistic aspect. While the creation of “global law” and “world law” can be read as “the West civilising the rest,” legal pluralism is a better response to cultural hybridity. Paul S. Berman (2012) argues: “A cosmopolitan pluralist perspective does not privilege one set of norms as somehow hierarchically superior and therefore able to dictate compliance … [It works] on the basis of what statements come to be accepted as true over time. Thus, legitimacy becomes a sociological question about changes of legal consciousness” (p. 325). Pluralism requires inclusiveness, openness, and flexibility—qualities that survive on tragic, ongoing struggle as they sustain the fragile coexistence of multiple voices in a dialogue. Gadamer’s ideas of enrichment and self-adjustment find an echo in Martti Koskenniemi’s (2001) idea of negotiating international law of “the civilised”:

every community is based on an exclusion and that therefore it must be a part of an acceptable community’s self-definition that it constantly negotiates that exclusion, widens its horizon (p. 517).
That said, when the horizon of domestic tradition is extended to the global village—like Toni Erskine’s communitarian thesis of “embedded cosmopolitanism” and Anthony Burke’s global communities of “good states”—the double interpretation discussed in Chapter 6.1 can also be applied to international law, cosmopolitanism, and liberal internationalism. However, the toleration of plurality is demanding. One has to resist the tendency to authority; to be willing to be a loser and be refused, as well as to keep struggling; to never give in to the desire for closure and stability. One also has to continue to learn and to test the learning; to make decisions that have to be made (Glenn, 2014, p. 51). Patrick H. Glenn argues: “The most successful states are those which are most successful in their own forms of cosmopolitanism. Cosmopolitan ways are infinitely varied, however, and must be sought in the intricate workings of individual states” (Glenn, 2013). As history has shown, some of the most prosperous eras of the Chinese civilisation were the most cosmopolitan ones. Pluralism is something for today’s PRC to reinvent from the inside, and to uphold with everyone on the outside.

II. Traces of Cosmopolitanism in the Chinese Civilisation

Discussions on cosmopolitanism can be boundlessly vast. This chapter will focus only on two aspects as to suit this thesis’s needs: pluralism (against monism) and egalitarianism (against hierarchy). Each of these finds an echo in traces of Chinese cosmopolitanism in against Confucian-Legalism.
In 2008, Victoria Tin-bor Hui asked a very thought-provoking question: “Will a unified, powerful China learn how to act like the more benign, plural China of history?” (p. 11); but what is this “more benign, plural China” about? Where can we find it? From a human-centric perspective, I argue it is the people—the open-minded local elites and the participative foreigners—who once made China pluralistic. Two examples are the pre-Qin era and Tang dynasty (618-907).

Hui is critical of China’s overwhelmingly realpolitik tradition of coercion and domination, as she argues: “What has haunted Chinese history is the means by which unification has been achieved and maintained—by force” (Ibid.). Exactly because of this, it is ironic but historical to argue the unification of China by the State of Qin in 221 B.C. (which sounded appalling to Hui) was in fact a result of Qin’s openness in accepting immigrants (particularly diplomats, military strategists, and thinkers) from foreign states (Liang, 2013, p. 171; Zhu, 2013). In other words, it was the idealpolitik of state-society bargains and diplomatic relations (perhaps commercial activities too), as highly commended by Hui, that made Qin a superpower and brought China into unification. Qin was originally a poor state situated in an unnoticeable Western corner of the Middle Kingdom with very limited natural resources. It was Duke Xiao of Qin who adopted a liberal policy in 361 B.C. named “Qiuxianling” (an order for seeking skilled immigrants) that states: “Foreign guests and scholars who are able to suggest extraordinary ideas to strengthen this country will be ranked officials and given land” (宾客群臣有能出奇计强秦者，吾且爵官，与之分土).81 Qin was the only state among the seven in the Warring States Period that appointed foreigners to the position of “Xiangguo” (similar to the modern concept of Chancellor or Prime

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Minister). From the 116 years before the unification (337 B.C. to 221 B.C.), 18 out of 22 Xiangguo of Qin were foreigners; many of them were from grassroots (Zhu, 2013, p. 42). Most importantly, they were trusted and accepted in Qin so they can identify themselves as “Qinren” 秦人— “the people of Qin” (note: citizenship did not exist).\(^82\) This is the pluralistic origin of the monist imperial China.

Politically, it is impractical for today’s China to return to the pre-Qin multistate order, but there is something to learn from the Zeitgeist of “internationalness” and hospitality shown to aliens. By re-interpreting pre-imperial pluralism, China may have new ways to look at the world; to rebuild a pan-ethnic identity rooted in the past; to rethink its immigration policy, and why the fifty-five non-Han ethnicities have been largely under-presented in the PRC’s elite power structure. These reflections are not new. The idea of reconstructing the pre-Qin consciousness can be found with a group of Western-educated Chinese scholars who founded the journal Zhanguoce 战国策 (The Warring States) in 1940. Among them, Lin Tongji argues: “The age of contending states had been the brightest, most active and most creative” (Fung, 2010, p. 120). It is important to transform the culture of great unity back into a culture that roots out the compromise, self-content, laziness, inertia, cowardice and feebleness of the Chinese character (Ibid., pp. 120-122).

“Cosmopolitan” is the word commonly used by Western scholars to describe Tang dynasty. Amy Chua (2007) argues Tang is the striking exception in Chinese history of a unified empire that ruled without the use of ruthless suppression of diversity, but celebrated openness, cosmopolitanism, ethnic and religious tolerance (pp. 61-62). Patricia B. Ebrey (2010) argues more than any other epoch in Chinese history before the twentieth century, the cosmopolitan empire of early and mid-Tang had the self-confidence to be remarkably open to the new and different cultures. It was able to manage a more diverse society (pp. 108, 117 and

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\(^82\) Its equivalent “Chin” later developed into the word “Chinese.”
S. A. M. Adshead (2004) argues Tang cosmopolitanism is one of the pre-modern world institutions. It implies to an intense interest in things and people foreign exhibited in the orbit of Chang’an (p. xiii).

The very “Chineseness” of Tang dynasty lays in racial and cultural pluralism, not ethnocentrism. While most of the modern Chinese people are proud to claim themselves as “Tangren” 唐人 (named after the golden age of Tang); “Chinatown” literally taken as the “Street of Tangren” (Tangrenjie 唐人街), the royalty of Tang in fact had nothing to do with the ethnicity of Han, but Xianbei 鲜卑 and Tujue 突厥 of the Mongolian ancestry. Marriage diplomacy was commonly practised. The prosperity of Tang was laid on a foundation of the Sinicisation of “huren” 胡人 (nomadic barbarians). The openness to foreigners that is unsurpassed in Chinese history was founded in the mixed-blooded character of the empire, the royal family, the aristocrats, and the elites. Emperor Taizong—one of the greatest emperors in Chinese history—had in himself a dual identity of the Chinese and the barbarian; the Son of Heaven in the Confucian order and the Tengri Khagan of the Turkish nomadic world; authority within and beyond the Great Wall. His words could be taken as a beautiful combination of racial egalitarianism and Confucian ideals:

The emperors from ancient times all appreciated the Chinese and depreciated the barbarians. Only I view them as equal. That is why they look upon me as their parent … The Yi and Di are also just human beings … and their natures are not different from those of the Chinese. A ruler’s concern is that the beneficence of his virtue may not extend to them, and he should not suspect them because of racial differences (Chua, 2007, p. 67).

Tang pluralism is featured by a magnetism of: first, the immersion of foreigners. The Han-barbarian boundary was blurred. Foreigners were granted Chinese titles, marriage alliances, and even the royal surname. Foreign students joined civil service examinations and
became government officials. The Tang envoy to the Byzantine Empire was Persian; the Director of the Imperial Library was Japanese. The Chinese taste for exoticism permeated every social class and every part of daily life; second, tolerance in foreign religions such as Islam, Judaism, Manichaeism, Zoroastrianism, and the officially endorsed Nestorian Christianity. People worshipped freely at their own temples without the fear of persecution, but were protected by the imperial army; third, multilingualism. Aristocrats and elites spoke Han and Turkic languages; fourth, trade, foreign travels and tribute missions. The Silk Road was made safe and smooth by Tang’s military control. It brought an unprecedented influx of foreigners and exotic goods to China; fifth, military interventions by Tang forces in territories beyond East Asia. Han and foreign soldiers served together in the integrated military units. Turkic and other foreign leaders were made commanders of armies; sixth, women power. Tang females were the boldest, most open-minded, outgoing, and sporty ones in pre-modern China. Tang also witnessed the first and the only empress in Chinese history; seventh, an outward-looking yet court-centred lifestyle. The love of wild horses, polo-playing, and hunting was balanced by refined life of literature, music, and dance (Adshead, 2004, pp. 44 and viii; Chua, 2007, pp. 65-70; Ebrey, 2010, pp. 111 and 118). Drama and theatre were not the focus, though.

Tang dynasty was one of the very few exceptions in Chinese history when Buddhism (see next section) and Taoism counter-balanced the dominance of Confucian-Legalism. Taoism is featured by out-worldliness, anti-authoritarianism, restrained statecraft (wuwei 无为, aka “do nothing” or laissez-faire), and pacifism. As a philosophy of Laozi and Zhuangzi, Taoism is underpinned by strong pluralism, dynamics, fluidity, and spontaneity. This is vividly represented by a saying in Daodejing 道德经: “Highest good is like water” (VIII. 20) (上善若水). The nature of water is closest to dao not just because it is fluid, but also because it exists in numerous forms in the Nature—its diversity is in harmony with unity as matter of spiritual and physical fact. Dao in the form of yin and yang is the natural order and/or natural
law. It is inclusive, compassionate, and caring. Taoism is an element in Tang cosmopolitanism that significantly weakened Confucian-Legalism in early Tang. When Daodejing was made a compulsory subject in the civil service examinations in 678 (Adshead, 2004, p. 44), the Confucian-dominated syllabus was enriched. As a reference for contemporary IR, Taoism does not exclude liberal internationalism. Instead, it engages with it to hybridise problem-framing and problem-solving in world politics (Ling, 2014).

Modern China did not inherit much from Tang cosmopolitanism partly because starting from the tenth century, the geopolitical gravity of China gradually shifted from a “West-East” model (the Chang’an-Luoyang/Bianliang axis) to a “North-South” model (the Beijing-Nanjing axis). The outgoingness of the Chinese was replaced by introversion, passiveness, isolationism and mannerism. The centralisation of imperial power disrupted the balance of yin and yang (boldness and refinement) in the civilisation’s character. The society’s power was minimised. The individuals were silenced, with an unusual obsession with delicacy. The Chinese worldview started to shrink. Since the encroachment of absolutism in Ming dynasty (1368-1644), Confucian-Legalism prevailed and reached one of its climaxes in Chinese history. Modern Chinese politics of the ROC and the PRC has been the product of power maximisation of the ruler in the past six hundred years. Now the question is: Can the PRC break away from this six-hundred-year of imprisonment and revive the cosmopolitanness found in the pre-Qin era and Tang dynasty for the use of Chinese IR and the globalising world of today? For millennia, the Chinese civilisation has been very skilled in adopting exotic ideas and instruments by localisation. That is how the Chinese survived history. Even Marxism and Leninism are imported products. Why do global citizenship, cosmopolitanism humanitarianism, and liberal internationalism sound so threatening?
Egalitarianism in Buddhist Philosophy

It is risky to assert egalitarianism is officially a feature of Chinese Buddhism, because the Sinicisation of Buddhism inevitably involves Confucianisation. Equality and hierarchy do not go well with each other. Since Confucianism remained predominant under the protection of Legalist power, Buddhist egalitarianism in China may looked submissive in the face of the dogmatic worship of hierarchy. For effective discussion, we shall use the term “Buddhist philosophy.”

Buddhist philosophy, originated from ancient Nepal and India, is profoundly egalitarian in a way of bringing “a realization, an appreciation, of the truly ephemeral character of ourselves and all that surrounds us” (Glenn, 2014, p. 331). When a person achieves enlightenment (Nirvāṇa), s/he becomes an ego-less, extremely tolerant person who brings together the opposites (Ibid.). The “emptiness” in Buddhist philosophy contrasts greatly with the “this-worldliness” of Confucianism. Buddhist egalitarianism matches well with the concept of justice, equality, and human rights in modern political philosophy and international law. K. N. Jayatilleke (1967) argues Buddhism upholds the equality of human and equality before the law in the sense that human’s essential nature is the same whatever the individual differences due to heredity, environment, or karmic factors may be. Buddhist political theory argues equality among sovereign states derives from the equality of human. The “natural law” of karma operates with equality to all beings. It serves the best interests of society as a whole without granting special privileges or immunities to anyone (pp. 488, 507, 515 and 518).

Similarly, C. G. Weeramantry (2004), former Judge of the ICJ, argues there is a profound universalism swept through Buddha’s teaching which reinforces the fundamentals of human rights and international law. Buddhism stresses the oneness of humanity, which disregards differences of various sorts in physical appearance, race, or creed. From the Buddhist point of
view, “every individual member of the human family owed duties to every other” (pp. 18, 377 and 381). The pacifism that Siddhārtha Gautama preached is in fact a radically idealist response to the oppressive casteism in ancient India.

Buddhist philosophy is not only anthropocentric. The concept of heterogeneity is realised in the belief that not only humans are equal, but all lives in our world are equal. In Chinese Mahāyāna Buddhism, “Zhongsheng pingdeng” 众生平等 and “wu fenbiezhi” 无分别智 refers to the equality among all “youqing Zhongsheng” 有情众生 (all lives with viññāna\(^8^3\)). In this sense, the cosmopolitanness of the Buddhists is not confined to humanitarianism, but extends to animal rights and environmentalism. Equality is observed in life and death; cause and fruition; the Buddha-nature in all humans. Wangshenglunzhu 往生论注 says: “Equality is the common face of all dhārmā” (平等是诸法体相). Another authentic argument comes from Volume Nineteen, titled Juelin Pusa Ji (觉林菩萨偈) in Dafangguangfo Huayanjing 大方广佛华严经 (aka, Mahā-vaiṣṇava-buddhāvataṃsaka-sūtra):

Human’s heart/mind is like a painter. S/he thinks about what to draw. Colours are to be used according to his/her intention and desire. But such intention and desire are not real. It is delusional to perceive the paper now looks different. The white paper is still the white paper no matter what colours are added on it. The paper bears no colour; while the colours do not bear the substance of the paper. The more colours the painter covers the paper, the more difficult it is to realise the existence of the paper. The paper is the carrier of the colours. Colours will have nowhere to go if the paper disappears. They do not replace the paper but are built on the paper.

譬如工画师，分布诸彩色。虚妄取异相，大种无差别。大种中无色，色中无大种。亦不离大种，而有色可得。

\(^8^3\) “Qingshi” 情识 in Chinese. This term is not to be confused with the English word “consciousness.”
“The paper” is the Buddha-nature that all humans have. It is the foundation of the equality of human. The colours are the worldly readings of life. They create discriminative thoughts. Whether humans are equal or different depends on how we think. Egalitarianism is a matter of perception, because “everything is interpreted by the heart” (一切唯心造). Kongxing 空性 (emptiness; śūnyatā) implies there are no differences among humans. There are no such “you” and “I.” Recognition of this leads to immense empathy, tolerance, compassion, benevolence, respect of life, peace, and an infinite openness called “yuanrong” 圆融.

In Volume Twenty of Dazangjing 大藏经, it says: “When my heart determines I should become Bodhisattva to achieve emancipation, I should see all lives as equal by the same degree of compassion” (我身既成普贤菩萨，发此心时，成就无边解脱。观一切有情，自他无别，同体大悲). The Bodhisattva’s appearance in different local images indicates great flexibility, hospitality, and a kind of compassion that transcends any definition of responsibility, including negative responsibility. Buddhist compassion is not hierarchal, prioritised, biased, or pitiful, but sees the world as an interrelated organism. When we realise all lives are equal, and we feel other’s pain exactly as our pain, we will be more willing to help foreigners and aliens who suffer from injustice. Buddhist philosophy is demanding in terms of empathy.

Noticeably, with the rise of “engaged Buddhism”—coined by Thich Nhat Hanh—“Left-wing Buddhism,” and “humanistic Buddhism” (renjian fojiao 人间佛教), there has been a trend of applying Buddhist ideas in international affairs. In China, Buddhist egalitarianism and cosmopolitanism found their modern origins in the teachings of Master Taixu (1890-1947), who believes: “Universal equality, freedom, justice and love must be taught to the future generations” (Pittman, 2001, p. 192). Just like the liberal internationalist diplomats and jurists in the Republican era, Taixu called for a post-Second World War international organisation with proportional representation to foster cooperation and peace among all humans. He had a daring blueprint for international politics and law:
Within three to six months after the end of the war … a “World Congress” must be formed. Germany, Italy, and the other Axis powers must join … [The Congress] should control the military forces of all the nations and have the power of military sanction against aggressor states and those who should refuse to submit to the justice of the Congress. Its military strength should be formed by taking over arms belonging to the defeated Axis nations and those of the Allies … The Commander-in-Chief of the Congress Armed Forces should be appointed by rotation from China, the United States, Great Britain, the U.S.S.R., and five other neutrals to avoid the abusive power by any nation or individual (Ibid., p. 194; written in December 1943).

Taixu’s spirit of egalitarianism and cosmopolitanism has influenced doctrines of Buddhist Masters such as Yinshun, Cheng Yen, Sheng Yen, and Hsing Yun. While the Fourteenth Dalai Lama is internationally well-known for the advocacy of unbiased compassion to the humanity, Tzu Chi Foundation has developed itself into a non-governmental organisation (NGO) with 47 branches across five continents (as of October 2014). Regardless of religious and political ideologies, it extends humanitarian relief to over 80 countries (as of October 2014), including North Korea, Haiti, Syria, and Jordan (also assisting the Palestinians and refugees from Iraq). Tzu Chi is also the only officially registered foreign (jingwai 境外) NGO in the PRC. It has been developing a global team of volunteers by recruiting large number of local people in foreign countries.

Contrasting to Confucian-Legalism, Buddhist philosophy encourages critical thinking and independent action. It emphasises individual potentialities. It values egalitarianism, empathy, unbiased compassion, and innovation. In some areas, it sounds very close to Stoic cosmopolitanism, which emphasises simple lifestyle, self-knowledge, rationality, moral capacity, and the love of humanity. They may agree on Martha Nussbaum’s statement: “The challenge of world citizenship … is to work toward a state of things in which all of the differences will be nonhierarchically understood” (Nussbaum, 1996, p. 138).
III. Reinterpreting Classical Texts

Having discussed traces of Chinese cosmopolitanism, the next step is to reconstruct missing subtexts in the classical canons. One way for Chinese IR to develop a globalist worldview is to see China as an actor unit, but not a world unit (Table 6.2). As a matter of physical science, China is not the world; our planet is the world. Many concepts in Chinese ethnocentrism and exceptionalism can be explained by constructivist IR theory and psychology since they are all socially, culturally, and subjectively constructed. Their postulations can be easily challenged. To borrow Edmund Husserl’s method of phenomenological reduction (Einklammerung), we may argue the application of reinvented cosmopolitan hermeneutics will only be effective if we put the Confucian-Legalist interpretation in brackets. In contrast, modern West—particularly Western Europe—does not need this because the Roman Empire, the Holy Roman Empire, and the medieval Church have all gone. It is then more convenient to revisit the classics innovatively and to focus on the original ideas without too much historical, ideological, and moral burden.
### Table 7.1: Two ways of looking at contemporary IR by using the Pre-Qin resources

<table>
<thead>
<tr>
<th></th>
<th>Fundamentalist interpretation of the pre-Qin</th>
<th>Reinvented cosmopolitan interpretation of the pre-Qin</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>The meaning of “dayitong”</strong></td>
<td>The unity of the Chinese civilisation,</td>
<td>One-Worldness; common humanity; globalism; cosmopolitanism</td>
</tr>
<tr>
<td></td>
<td>nation, race, and state</td>
<td></td>
</tr>
<tr>
<td><strong>The meaning of “Tianxia”</strong></td>
<td>Vague mix between the cosmo and the Chinese empire</td>
<td>Our planet</td>
</tr>
<tr>
<td><strong>The Son of Heaven and the Zhou royalty</strong></td>
<td>The PRC and/or the Chinese civilisation</td>
<td>The UN</td>
</tr>
<tr>
<td><strong>Pre-Qin states</strong></td>
<td>All states except the PRC</td>
<td>The PRC and all other states plus non-state actors</td>
</tr>
<tr>
<td><strong>Relations among pre-Qin states</strong></td>
<td>Hierarchical in a family system</td>
<td>Equal in a multilateral system</td>
</tr>
<tr>
<td><strong>Interstate rules and regulations (li and fa)</strong></td>
<td>Largely absent now apart from the emerging “China model,” but there could be a revival of rules based on Sino-centrism</td>
<td>The UN Charter; the current international legal order and its reform, which the PRC may engage</td>
</tr>
<tr>
<td><strong>Interstate ethics (daoyi 道义; xin 信)</strong></td>
<td>Confucian-Legalism is the only authentic and moral source; paternalistic</td>
<td>Norms and principles formed by cross-cultural dialogue; negotiation and consensus; tolerance and empathy</td>
</tr>
<tr>
<td><strong>Consequence</strong></td>
<td>Bringing the globalising world back to the archaic time of the three sage kings</td>
<td>Making classical resources modern and universal; benefiting the world with something comprehensible to every human in his/her social-cultural context</td>
</tr>
<tr>
<td><strong>Approach</strong></td>
<td>Exceptionalism; ethnocentrism; statism; possibly racism</td>
<td>Global governance; global citizenship; liberal internationalism; liberal institutionalism; cosmopolitanism</td>
</tr>
</tbody>
</table>

Some classical texts, even if they are reinterpreted, are apparently not suitable for use of Chinese IR. For example: (1) the concept of “jiuzhou” 九州 (nine continents) and “sihai”
四海 (four seas)\(^{84}\); (2) the system of “五服” (five services)\(^{85}\); (3) the deterministic view of “Chinese people and all barbarians have their unique temperaments which cannot be changed” (中国戎夷，五方之民，皆有其性也，不可推移).\(^{86}\)

There are texts to be handled with care: (1) “People within four seas are to be treated as those in one family” (四海之内若一家)\(^{87}\)—“four seas” should be defined as the globe; “one family” should mean the whole humanity; (2) “all lands under the Heaven are the King’s lands; all people within the world boundary are the King’s subjects” (溥天之下、莫非王土。率土之濱、莫非王臣)\(^{88}\)—“the Heaven” should mean the globe; “the King” should refer to the UN; “subjects” should be global citizens but the dominant-subordinate relationship must be eliminated; (3) “How could the world be peaceful and safe?” “Adopt unity” (天下恶乎定？定于一)\(^{89}\)—the “unity” here should not be confused with the Chinese character “统” in Confucian-Legalism. The concept of plurality must exist alongside with unity, like in the motto of the European Union (EU): “United in diversity” (In varietate concordia); or a saying from The Discourses of the States (Guoyu 国语): “Things different but coexist in harmony may develop. Sameness does not” (夫和实生物，同则不继)\(^{91}\); (4) “In

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\(^{84}\) Yixun; Yugong, The Book of Documents (尚书・伊训; 尚书・禹贡).

\(^{85}\) Zhouguan, The Book of Documents (尚书・周官).

\(^{86}\) Wangzhi, The Book of Rites (礼记・王制).

\(^{87}\) Xunzi, IX. 16 (荀子・王制第九).

\(^{88}\) Beishan, Minor Odes of the Kingdom, The Book of Songs (诗经・小雅・北山).

\(^{89}\) Mencius, IA.6 (孟子・梁惠王章句上).

\(^{90}\) “Tong” is by nature Confucian-Legalist. It is commonly used as a verb which means “to unify.” It implies the peremptory demand for changing the many into oneness. “Tong” also connotes “to rule” and “lineage.” Note: It is possible to have diversity in unity, but not with unification that leads to uniformity.

the era when the great *Dao* is practised, *Tianxia* belongs to all the people … so people do not only love their own parents and care for their own offspring” (*大道之行也，天下为公……故人不独亲其亲，不独子其子*)—this is the spirit of global democracy. “*Tianxia*” should mean the global community. The relationship with parents and children can be interpreted as “caring for all humans as if they are our family members.”

There are also sayings that can be conveniently translated into modern liberal language. One excellent example is Mencius on animal rights and universal conscience of compassion and empathy, which he called “*ceyin*” 恻隐 (although he has not indicated how to terminate all slaughter):

> The attitude of a gentleman towards animals is this: once having seen them alive, he cannot bear to see them die, and once having heard their cry, he cannot bear to eat their flesh. That is why the gentleman keeps his distance from the kitchen (*Mencius*, IA. 7).

> 君子之于禽兽也，见其生，不忍见其死；闻其声，不忍食其肉。是以君子远庖厨也（梁惠王章句上）。

It is ironic that modern Chinese society, amid moral bankruptcy, has completely ignored the way of being gentleman as instructed by Mencius. One can hardly imagine how any human community can be truly benevolent and righteous to an “*Other*” if its members are numb in the face of cruel *modus operandi* of animal slaughter for gluttony and hedonism.

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92 Liyun, *The Book of Rites* (*礼记·礼运*).
IV. Conclusion

This chapter has reviewed some basic problems of liberal internationalism, cosmopolitanism, and the Sino-liberal Western dialogue on these topics. By highlighting plurality (against monism) and egalitarianism (against hierarchy)—two core ideas of cosmopolitanism, the chapter has investigated traces of cosmopolitanism in the Chinese civilisation. While it sounds more aggressive to assert China has a tradition of liberal internationalism, it is more legitimate to argue cosmopolitanism and liberal institutionalism—as ideologies commensurable between the East and the West—did exist in Chinese history. By adopting a new historiography, we shall see the pre-imperial and pre-modern elements in the Chinese tradition can open new perspectives of developing China’s postmodern character. Chinese cosmopolitanism, someday when it is thoroughly-discussed and systematised, will be ready to join the global debate of cosmopolitanism in IPT and international law.

If we take Chapter 6 as a heavy chapter on China’s deep structural problems, then Chapter 7 should be read as a chapter of hope. There are rich resources in classical China for the making of a metaphysical foundation of more liberal, humane, and emancipative discourses that can be applied to replace fundamentalist hermeneutics. An attempt has been made in Chapter 7.3. It is possible to construct an innovative Chinese norm or principle of humanitarian intervention and R2P that appears more acceptable than what the PRC views as “Western-imposed standards” but is still compatible with liberal internationalism (compare Figure 7.1 with Figure 5.1).
Figure 7.1: Commensurating two traditions (contributions from other traditions should not be neglected)

There are three issues we have to note, however. First, while cosmopolitan thought, cosmopolitan sources, and cosmopolitan citizens can be found in the Chinese tradition, the concept of global/world citizenship (Weltbürgerschaft) is missing. What makes the argument “The PRC is a responsible global citizen” unconvincing is that China has no tradition of citizenship and it is deeply sceptical about such very idea from the Western civilisation. Concepts related to citizenry—such as the rule of law, political participation, citizen rights and duties in the public sphere (as described in Pericles’s Funeral Oration in *The History of Peloponnesian War*), and universal suffrage—have aroused fear in the Chinese authorities and fundamentalist communities. They are also unfamiliar to the general public of the PRC. In light of this, Fred Dallmayr (2004) suggests Confucianism may contribute to the global discussion of cosmopolitanism by adopting “Five Relationships (五伦) Plus One”—the “One” being citizenship (pp. 168-169). On the positive side, we should remember citizenship can be learned and practised. Judge Wang Tieya is a good example. He worked tirelessly to temper state interests with global perspective, and to advance the importance of
international norms within the PRC. Dorothee de Sampayo Garrido-Nijgh (2002), the first female Registrar of ICTY, commended him as “Citizen of the World” (p. 238). She says:

In my view, the fact that Judge Wang is both a devoted citizen of the People’s Republic of China, who delighted in introducing foreigners such as myself to the spiritually uplifting traditions and culture of his country, and a dedicated proponent of international law and justice, thoroughly demonstrates that global and State citizenship are complementary rather than mutually exclusive concepts (Ibid., p. 241).

Second, traces of Chinese cosmopolitanism can be found in the Chinese tradition of liberalism, particularly neo-Confucianism’s discussion of metaphysical universalism (of benevolence, aka ren), human reason, individualism, liberty, justice, and the morality of fraternity. There are also modern neo-Confucians who grouped themselves as the “third force.” Zhang Junmai (1886-1969) was an advocate of human rights and social democracy; Zhang Dongsun (1886-1973) approached Confucianism by Kantianism. Thinking in global transformation, Zhang linked spiritual liberation with cosmopolitanism. He visualised a universal spirit of mutual aid and harmonious cooperation (Fung, 2010, pp. 196-198). In Taiwan, Lung Ying-tai proposes the re-evaluation of the Chinese civilisation should base on “civility” but not “civilisation.” She is one of the very few ethnic Chinese who identifies herself as a global citizen (Callahan, 2013, pp. 117-123).

Third, the CPC in the 1980s had an internal debate on humanitarianism and alienation (rendao zhuyi yu yihua wenti) 人道主义与异化问题. While the discussions were centred on the Marxist concept of alienation (Entfremdung), topics such as humanity and liberty were unavoidable. Instead of leading the discussion to an emancipative, open political theory like the one proposed by Ernst Bloch (1885-1977), hawkish elites in the CPC persecuted liberal Party members such as Zhou Yang, Wang Ruoshui, and Hu Jiwei with the Anti-Spiritual
Pollution Campaign (清除精神污染运动) and the Anti-bourgeoisie Liberalisation Movement (反对资产阶级自由化运动). The liberal voices in the CPC were extinct *de facto* with the death of Hu Yaobang; the Tian’anmen Massacre, and Zhao Ziyang’s loss of power in 1989. Confucian-Legalism continued its rule in China. Now it is still unclear what “Socialism with Chinese Characteristics” wants to do with the vacuum of humanitarianism in the Chinese politics and society. The lust for absolute power, the pride of the Han purity and the five-thousand years of civilisation, the fear of disintegration, and the revengeful memory of “a century of humiliation” are still haunting some CPC elites’ minds. For Party members who are still genuinely devoting to the ideal of socialism and communism, the following quotation is dedicated to them:

> When our European reactionaries, on their next flight through Asia, will have finally reached the Chinese Wall, the gates that lead to the seat of primeval reaction and conservatism—who knows, perhaps they will read the following inscription on the wall:

> République Chinoise

> Liberté, Égalité, Fraternité!

The authors were two Germans: Karl Marx and Friedrich Engels.93

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93 From “First International Review,” published on 31 January 1850.
CHAPTER EIGHT

Conclusion: Revisiting the Sino-liberal Western Conundrum and Classical Chinese Conceptions of the Jus ad Bellum

The reconsideration of China’s problems by placing them in the context of globalization is an urgent theoretical problem.

- Wang Hui 94

If we grow up immersed in discourses of social justice and equality, of caring and compassion, of humanitarianism and cosmopolitanism, then we are likely to perceive the world in those ways, to act accordingly, and to support and participate in corresponding social institutions.

- Michael Karlberg 95

Speaking from the perspective of liberal institutionalism, the successful implementation of international justice depends on how much power sovereign states surrender to the Confucian True King or junzi—a personified universally recognised supranational agency (such as the UN). This does not work in reality, however. By adopting orthodox doctrine of non-interventionism and neo-colonial infiltration in failed states, the PRC and the liberal West have contributed to the suffering of the weak and poor in the aftermath of mass atrocities. Where massive loss of life is concerned, it is not just a choice between state sovereignty and human rights. We can conclude that the Sino-liberal Western conceptual


95 Karlberg, 2008, p. 311.
divergence on humanitarian intervention and R2P transcends the issue of realpolitik or cultural relativism. I argue this is a matter of universal conscience.

Is it more possible to stop and prevent war crimes and genocide; or to emancipate China from the autocratic tradition of Confucian-Legalism, or to create a pluralistic, egalitarian, and hospitable world by seeking dialogue and understanding between different values, identities, and beings (forms of life)? While none of these are easy to achieve, we may first concentrate on making the PRC’s “premodern-postmodern leap” possible. Modernity is an unresolved problematique for China. On top of that, the world does not wait—it has moved on to critique on modernity’s shortcomings and is searching for something better. China’s current problem is particularly puzzling with the uncertainties in socio-political values and ideologies. Globalisation has made the double-trap of modernity and Confucian-Legalism not only a home issue for the Chinese. So long as the PRC has not cured the poverty of Chinese theory of international ethics, diplomatic deadlocks in responding to mass atrocities will still take place. Thousands of millions of people in failed states will still suffer. How to transform classical Chinese thoughts into something global—understandable, usable and localisable by non-Chinese audiences—is an imminent task for scholars of Chinese IR and general IR. The success of the PRC’s construction of normative framework depends on how well classical Chinese resources are synthesised with current global norms.

In A Problem from Hell (2002), Samantha Power argues, “The United States’ decisions to act or not to act have had a greater impact on the victims’ futures than those of any other major power … The sharpest challenge to the world of bystanders is posed by those who have refused to remain silent in the age of genocide” (pp. xx and xviii). As the PRC is expected to be on par with the US some time, we may wonder if the PRC authorities and elites will stand up and speak up honestly on the imminent problems of war crimes and genocide. This thesis does not advocate that the PRC should aggressively become
interventionist in the same way as the Blair and the Bush Doctrine did, but an engagement with and an empowerment to the ICC and the Rome Statute can definitely be read as a gesture of “wangdao.” In Western jurisprudence, it is argued not only justice has to be done; sometimes it has to be paid to be done. Instead of saying the PRC has a strong opinion on humanitarian intervention, we should argue it has no idea on the issue, because it is not mature enough to manage the art of intervention. To judge whether intervention should be taken is a matter of critical reflection on ethics and jurisprudence, not the stubborn compliance with orthodox doctrines. One will never understand the true meaning of peace without understanding the way of war. Likewise, one may not know the value of non-intervention without knowing how to intervene sensibly.

Recapitulation

Is it fair to make the PRC solely responsible for the Sino-liberal Western conceptual divergence? Will it sound more feasible to switch the research topic to “Sino-liberal Western conceptual divergence in humanitarian intervention and R2P assessed in comparison with classical Chinese conceptions of the jus ad bellum”? Perhaps it is useful to revisit the conundrum by reading Lydia H. Liu’s The Clash of Empires (2004). Liu argues: “Civilizations do not clash, but empires do … reading empire entails thinking historically about the intimate connections among language, war, international law, semiotic inventions, and the idea of foreignness” (p. 2). Liu’s investigation into the British Empire’s legal ban of the Chinese character “yi” 夷 (barbarian) in Article 51 of the Treaty of Tientsin (1858) makes us wonder if the conundrum set in this thesis in fact presents a collision of imperial will and desire continued from the nineteenth century, which features ongoing dispute on the standard of civilisation. Callahan’s argument on the struggle between Chinese exceptionalism and
American exceptionalism fits well here. Should the PRC and the liberal West keep looking at the world in this way, there will be no hope to reconcile or reduce the conceptual divergence between them. Not even realism can explain this because this is not only about survival—which underpins a legitimate cause—but the aggressive expansion of great powers’ pride and vainglory. Learning to be an ordinary, common member of the international community is never easy for great powers, especially those burdened by heavy historical memories and big egos.

Despite the very inspiring reinterpretations offered by Lo, Twiss, Chan, and Stalnaker, the latest research development of the *jus ad bellum* in classical China is still of small scale compared to long-time, heated debates in the Western just war doctrine and the Islamic *jihad*. It is not sufficient to solve the research conundrum also because of China’s overemphasis on defensive warfare and the cautious war principle. Having discussed the application of *The Chronicle of Zuo*, *Mencius*, and *Xunzi*, we may still wonder: What is interpretation? What is wrong with the current interpretations? Why should we interpret in such a way? How does it shape our worldview and ethical position? What are the political consequences? The current applications of KACIR by scholars of Tsinghua, the American, the British, and the liberal (Lo, Twiss, Chan, and Stalnaker) approaches should be able to convince us the past can definitely be used to enrich the present. Is the West more receptive to an emancipated interpretation of classical Chinese texts than the PRC does? How do non-Chinese interpretations of classical Chinese texts fit into the context of thoughts of Chinese IR?

It has become increasingly clear that the contention between Tsinghua scholars and the American-British scholars is more a battle on how to define a rising China’s active role in claiming the world leadership. However, both have to recognise our world has come to a stage, which the Western civilisation has declined to a point even many Westerners (more than the Spenglerian and Toynbeean views) hold sceptical views on it; while rising powers
like China is far too immature to take the lead. When we cross-reference Figure 1.1 of Chapter 1, we see the debate on “how classical Chinese resources should be used for contemporary Chinese IR” is held between three strands: ethnocentrism, liberalism, and authoritarianism (Figure 8.1). Confucianism has been increasingly used by the CPC as a tool to make nationalist and statist arguments. Hierarchal order is of no use to make China more global and cosmopolitan. To read *The Spring and Autumn Annals* from the view of Confucian-Legalism for Chinese IR is to bring our world back to the primitive age.

![Figure 8.1: Debating the use of Chinese classics](image)

Confucian-Legalist grand narrative of orthodoxy was the root of the imperial China’s exceptional longevity. It is also the ideological origin of the PRC’s inertia to international ethics. For the past two millennia, Confucian-Legalism has been dominating the definition of the Chinese tradition and the Chinese people’s cognitive mapping through its overwhelming power in telescoping the interpretation of classical canons. It has buried the fact that the Chinese civilisation is in fact a conglomerate of racial, cultural, religious, and intellectual
plurality. It has been the old rigid grammar of Chinese politics, but let us not forget: grammar transforms when it cannot satisfy social-political changes. The new ideological framework for Chinese IR should be based on the emancipation of hermeneutics, rather than repetition of the imperial legacy. The past should creatively inspire the future, but not imprison the future.

Gadamer’s theory of hermeneutics provides us with an effective bi-focal lens to re-examine the Chinese tradition. Gadamer also reminds us KACIR is in fact a project of hermeneutics, which requires us the qualities of sensitivity and honesty of historians, translators, and jurists. KACIR is fundamentally a work of constant tension because of the travels between different realms of cultures, languages, values, identities, and times. As Gadamer and Koskenniemi have told us, the beauty of enrichment and self-adjustment within a tradition lies in the tragic balance between the tyranny of fundamentalist restriction and the never-yielding drive to negotiate and renegotiate the boundary of exclusion. This is true to the redefinition of the Chinese tradition and the review of the current system of international politics and law. The Chinese tradition and the legal-political discourse of international relations should emancipate humans and other beings rather than imprison them.

Firmly grounded in Chinese IR, this research project could further explore some methodological issues by borrowing ideas from Comparative Literature and World Literature—where comparative studies, hermeneutics, and cosmopolitanism intersect. Chapter 4.1 has given a very brief discussion on CIPT, but there are a lot more to draw parallel to the study of KACIR and reinvented cosmopolitan hermeneutics: the use of literary archaeology with a vision of the future; the problem of “one, but unequal”; pluralist universalism in an open cosmopolitan theory; major-power cosmopolitanism as the imperial self-projection; canonisation and translatability of texts; the reader’s detached engagement with the text; the search for commensurability and minimal cores. Should we make The Chronicle of Zuo, Mencius, and Xunzi canons of world literature? If so, what standard should
we take to evaluate them? How does this affect the construction of norms and principles in Chinese IR, IPT, and international law?

*Implications*

The PRC’s non-interventionism offers an effective lens for this thesis to examine the PRC’s interactions with international ethics. The findings of this thesis are good resources for the innovation of a norm or principle that may lead to the construction of a Chinese theory of international ethics, covering humanitarian intervention and R2P. The new norm or principle may also serve as the PRC’s critique, guidelines and recommendations for a set of Chinese IR policy and behavioural standard that is better understood by the international community.

For the purpose of solving the Sino-liberal Western conundrum and developing norms and principles of international ethics in Chinese IR, classical Chinese canons—particularly *The Spring and Autumn Annals*—must be understood through reinvented cosmopolitan hermeneutics, revived natural law tradition, current global norms, and universal conscience. The construction of the grand narrative of KACIR for the use of Chinese IR is a macro project. By making humanitarian intervention and R2P as a case, this thesis has enriched the international scholarship of “using classical Chinese resources for contemporary Chinese IR” and the context of KACIR. It has suggested the first two steps and part of the third step of the four-step macro project:

Step 1: To deconstruct the current use of KACIR and fundamentalist hermeneutics.

Step 2: To reinvent cosmopolitan hermeneutics as an alternative narrative by reflecting on universal conscience.
Step 3: To hold intra-paradigm dialogues with other ideological discourses within the Chinese tradition; to hold inter-paradigm dialogues with liberal internationalism, liberal institutionalism, and cosmopolitanism(s) in the world.

Step 4: To construct a renewable grand narrative of KACIR.

Being a less value-laden version of *The Annals*, *The Chronicle of Zuo* should remain as the focus for Chinese IR theorists. Yuri Pines (2009b) rightly points out, there is an imperative to reassess the nature of *The Chronicle* and to put it “in the context of the evolution of Chinese historiography and historical thought” (p. 442). Pines expresses a support of undermining the “once fashionable, uniformly ‘Confucian’ interpretation” of *The Chronicle*. In his own words: “Perhaps the time is ripe for a broad Western-East Asian collaboration of historians, archaeologists, linguists, and literature specialists, *inter alia*, that will endeavour to attain an appreciably more accurate and comprehensive understanding of the Zuo Zhuan than has hitherto been possible” (Ibid.). I argue scholars of IR and international law should be invited to the team as well.

*Weaknesses*

As many liberal Confucians have pointed out in their dialogues with New Confucianism (*Xinrujia* 新儒家), political Confucianism (*zhengzhi ruxue* 政治儒学), and the Chinese New Left (*xinzuopai* 新左派), Confucian ideals have never been lived out fully in history. They are to be implemented in the future with reference to liberal democratic institutions and the rule of law (not the rule by law or the Schmittian “fazhi” 法治 in the CPC’s definition). On
the day it was born, Confucianism was meant to be responsive and critical to social-political problems. A reinterpretation of Confucian conceptions for the cosmopolitan use of Chinese IR must bear this in mind. In comparative politics, an excellent attempt has already been done by Kim Sungmoon. He revisits the Confucian ideals by taking the contemporary pluralistic context of East Asian societies and histories into consideration, and by rejecting the incompatibility thesis of Confucian particularism and liberal democracy. Thinking beyond thick Confucian communitarianism and meritocratic elitism, Kim argues:

Confucian democracy must be a pluralist political theory and practice … Confucian meritocratic democrats must take the theoretical and practical challenges arising from the fact of pluralism seriously or that they should clarify what they mean by “the (morally) best” in the pluralist societal context (Kim, 2014, pp.126-127).

Applying Kim’s idea to IR, choice-making by nation-states in a pluralist international society is no longer a zero-sum game between morality and self-interest, but more frequently between multiple moral goods. Liberal internationalism, Westphalianism, liberal cosmopolitanism, and the reinvented Chinese cosmopolitanism may share common grounds. Our task is to find out what these common grounds (minimal cores) are. A liberally reinterpreted, de-Legalistised Confucianism should make substantial contribution to the current debates on global democracy and cosmopolitan democracy.

*Universal conscience: Future directions*

Apart from analysing *Mencius* and *Xunzi*, Sumner B. Twiss and Jonathan K. L. Chan (2015c) also discuss Wang Yangming 王阳明 (1472-1529). They argue Wang refers wars as “punitive expeditions for the interdiction and rectification of aggression and tyranny …
[which] bears considerable resemblance to the contemporary ‘responsibility to protect’ doctrine” (pp. 153 and 173). Wang’s philosophy potentially holds an exciting dialogue with the Western understandings of conscience and natural law. Wang’s discussion on “zhi liangzhi” (致良知) refers to the rediscovery of universal principles, which are compatible to “tianli,” exist in every human being. Wang argues true understanding leads to moral action (Ebrey & Walthall, 2014, p. 239). If this is valid, could true understanding of universal conscience leads us to legal-political solutions for humanitarian crises and human right violations? Wang also argues the source of truth is not with the classical texts, but the understanding of and judgment on the classics by inborn knowledge in each of us. That said, moral laws are to be understood by every human in the same manner—to look inward with a priori reason; clearing obstacles posed by the external environment. Wang states: “If words are examined in the mind and found to be wrong, although they have come from the mouth of Confucius, I dare not accept them as correct” (Ibid.). Wang’s argument on independent thinking takes us back to Gadamer’s discussions on interpretation. It also reminds us that the Chinese conception “liangzhi” (良知), which was coined by Mencius more than two millennia ago, has remained in the Chinese tradition till the present. He Huaihong’s modern treatise Liangxinlun (On Conscience, 1994) is one of the works written by contemporary Chinese philosophers on universal conscience. All these are intellectually fascinating. Unfortunately, this thesis has no further space to elaborate; let alone Wang is not included in pre-Qin.

96 “Mencius said, ‘What a man is able to do without having to learn it is what he can truly do; what he knows without having to reflect on it is what he truly knows’” (VII A. 15). 孟子曰：「人之所不学而能者，其良能也；所不虑而知之者，其良知也」（尽心章句上）。

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One significant modern application of “liangzhi” is with Chang Pang-chun, the Vice-Chairman of the original UN Commission on Human Rights and the ROC delegate to the UDHR Drafting Committee. Chang is one of the very rare role models in history who engaged himself in the grand, constructive project of comparative ethics and law. He self-consciously tried to search conceptual and normative bridges between classical Chinese conceptions and Western ethics (Twiss, 2008, p. 63). His intervention of including the word “conscience” (“liangxin” 良心) in Article 1 of the UDHR during the negotiation of the draft with Eleanor Roosevelt indicates his wish to hold a healthy balance of Western liberal rights (derived by reason) and Confucian virtue duties in the ideal definition of “being human.”

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood (Article 1, UDHR).

In his thought and practical achievements, we see a successful marriage between classical Chinese conceptions and liberal Western norms; the Confucian li and modern international law. Chang, as well as Judge Wang Tieya, are the very few Chinese global citizens that have substantially made an impact on the formation and regulation of global norms in politics and law.

Conclusion

This thesis concludes the Sino-liberal Western conceptual divergence can be reconciled or reduced by replacing fundamentalist hermeneutics with reinvented cosmopolitan
hermeneutics in KACIR’s study of classical Chinese *jus ad bellum*. While humanitarian intervention and R2P are often regarded as issues of high politics at the UN Security Council, awareness of altruism, empathy, and even pragmatic idealism can always start on the civil society level with ordinary citizens. This is similar to Ulrich Beck’s “global individualism” suggested in “The Cosmopolitan Manifesto” (1998, pp. 28-30). Both the PRC and the liberal West should now start to transform their mentality and to think about cosmopolitanism in its plural form—cosmopolitanisms. Twenty-first-century China’s quest for emancipation and reflection on universal conscience will open up grand new horizon for the construction of a democratised cosmopolitanism for the world. If Chinese nationalism ultimately refers to a human-imagined community created by the Han Chinese, then it should also be possible to construct an imagined community of Chinese cosmopolitanism, in collaboration with the many cosmopolitanisms of the West and the rest. This is a vision to be shared with Gerard Delanty’s “critical cosmopolitanism” (Delanty, 2009). While the liberal West keeps negotiating the boundary of international political discourses and international legal personality by including more non-Western and non-human elements, the PRC should keep negotiating the definition of “Chineseness” with an open and inclusive attitude. Ci Jiwei accurately points out in *Moral China in the Age of Reform* (2014):

> Nothing is more vital for the future of China than a bracing dialectic between liberty and the good … [China] will have made a big stride for itself and, moreover, a valuable contribution to the world by adding to the moral and political plurality of the family of nations and enlarging what since the end of the Cold War has been a progressively shrinking space for the moral and political imagination (pp. 222-223).

My advice for the Han chauvinists and narrow-minded Chinese nationalists is that: If the liberal reinterpretation of classical Chinese conceptions is not made possible, the Western
civilisation—may how many Spenglerians are arguing for the decline of the West—will still dominate the global value system, because it liberates rather than imprisons human potentials and dreams. Western liberalism has never been perfect, but it is closer to the Way / the Dao compared to ethnocentric and autocratic ideologies. Last but not least, the defence and celebration of human dignity may not explain IR as much as realpolitik does, but without their presence, nations could run the risk of having disgrace and dishonour. This is, I reiterate, a matter of universal conscience. It survives on those not just good-hearted, but radically good-hearted fellows of the humankind:

If to be feelingly alive to the sufferings of my fellow-creatures is to be a fanatic, I am one of the most incurable fanatics ever permitted to be at large.

- William Wilberforce 97

Wondering in my dream whether it would be possible to build an immense house with thousands of rooms, where all who needed could take welcome shelter; a mansion as solid as a hill, not fearing wind or rain; then thinking how if only such could be, would I be content to see my poor hut demolished with I myself frozen to death.

安得广厦千万间，大庇天下寒士俱欢颜，风雨不动安如山。呜呼！何时眼前突兀见此屋，吾庐独破受冻死亦足。

- Tu Fu 98

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98 From the poem “Song of the Autumn Wind and the Straw Hut,” written by the Tang poet Tu Fu (Peng & Yang, 1960, pp. 2309-2310; Alley, 1962, pp. 112-113).
Human history is never short of eras that everyone is fear of speaking up for justice and the common good for all. Today’s China is doubly so. Amid the prevalence of egotistical materialism, hedonism, and philistinism—in exchange for honesty, independent thinking, mutual-respect, and proactive political participation—it is still possible for the Chinese population to find in themselves a *spontaneous* call of common humanity, and a call of righteousness and courage. The reinterpretation of classical Chinese conceptions must emancipate, not imprison. The CPC has liberated China from the KMT’s corrupted, terrorist rule and the brutal aggression by the Empire of Japan back seven decades ago. Now it is up to the once-revolutionary establishment to be complacent about the pathological obsession with “*zhi*” (Hobbesian order) and the paranoia of “*luan*” (Hobbesian disorder) \(^99\), or to move forward with a sensible and humane project of “*jiefang*” (emancipation, the ultimate purpose of the humanity) \(^100\) for the eudemonia of China and the world. This is the call of the twenty-first century on a great power of intellectual and material strength.

\(^{99}\) It does not mean disorder is good. The problem is with China’s inability to dissolve chaos by means other than the Hobbesian formula.

\(^{100}\) The PRC may innovate a humanist interpretation of Pavel (“Pavka”) Korchagin’s saying: “[T]he finest cause in all the world [is] the fight for the Liberation of Mankind” (Ostrovskii, 1952, p. 105). It may also consider Georg W. F. Hegel and Ernst Cassirer’s teleological arguments of history and culture: “World history is the progress of the consciousness of freedom” (Hegel, 1953, p. 24); “Human culture taken as a whole may be described as the process of man’s progressive self-liberation” (Cassirer, 1992, p. 228). Penal code and the rule of law are not only means of coercion and social contract to bring order and justice. They are education. The ultimate purpose of the law is self-discipline and autonomy; in other words, liberty. This echoes with the kind of liberally reinterpreted virtue ethics of Confucianism we discussed in Chapters 4 and 5.
Both the PRC regime and the Chinese public must understand that the reconstruction of discourses in international ethics is not a competition. Moral values and deeds are good and precious for their own sake. Integrity will be jeopardised if those values and deeds only exist for the promotion of international reputation and the reward of national interest. The prosperity of a nation’s integrity and character does not, and should not, come into conflict with the search of the total welfare of the humankind. Only then, the diffusion of happiness amongst thousands of millions now in existence and those still unborn will be shared by China, the West, and all the rest. Some of the minimal cores shared by the whole humanity are already known: health, laughter, love, the Mother Nature, freedom, to name a few. For fellow humans who have been suffering from mass atrocities, as well as those who have been tortured by the tyranny of fundamentalist Confucian-Legalism, it is this thesis’s sceptical optimist wish that someday they will be able to spend their days in well-being and to lead reasonable lives. In order to be good idealists, we must go through the mill of realpolitik first.

101 Borrowed from the monumental modern Chinese writer Lu Xun’s line written in 1919: “Xìngfú de duri, heli de zuoren” (幸福的度日，合理的做人) (Lu, 2005, p. 135).
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