
International Institutions as Forms and Fora: Rao Geping and the Law of International Organizations in China

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Abstract

This article examines the emergence and development in China of the discipline of international organizations law by specifically focusing on the scholarship of Professor Rao Geping, a founding figure of the discipline. Rao's writings are read in light of his personal life and professional career as well as China's economic and social reforms and its foreign policy. A communitarian, cooperative and legal approach to international organizations emerged as Rao's choice. International organizations are seen mostly as fora for interstate deliberations and negotiations and are approached mainly from their procedural aspect and channelling function. What has been highlighted is a facilitative, procedural and instrumental conception of international organizations rather than an autonomous, functional or regulatory one. Rao advocates an inclusive approach to international organizations, which tends to include flexible, informal frameworks into the ambit of the study of international organizations. In constructing institutions as forms and fora, Rao's writings effectively play a double role, translating the liberal, progressive ideas of international organizations into domestic international legal studies and facilitating China's continuous economic reform and political integration into the international system. Rao's scholarship presents an instructive example of how a scholar from a semi-periphery country may navigate various tensions and paradoxes behind universal concepts and negotiate their concept of international organizations.

1 Introduction

It is impossible to study the law of international organizations in China without referring to Rao Geping (饶戈平, born 1948),¹ just as one can hardly imagine the discipline

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¹ Note on the style of reference to Chinese names and materials: in the case of Chinese names, the transcriptions are used, when needed, in company with Chinese characters, while, in the case of books and articles, the original Chinese characters of the titles are given together with English translations without transcription.

in Europe without thinking of Henry Schermers.² Rao, now emeritus professor of international law at the Peking University Law School, played a key role together with Professor Liang Xi (梁西, 1924–2020) in founding the discipline of the law of international organizations in China. As Rao's work noticeably features an orientation towards theorization of international organizations, the intellectual landscape, academic style and aesthetics of the discipline in China have been considerably shaped by Rao's scholarship. While Rao is well informed by the works of American and European counterparts, his writings are produced almost exclusively in Chinese and, consequently, remain unknown to the Western world. This article aims to bring some of Rao's thinking to light in response to the welcome call of the symposium for 'a greater diversity of voices and theoretical perspectives'.³ Rao's work, albeit less known in the Western academia due to language barriers, has functioned as an important building block within a more comprehensive transversal process. Therefore, this article seeks to enlist and embed Rao's work in the broad web of international organizations law scholarship at the global level.

The article also suggests that Rao's work, which in no sense represents an official position of China, may nevertheless provide a relevant perspective to understand the approach of China's gradual integration into the international system since the 1970s. Rao's scholarship on international organizations spans from 1991 to 2016. This was a unique historical period during which China was on a steady ascent in a relatively stable international environment, coupled with unprecedented domestic economic growth. Rao's scholarship on international organizations will be contextualized historically, socially and personally while aiming to gain an increased understanding of China's interaction with the international system.

In addition, Rao Geping's work presents a useful lesson and offers a case study of how a scholar coming from a semi-peripheral country during a period of tumultuous change might develop knowledge of international organizations through international networks, make sense of international legal concepts and institutions in the local social-historical context and negotiate adaptive conceptions of international organizations.⁴ Of course, Rao's scholarship did not operate in a vacuum, and it has important precursors in Zhou Gengsheng (周鲠生),⁵ Wang Tieya (王铁

² On the role of Henry Schermers in the second wave of international organizations law scholarship in Europe, see Klabbers, 'The Life and Times of the Law of International Organizations', 70 *Nordic Journal of International Law (NJIL)* (2001) 287, at 301–302.

³ Hovell, Klabbers and Fiti Sinclair, 'Re-Theorizing International Organizations Law: A Call for Reconsiderations, Hidden Gems, and New Perspectives' (23 September 2020), available at <https://www.ejiltalk.org/re-theorizing-international-organizations-law-a-call-for-reconsiderations-hidden-gems-and-new-perspectives>.

⁴ Compare A.B. Lorca, *Mestizo International Law: A Global Intellectual History 1842–1933* (2015).

⁵ Zhou Gengsheng, recognized as 'the dean of China's international law community', wrote extensively on the League of Nations along with his important contributions to other aspects of international law. Wang, 'Grotius' Work in China', in A. Instituut (ed.), *International Law and the Grotian Heritage* (1985) 265, at 268. See Bu, 'An Account of Zhou Gengsheng's Thoughts on International Law' (周鲠生国际法思想评述), 12 *Wuhan University International Law Review* (武大国际法评论) (2010) 361.

崖),⁶ the aforementioned Liang Xi and a few others. The purpose of this article is not to celebrate Rao's achievement or praise his scholarship, though fully deserved. Instead, the article probes the tension and interplay between embedded Eurocentrism when adopting international legal concepts and theories and the craving for an endogenous voice. Rao's scholarship represents an interesting story of how various choices were constantly made to conceptualize international organizations, highlighting the intellectual space of adaptation and reinvention in receiving seemingly universal concepts.

Last but not least, the article aims to address substantively the debate over the concept of international organizations. The conceptualization of international organizations and international organizations law has been central to Rao's construction of the discipline and continues to be central in his writings.⁷ His singling out of cooperation as the most definitive element for international organizations, which allows for a broad, inclusive reading of international organizations, is distinct. His emphasis on cooperation, sometimes almost excessively so, captures an ethos of his time that viewed the international system as peaceful and cooperative rather than contested, hostile or militarized. Yet Rao also confines the form of cooperation largely to the interstate domain, interpreting international organizations primarily as fora rather than as enforcers. Rao's search for a systemic and scientific concept of international organizations reveals his commitment to a communitarian, progressive and state-centred world order. An examination of the choices made by Rao uncovers various possibilities and limits that accompany his conception of international organizations.

It will be helpful to explicate briefly the methodologies employed in this article. First, in exploring Rao's idea of international organizations, the article relates and compares Rao's scholarship with his American and European counterparts from whom he received intellectual input and inspiration. Nevertheless, a comparative exercise as such bears the risk of overstating the particularity of Rao's scholarship in contrast to his American and European counterparts as well as of understating the commonalities between them. Second, the article seeks a social-historical interpretation of Rao's scholarship. Rao's writings are reflected against the background of his personal life and professional trajectory as well as the broad economic and social process of China's opening-up to globalization. The attitudes and practices of the Chinese government are occasionally referred to when they can usefully explain Rao's academic ideas or vice versa. This style might generate an unjustified impression that Rao's opinions parallel or reiterate governmental positions, leaving differences unexplained. Yet Rao's academic opinions are not to be conflated with any official positions of the government of

⁶ Wang Tiejia is probably the most well-known Chinese international law professor and practitioner in the West. His lecture delivered at the Hague Academy of International Law in 1989 remains a classic exposition of Chinese views on international law. See Wang, 'International Law in China: Historical and Contemporary Perspectives', 221 *Recueil des Cours (RdC)* (1990) 195.

⁷ The density and sophistication of Rao Geping's scholarship as well as his extensive discussions on the conceptualization of international organizations render Rao a more relevant figure than Liang Xi to scrutinize for the purpose of the current symposium that aims for a retheorizing of international organizations law.

China. Third, this article does not presuppose or aim to present a general or uniform Chinese academic approach to international organizations, despite Rao being a representative figure. The article limits itself to the elaboration of Rao's personal ideas on international organizations. In doing so, the author presents his own interpretation of Rao's ideas and academic life. Of course, notwithstanding the effort to faithfully present Rao's scholarship, some misinterpretation or over-interpretation may have occurred. Fourth, the article offers a detailed biographical sketch of Rao Geping through information largely gathered from personal interviews. The biography is presented in an anthropological style with many carefully documented details. These details, perceived as social-historical conditions and circumstances that incentivize and constrain Rao's scholarship, have been accounted for purposefully. Much information is extracted from three interviews with Rao, conducted before, and independent of, this article's preparation by a group of students interested in the institutional history of international law teaching at Peking University. This article thus publicizes certain internal and local knowledge gained on the ground, laying a foundation for further research in the future.

Section 2 of the article begins with an exposition of Rao's personal and academic life, which has a considerable bearing on his scholarship in terms of orientation, style and ideas. The inception of the discipline of international organizations law in China is examined in section 3 by focusing on two textbooks, one written by Liang Xi and another by Rao Geping, both of whom were professors of international law at Peking University Law School. Then, section 4 turns to a substantive examination of Rao's concept of international organizations. Inspired by a communitarian perspective and an instrumental perspective, Rao's own approach was heavily influenced by a liberal faith in international organizations. He made endeavours to develop an inclusive concept of international organizations that was more receptive towards informal institutions, networks and arrangements. This fostered an institutionalist turn in his conceptualization of international organizations in the early 2000s, which is examined in section 5. The institutionalist move was accompanied by restrained support of functionalism. International organizations were approached mostly through their procedural and channelling functions, considered in section 6. The article concludes in section 7 with some reflections on Rao's possible intellectual legacies. The various tensions and paradoxes uncovered in Rao's scholarship provide useful parameters for international lawyers from the global South interested in constructing their own concepts of international organizations.

2 Rao's Life and Scholarship: A Biography

Rao Geping's scholarship on the law of international organizations must be studied against his life's trajectory and social context. Rao's life story tells the origins of his knowledge of the law of international organizations and explains the intellectual spectrum and orientation of his scholarship. In addition, his biography opens a perspective to understand the development of international legal scholarship in post-reform China. The following biography is built on extensive interviews and published

materials.⁸ A short biographical account provided by two former students of Rao is also available elsewhere in Chinese.⁹

Rao Geping was born in 1948 in a small township in Yuanjiang City, Hunan Province. He was the oldest son of the family, with three younger brothers. He spent his childhood in a village with his mother, who worked as a Chinese-language teacher in the village primary school. His father, Rao Xinxian (饶鑫贤), who later became a leading professor in Chinese legal history at Peking University Law School, was then working as a judicial fellow in a court at Nanjing City, Jiangsu Province. When the Peking University's Faculty of Law was reorganized in 1956, his father was appointed to a teaching position there. The family moved to Beijing in 1959. From 1960 to 1966, Rao studied at the Affiliated High School of Peking University for middle and high school. He lived there as a boarding student during his high school years. The years of secondary education left important imprints on Rao. He was able to learn the English language to a relatively advanced level,¹⁰ from which his future study and academic life would benefit tremendously. His interest in international affairs and history was awakened, cultivated and encouraged. Equally important, this was a formative period for his distinct and elegant writing style in the Chinese language.

In July 1966, Rao finished high school in Beijing with an excellent study record. However, in June of that year, the Cultural Revolution had started in China, and, as the first casualty of the radical leftist policy, the national examination for college entrance was abolished. As a result of the breakdown of economic life in cities, Rao had no possibility of finding a job, and so he stayed in high school for another two years. In June 1968, Rao was sent to work on a remote agricultural collective in Heilongjiang Province, named Suibin Farm. The farm was situated to the very northeast of China, more than 1,700 kilometres from Beijing and only 15 kilometres from the Chinese-Russian border. Roughly 8,000–9,000 workers were occupied on the farm, of whom about two-thirds were 'sent-down' youth.¹¹ Rao brought with him to the farm all the

⁸ Three interviews with Rao Geping on the teaching of international law at Peking University as well as his personal and academic life were conducted between June and December 2019 by a group of master and doctoral students from Peking University's Institute of International Law – Xu Jinyang, Zhang Maoli, Shen Han, Shen Jie, Xia Dingmin, Yang Zurui and Liu Ji – whom the author gives thanks for sharing the transcripts. The interviews were carried out in the framework of an ongoing student-initiated project, started in 2017, on the institutional history of the international law discipline at Peking University, independent of, and prior to, the preparation of this article. A more recent supplementary interview was conducted by the current author in October 2021 in the course of writing this article.

⁹ See Huang and Chen, 'Our Mentor: Professor Rao Geping' (吾师饶戈平教授), in Y. Huang, W. Chen and Z. Li (eds), *Weiming Feihong: Festschrift in Honour of Professor Rao Geping's 40th Anniversary of Teaching* (未名飞鸿: 饶戈平教授从教四十周年纪念文集) (2018) 1.

¹⁰ Rao, 'In Memory of My Father's Teaching on Me' (回忆父亲对我的教诲), in Y. Huang, Z. Huang and T. Shuai (eds), *Qu Shui Ji: Festschrift in Memory of Professor Rao Xinxian* (渠水集: 纪念饶鑫贤教授法学文集) (2004) 353.

¹¹ At the end of 1966, the movement called Down to the Countryside (Xia Xiang) was launched to deal with the issue of the unemployment of urban youth. Millions of school graduates in cities were sent to rural areas to participate in agricultural production. It is estimated that, altogether, 17 million youths in China were sent down until the policy was abrogated in 1980.

textbooks of his secondary school, together with an English–Chinese dictionary that his father had given him.¹²

Rao worked on the farm for 10 years, the first six years as a farmworker, the next two years as a middle school teacher and another two years as a local university teacher. In 1975, Rao was chosen to attend a training course on political economy in the Heilongjiang Bayi Agricultural University for four months. Owing to their outstanding performances, Rao and four other trainees were chosen to be faculty members at the university. At the beginning of 1976, Rao, holding only a high school certificate, became a teacher in the teaching and research department on Marxism–Leninism. Rao had always wanted to attend an appropriate higher education institute despite already being a university teacher. In 1977, Rao married his wife, Ding Qiyu (丁其玉), a ‘sent-down’ youth from Shanghai.

Only in March 1978 could Rao leave the farm to resume his college study. The national college entrance examination was reinstated in the winter of 1977 after a suspension of 11 years. The country’s political situation began to normalize, and pilot economic reforms started to take off. Rao had no hesitation in taking the examination, and his score ranked the highest in the Heilongjiang Province. Yet since his father was labelled as a rightist, like the majority of the Peking University’s law faculty members at that time,¹³ Rao could not be admitted to any of the leading universities despite his performance in the examination. Being a student from Heilongjiang, Rao was allowed to apply to provincial universities. He was eventually admitted to Heilongjiang University to study philosophy. Rao nevertheless made his way to Peking University in September 1979. Rao did not like the study of philosophy to which he was assigned. At that time, the teaching of Marxist philosophy at a provincial university was highly mechanical. However, unexpectedly, the Ministry of Education announced that students of the 1977 class were allowed to apply for the master’s programme without completing their undergraduate studies. Rao worked hard on the examination and eventually became a student of Wang Tieya at the Peking University Law School, studying the history of diplomatic relations.

Rao’s academic career formally started in 1982 as a teacher of Chinese diplomatic history at Peking University Law School. During his master studies, Rao had been attracted to the field of China’s diplomatic history and wrote on the diplomatic policy of the Wuhan government (1926–1927) for his graduation thesis. After his graduation and employment at Peking University Law School, Rao visited the University of Washington in Seattle from September 1984 to November 1985 under a sponsorship funded by the Ford Foundation through the US–China Committee on Legal Education Exchange with China. He widely consulted the archives and literature available in the Tateuchi East Asia Library at the University of Washington and the Hoover Institution at Stanford University to augment his study of the diplomacy of the Republican government.

¹² Rao, *supra* note 10, at 353–360.

¹³ The mistaken treatment of Rao’s father was only rectified in May 1978.

In 1989, Rao was assigned by the international law department to teach a course on international organizations. This offered him an opportunity to decisively develop and transition from a historian to an international lawyer. The departure of Liang Xi in 1983 created a vacancy at Peking University in the teaching of international organizations, and the course on international organizations was taught by several different adjunct professors from 1983 to 1989. Eventually, at the suggestion of Professor Wei Min (魏敏), the teaching of the course fell to Rao. When Rao was going to move from diplomatic history to international organizations, Wang Tieya gave him much encouragement.¹⁴ Wang was fully aware of the importance of international organizations to the study of international law. Much earlier in a lecture addressed to the inaugural meeting of the Chinese Society of International Law in 1980, Wang already listed the expansion of international organizations, together with the rise of newly independent states, the quest for a new international economic order and the rapid development of technology, as the four most salient developments of international law at that time. Wang acknowledged that international organizations law had become an important branch of modern international law.¹⁵ In an article entitled 'The United Nations and International Law', which appeared in the *Chinese Yearbook of International Law* of 1986, Wang further explored the influence of the UN Charter, resolutions and conventions on the development of international law.¹⁶ And, indeed, Wang wrote a four-page preface, dated 5 September 1994, to Rao's textbook commending the book for filling the vacuum in general studies of international organizations law in Chinese scholarship.¹⁷ Wang's presentation of the rise of international organizations as an irresistible, objective trend of progressive development in international relations as well as his appreciation of the affinitive relationship between international organizations and international law would find their echoes in Rao's writings.

His academic visit to the New York University's School of Law from January 1991 to August 1992 was instrumental in Rao's development of expertise in the law of international organizations. During his visit, he attended Thomas Franck's course on the constitutional law of the United Nations (UN) and Jerome Cohen's course on transnational law as well as some other courses. For the first time, Rao was able to access a broad range of English-language books in the fields of international law and international organizations. He visited the codification division of the UN Secretariat from February to April 1992, with the help of Roy S.K. Lee, then the head of the codification division. Rao even made a presentation at New York University on the reform of the UN General Assembly,

¹⁴ Wang Tieya taught both international relations and international law at Peking University and was appointed dean of the Department of Political Science in 1947. Upon the restoration of international law education in 1979, Wang insisted on the inclusion of the teaching of diplomatic histories as part of the international law curriculum. Under Wang's supervision, Rao studied the modern diplomatic history of China instead of international law.

¹⁵ Wang, 'The Contemporary Development of International Law' (国际法当今的动向), 16(2) *Peking University Journal* (北京大学学报) (1980) 17.

¹⁶ Wang, 'United Nations and International Law' (联合国与国际法), 5 *Chinese Yearbook of International Law* (中国国际法年刊) (1986) 3.

¹⁷ G. Rao (ed.), *The Law of International Organizations* (国际组织法), preface by Wang Tieya (1996), at 4.

the main content of which appeared in the *Peking University Law Journal* published at the end of 1991, marking Rao's first publication in the field of international organizations.¹⁸ Another important channel for his knowledge of international organizations came from Rao's short visits to Germany – in particular, to the Max Planck Institute for Comparative Public Law and International Law in Heidelberg in 1999, 2004 and 2006. The extensive collections of international law literature in the institute's library exposed Rao widely to European scholarship as well as to documentary sources on international organizations.¹⁹

In 1998, Rao was appointed as the director of Peking University's Institute of International Law, a position he held until 2012. Rao also played an important role in promoting the study and research of international law in China. Between 2000 and 2013, moreover, Rao served as the executive vice president of the Chinese Society of International Law. In 2018, at the age of 70, Rao retired from the Peking University Law School. Rao's life path personifies and extends through many historic incidents of contemporary China – from the Cultural Revolution and the countryside movement to the economic reform and opening up, the normalization of the diplomatic relations between China and the USA and the restoration of the People's Republic's seat at the United Nations and China's accession to the World Trade Organization and speedy integration into the international system. He had to expend, though not entirely waste, his best 12 years from his high school graduation at the age of 18 until his admission to university education at the age of 30. He made it through those difficulties and successfully transformed himself from a farmworker and local high school teacher to a university professor and researcher of international stature. With those personal experiences as a background, Rao came to support a rule-of-law state and advocate for an open, progressive and internationalized approach to the international system.

An in-depth examination of Rao's life and academic trajectory provides useful perspectives on his attitude towards international organizations, partly explaining why Rao has not taken the class struggle approach to international organizations.²⁰ On the one hand, international organizations as an academic discipline is influenced by its professional tradition. The classic works of Karl Marx say very little about international organizations (they hardly existed when Marx was writing), and a Marxist theory of international organizations in Chinese academia was simply non-existent in the 1980s. On the other hand, the social chaos and economic breakdown during the Cultural Revolution made people vigilant towards radical leftist theories. International organizations would do better by facilitating cooperation than by channelling conflicts. China's reform and opening-up policy since the late 1970s has not only prompted de-ideologization in international diplomacy and social policy but also opened political and intellectual space for introducing Western scholarship.

¹⁸ Rao, 'Selected Issues in the Debate on the Reform of the UN General Assembly' (联合国大会改革议论中的几个问题), 3(6) *Peking University Law Journal* (中外法学) (1991) 30.

¹⁹ Owing to his positive experience with the institute, Rao sent two doctoral candidates – E. Xiaomei and Chen Xiaohua, respectively in 2003 and 2005 – to work with Ulrich Beyerlin for joint doctoral training.

²⁰ For a class struggle and a North–South struggle approach to international organizations, see Chimni, 'International Institutions Today: An Imperial Global State in the Making', 15 *European Journal of International Law* (EJIL) (2014) 1.

Rao's perspective on international organizations is based additionally on the understanding of China being a developing country situated at the periphery of the existing international system.²¹ The role that Rao set for China is as an evolutionary, rather than a revolutionary, power in its economic and political ascendance. China needs to develop its economy and pursue international cooperation. The normalization of China's diplomatic relations with the USA became an important moment for China's integration into the existing political and economic system. Rao himself directly benefited from the academic collaboration programme between the two countries that started in the mid-1980s. If the discipline of international relations focuses on the struggle for power by and between states, then the discipline of international organizations, for Rao, offers the possibility of transcending differences and institutionalizing cooperation. Rao is deeply an internationalist. For him, it is the faith in international cooperation and trust in solidarity that anchors the relevance of international organizations for China.

3 The Birth of the Discipline in China: A Tale of Two Textbooks

The visit to China by Richard Nixon, the 37th president of the USA, on 21–28 February 1972 was a major political event in the 20th century. It led to the normalization of the Sino-American diplomatic relationship, profoundly reshaped the global geopolitics of the Cold War period and decidedly ended China's isolation from the world economy.²² Retrospectively examined, the visit contributed to an unexpected, but important, intellectual pulse as it sowed the seeds for the study of international organizations in China. A quasi-official translation group was established at the Peking University Law School under the direct guidance of the Ministry of Foreign Affairs after the secret visit to Beijing in July 1971 of the then US national security adviser Henry Kissinger. The group was mandated to translate into Chinese selected materials related to American foreign policy and the UN in order to prepare the Chinese government for the possible visit of Richard Nixon. A considerable number of materials were translated from English to Chinese, and some were published.²³ The translation work

²¹ See Rao, 'International Organizations in the Process of Globalization' (全球化进程中的国际组织), 6 *Chinese Law Journal* (中国法学) (2001) 126, at 135.

²² See generally W.C. Kirby, R.S. Ross and G. Li (eds), *Normalization of U.S.–China Relations: An International History* (2005).

²³ A major bulk of the published translations relate to American and British leaders and their foreign policies. The list includes R. Nixon, *Six Crises* (1962); E. Heath, *Old World, New Horizons: Britain, Europe, and the Atlantic Alliance* (1970); L. Wheeler, *Jimmy Who? An Examination of Presidential Candidate Jimmy Carter: the Man, His Career, His Stands on the Issues* (1976). The other strand of publications focuses on the activities of the United Nations (UN), including United Nations Department of Political and Security Council Affairs, *The United Nations and Disarmament 1945–1970* (1970); United Nations Office of Public Information, *Everyman's United Nations: A Complete Handbook of the Activities and Evolution of the United Nations during Its First 20 Years, 1945–1965* (1968); and United Nations Department of Public Information, *Everyman's United Nations: A Summary of the Activities of the United Nations during the Five-year Period 1966–1970* (1971).

operated actively from 1971 to 1978 in Building no. 60 of the Yannanyuan at Peking University and was shielded from various political movements on campus.

The translation group turned out to be of paramount importance for the teaching and research of international law in the post-reform era of China. Four of the seven members were international lawyers – namely, Wang Tiewa, Zhao Lihai (赵理海), Rui Mu (芮沐) and Liang Xi.²⁴ Wang Tiewa founded the Peking University's Institute of International Law in 1983 and was elected as a judge to the International Criminal Tribunal for the former Yugoslavia in 1997. Zhao Lihai served as a judge at the International Tribunal for the Law of the Sea from 1996 to 2000. Rui Mu, a founding father of the discipline of international economic law in China, established the Institute of Economic Law in 1980 and the Institute of International Economic Law in 1984 at Peking University. Liang Xi, a lecturer at that time, would become one of the founding people in the field of the law of international organizations.²⁵

It is fair to say that the discipline of the law of international organizations in China, and the study of international organizations in general, was founded by two professors of international law at Peking University Law School – namely, Liang and Rao – during the 1980s and 1990s. Liang Xi started to teach the course on 'international organizations' at Peking University Law School in the late 1970s as soon as he was allowed to resume teaching after the Cultural Revolution. Liang's 'international organizations' was the earliest specialized course on international organizations in China. Based on the knowledge and materials gained from the translation experience, Liang started to write and compile his teaching notes, which would eventually become his textbook published in 1984 entitled *Modern International Organizations*,²⁶ the first Chinese textbook on the subject. The book comprises five sections – including, respectively, the introduction, League of Nations, United Nations, regional organizations and specialized agencies.

A major part of the book is devoted to the UN, comprising 142 pages out of 263. This part gives an accurate account of different UN organs and their respective powers and procedures, but it is not to be seen as a comprehensive study of international organizations law. In terms of its general structure, the book drew from Derek Bowett's 1963 book *Law of International Institutions*,²⁷ which was noted in the

²⁴ Most of the group's members were accused of being rightists during the Cultural Revolution and were sent out to do manual labour on farms. While teaching was not allowed for those rightists, they were considered fit for the translation work due to their linguistic ability.

²⁵ Having done much of the translation work related to the UN, Liang was naturally attracted to the field. See X. Liang, *Five Lectures by Liang Xi on International Law and International Organizations* (梁西论国际法与国际组织五讲) (2018), at 327–331.

²⁶ X. Liang, *Modern International Organizations* (现代国际组织) (1984).

²⁷ D.W. Bowett, *Law of International Institutions* (1963). Liang referred to its third edition published in 1975. Bowett was elected to the Institut de Droit International (IDI) in 1981 and served as a member of the International Law Commission from 1992 to 1996. On IDI membership, see Macalister-Smith, 'Who Was Who in the Institut de Droit International 1873–2001', 8 *Jus Gentium: Journal of International Legal History* (2023) 303.

bibliography.²⁸ A second edition of this textbook, published in 1993, was renamed *Law of International Organizations*.²⁹ The latest, seventh edition of the book was published in 2022, co-authored by a former student, Yang Zewei (杨泽伟) of Wuhan University. While the book has been updated and substantially expanded, the general structure remains largely along the same lines as its first edition. Liang worked at Peking University from 1953 to 1982 and was promoted to associate professor in the early 1980s. In 1983, Liang, at the age of 59, left for Wuhan University, where he was immediately promoted to full professor. Liang taught international law and international organizations until the early 2000s at Wuhan University, where he trained many prominent international law scholars and practitioners. Liang is a well-recognized pioneer in international organizations law in China.

Meanwhile, the idea of writing a Chinese textbook of international organizations law had been conceived by Rao Geping during his stay at New York University from 1991 to 1992, after being exposed to many English-language works. As recollected by Rao, the book *International Institutional Law* by Henry G. Schermers was the most inspiring among his near sources, as it offered a general study of the law of international organizations. Instead of focusing on the law and practice of the UN, Schermers' book identifies and addresses common problems of international organizations by compiling extensive practices of international organizations. Schermers' generalized approach enables broad coverage of different international organizations. Those reflections laid the foundation for the new Chinese textbook to be produced by Rao himself. The preparation of a detailed outline dated back to his time at New York University. Upon his return to China from the USA in 1992, Rao started to work on the writing of his textbook. In 1993, Rao was appointed by Wang Tiewa as the deputy director of Peking University's Institute of International Law. The assumption of various administrative responsibilities prevented Rao from focusing on writing. To avoid further delay, Rao decided to turn the textbook into a collective project. While he designed the outline and structure of the book and collected the research materials, four academic collaborators, including three recruited from the Foreign Ministry of China, were assigned to write individual chapters.³⁰ Rao himself wrote the remainder

²⁸ In the fourth edition published in 1998, Liang elucidated four different ways to arrange the law of international organizations. His own choice of textbook structure remained unchanged by focusing on the UN, specialized agencies and regional organizations, but he added a general consideration of the subject in the concluding chapter of the textbook. In explaining his choice, Liang pointed to the under-development and imperfectness of the law of international organizations, which, in his view, justified an approach focusing primarily on individual organizations. See X. Liang, *Law of International Organizations* (国际组织法) (4th edn, 1998), at 12–15.

²⁹ X. Liang, *Law of International Organizations* (国际组织法) (2nd edn, 1993).

³⁰ Liu Daqun (刘大群), then deputy director-general of the treaty and law division, who was later elected to be a judge of the International Criminal Tribunal for the former Yugoslavia and is currently a judge of the International Residual Mechanism for Criminal Tribunals, contributed a chapter on privileges and immunities of international organizations independently and another chapter on the legal status of international organizations, together with his colleague Shen Yongxiang (沈永祥). Liu Xinsheng (刘昕生), later appointed as the Chinese ambassador to Tanzania and then to Cyprus, also contributed two chapters, respectively, on structure and functions and on the expenditure and budget of international organizations. Yang Lijun (杨力军), professor of international law at the Chinese Academy of Social Sciences and the spouse of Liu Daqun, wrote a chapter on the participants of international organizations.

and contributed more than half of the book, and he also took on the responsibility for editing and finalizing the manuscript. The manuscript was eventually completed in the summer of 1994, and the book came out in 1996.

Rao's textbook exhibits several distinct features. First, it deals with general issues of international organizations law in a comprehensive manner.³¹ In a way, the influence of Schermers is visible from the orientation and structure of Rao's book: a comparative exercise in distilling common institutional issues across different international organizations. The law and practice of the UN are discussed in connection with general issues and dispersed in different parts of the textbook. This makes Rao's textbook different from the one written by Liang in terms of approach, focus and structure. Second, and probably most importantly, the textbook is theoretically orientated. Notwithstanding the technical treatment of the various institutional issues in subsequent chapters, Rao authored a rather substantive introductory chapter of 58 pages. This chapter starts with a detailed account of various functions that intergovernmental organizations may exercise.³² It also goes deeply into a conceptual discussion of international organizations and international organizations law.³³ Efforts to generalize and systemize the research field are discernible. Third, Rao searched for a legal approach to international organizations.³⁴ The textbook focuses on constructing doctrines and rules rather than merely registering practice. Fourth, the textbook is internationally and academically informed. In addition to 21 Chinese books, more than 120 books on international law and international organizations in English are found in the bibliography, constituting the knowledge pool for Rao's scholarship on international organizations.³⁵

Rao's textbook quickly became a highly influential and authoritative Chinese source in the field. In addition to the recognized quality of Rao's scholarship, this success may be attributed partly to the scarcity of textbooks and qualified research in the field in Chinese scholarship. On the one hand, in the circle of international law, no other textbooks of international organizations law with equivalent academic standing have ever been produced alongside Liang's and Rao's textbooks.³⁶ Rao's and

³¹ Rao, *supra* note 17. The textbook comprises nine chapters, respectively 'Introduction', 'Participants in International Organizations', 'Legal Status of International Organizations', 'Constitutional Structure and Functions of International Organizations', 'Procedural Rules of International Organizations', 'Privileges and Immunities of International Organizations', 'Legal Order of International Organizations', 'Settlement of Disputes within International Organizations' and 'Expenditures and Budget of International Organizations'.

³² *Ibid.*, at 1–10.

³³ *Ibid.*, at 10–21.

³⁴ The concept of law in the law of international organizations is an issue that Rao would constantly revisit. For the latest reflections by Rao Geping, see Rao, 'Essentials of the Law of International Organizations: Some Reflections on the Ontology, Object, and Scope of the Discipline' (本体、对象与范围——国际组织法学科基本问题之探讨), 3(1) *Chinese Review of International Law (CRIL)* (2016) 62, at 68–72; see also Rao, 'Moving Out of Mystery: What Is the Law of International Organizations?' (走出国际组织法的迷思: 试论何谓国际组织法), 53(6) *Peking University Journal* (北京大学学报) (2016) 47.

³⁵ Rao, *supra* note 17, at 343–352.

³⁶ Few Chinese textbooks by others have been published on the subject. A textbook by Ge Yongping (葛勇平) from Hehai University, first published in 2018 and updated in 2020, is a noticeable development. Y. Ge, *The Law of International Organizations* (国际组织法) (2nd edn, 2020).

Liang's textbooks remain the classic references for students of international law in China to this day. Notably, Chinese scholars of international relations were only able to produce their first general textbook in 2001,³⁷ a belated move considering the restoration of the discipline of international relations in China that occurred as early as 1978.³⁸ Despite the wide publication of textbooks by scholars of international relations in recent years,³⁹ a widely recognized, influential Chinese textbook on international organizations in this discipline has yet to emerge.⁴⁰ In addition to *The Law of International Organizations*, Rao edited two collected volumes, entitled *International Organizations in the Process of Globalization* in 2005⁴¹ and *International Organizations and the Development of Implementation of International Law* in 2013.⁴² He also authored influential articles in leading journals. He wrote extensively on the concept of international organizations law, implied powers, functions of international organizations and some other core issues of the discipline. As a result, Rao's various writings, representative of the legal approach of international organizations, are widely referred to, and discussed by, international relations scholars.⁴³ A serious academic attempt in the field of international organizations could hardly avoid Rao's scholarship, placing him among the most-cited Chinese authors in the field.

The founding of the discipline of international organizations law in China is attributable to the contributions of Liang and Rao, marked by the publication of their two textbooks in 1984 and 1996. With the publication of these two books, the law of international organizations was firmly grounded in China as an academic discipline at law schools.⁴⁴ Yet it is interesting to note that neither of these authors was systemically trained in international law or international organizations through formal college educations. Both scholars trained themselves primarily through their study of English textbooks and other materials. Their command of the English language played a decisive role as this allowed them direct access to English literature on

³⁷ Wang, 'Certain Issues about the Study on the Relationship between China and International Organizations' (中国与国际组织关系研究的若干问题), 8 *Social Sciences Forum* (社会科学论坛) (2002) 4.

³⁸ The textbook came out as a collective writing project led by Ye Zongkui (叶宗奎) of Renmin University School of International Studies who rallied more than 10 teachers and students from his department. See Z. Ye and X. Wang (eds), *Introduction to International Organizations* (国际组织概论) (2001), at v.

³⁹ See, e.g., Y. Yu, *International Organizations* (国际组织学) (2006); Q. Zheng et al. (eds), *International Organizations* (国际组织) (2017).

⁴⁰ I owe this point to useful discussions with Liu Lianlian (刘莲莲), an associate professor of international relations at Peking University, specializing in the study of international organizations.

⁴¹ G. Rao (ed.), *International Organizations in the Process of Globalization* (全球化进程中的国际组织) (2005).

⁴² G. Rao (ed.), *International Organizations and the Development of Implementation of International Law* (国际组织与国际法实施机制的发展) (2013).

⁴³ See, e.g., B. Li, *International Organizations in World Political Economy* (世界政治经济中的国际组织) (2001); P. Pu, *International Organizations in Contemporary World* (当代世界中的国际组织) (2002); L. Zhang (ed.), *International Organizations in Global Politics* (全球政治中的国际组织) (2017); Q. Zheng (ed.), *International Organizations* (国际组织) (2nd edn, 2018).

⁴⁴ Like other disciplines of the social sciences, the study of international organizations was in a complete vacuum in Chinese academic circles when China restored its higher education in the late 1970s. The primary task of researchers then was to establish the discipline, most often by producing a proper textbook.

the subject. As a result, their views on international organizations were influenced by their familiarity with the works of their international counterparts. While Liang gained insights from translating the practical work of the UN, Rao developed his expertise through academic visits abroad. In a way, their interests in international organizations were also directly or indirectly informed by the practical needs of China at the time.

The emergence of international organizations law as an academic discipline in China by the mid-1990s coincided with China's rapid global integration. China has resumed and expanded its activities within the UN system since the restoration of its lawful rights in 1971.⁴⁵ China started negotiations for acceding to the General Agreement on Tariffs and Trade in 1986 and formally announced the construction of a socialist market economy in 1993.⁴⁶ This continuous internal economic and social progress was seen as owing much to China's effective participation in the global economic system. The ideas of modernization and alignment with international standards lent political legitimacy to important social and economic reforms in domestic settings. Within this context, a positive, optimistic, progressive and apolitical outlook towards international organizations informed both of the books by Liang and Rao. This image of international organizations in Chinese scholarship in the 1990s stands in sharp contrast to the intellectual development of the law of international organizations in Europe where the third wave of international organizations scholarship looked for accountability and control over international organizations.⁴⁷ This progressive, optimistic style of scholarship continues to dominate the studies of international organizations law in China.

4 Quest for the Rationale of International Organizations: Between Communitarianism and Instrumentalism

At the time of writing his textbook, Rao was influenced by two different strands of academic traditions. One was a legalistic, communitarian approach to international organizations. International organizations are seen as an organizational force of the international society and, to a great extent, as a reduced, imperfect, yet prophetic form of world government.⁴⁸ International organizations are capable of fulfilling

⁴⁵ See UN General Assembly, Restoration of the Lawful Rights of the People's Republic of China in the United Nations, GA Res. 2758 (XXVI), 25 October 1971. Participation in the UN in the 1970s is said to have had a socializing function on China's cognitive map of international relations. See S.S. Kim, *China, the United Nations and World Order* (1979), at 491–501.

⁴⁶ General Agreement on Tariffs and Trade (GATT) 1994, 55 UNTS 194. For useful documentation of China's move from selective to full participation in the UN system, see Xue, 'Chinese Contemporary Perspectives on International Law: History, Culture and International Law', 355 *RdC* (2012) 47, at 191–201.

⁴⁷ See Klabbers, *supra* note 2.

⁴⁸ For example, global governance is said to be 'what world government we actually have'. See Murphy, 'Global Governance: Poorly Done and Poorly Understood', 76 *International Affairs* (2000) 789, at 789.

functions that are equivalent to sovereigns at the global level.⁴⁹ Various international administrative unions set up in the late 1800s and early 1900s are regarded as precursors of modern international organizations.⁵⁰ International organizations are seen as offering a larger space for political participation and the administration of world affairs by reason and expertise.

The other strand is a policy-orientated, instrumental approach to international organizations.⁵¹ International organizations are approached often from a realist perspective. The relevance of international organizations is to be measured in terms of utilitarianism from a national, instrumental rather than communitarian perspective. Seen from this perspective, the path to international organizations is not unavoidable. When the operation of a specific international organization is not in alignment with the foreign policy of a state, the state has the inherent right to withdraw from the international organization.⁵² In this tradition, international organization is also primarily a subject of study for political scientists rather than being foremost a subject for international lawyers.

The policy studies of international organizations had a noticeable influence on Rao's work. Rao's textbook starts with an elaborate discussion of the rationale for setting up international organizations. Pursuing national interests is suggested as the basic motivation for states to initiate and participate in international organizations. For states, it is as much about fixing a common problem of the world as it is about pursuing their national interest, be it security, economic, environmental or others.⁵³ References are made to works by American political scientists and international relations scholars such as A. Leroy Bennett,⁵⁴ Werner J. Feld and Robert S. Jordan⁵⁵ and Inis L. Claude.⁵⁶ Yet one also observes a different spectrum leaning towards policies among the three cited books. On the one hand, Bennett's treatment of international organization is considered 'old-fashioned', as he sees international organizations as indispensable and inherently good in leading to a more orderly world.⁵⁷ Rao quoted Bennett's elaboration on the 'interdependence' of states as a reason for interstate cooperation and for the creation of international organizations.⁵⁸ On the other hand, the

⁴⁹ See J.N. Rosenau and E.O. Czempiel, *Governance without Government: Order and Change in World Politics* (1992).

⁵⁰ See I. Akira, *Global Community: The Role of International Organizations in the Making of the Contemporary World* (2002), at 9–59.

⁵¹ See, e.g., R.W. Stone, *Controlling Institutions: International Organizations and the Global Economy* (2011); see also Wertheim, 'Instrumental Internationalism: The American Origins of the United Nations, 1940–3', 55 *Journal of Contemporary History* (2019) 265.

⁵² See, e.g., Bolton, 'Statement of John R. Bolton', in The Committee on International Relations, United States House of Representatives, *Does U.N. Peacekeeping Serve U.S. Interests?* (1997), at 55–68.

⁵³ See Rao, *supra* note 17, at 4–6.

⁵⁴ A.L. Bennett, *International Organizations: Principles and Issues* (5th edn, 1991).

⁵⁵ W.J. Feld and R.S. Jordan, *International Organizations: A Comparative Approach* (2nd edn, 1988).

⁵⁶ I.L. Claude, *Swords into Plowshares: The Problems and Progress of International Organization* (3rd edn, 1964).

⁵⁷ See the book review by James, 'Review of *International Organisations: Principles and Issues* by A. L. Bennett and *Peacekeeping in Vietnam: Canada, India, Poland and the International Commission* by R. Thakur', 7 *Third World Quarterly* (1985) 442.

⁵⁸ See Rao, *supra* note 17, at 4–5.

book by Feld and Jordan insists on the role of international organizations in fulfilling the wills and interests of the states that create them. In quoting Feld and Jordan, Rao suggests that the pursuit of national interests by states is essential to understanding the mandate and structure of international organizations.⁵⁹ Claude's *Swords into Plowshares* masterfully situates institutions in various contexts, seeing international organizations as political processes, and Rao refers to Claude's work, albeit only in passing, when attempting to elaborate the functions of international organizations.⁶⁰

The policy reflection was furthered by an extensive discussion on various functions of international organizations, including as fora for communications, international regulators, distributive functions, strengthening military capabilities of states, peace-keeping services and supranational political functions.⁶¹ This leads Rao to suggest that international organizations are important diplomatic resources for states. The extent of participation in international organizations is an expository measurement of the capability and maturity of a state's diplomacy.⁶² Nevertheless, he did not subjugate himself to an overly realistic reading of international organizations. The relationship between states and international organizations is seen in a dialectic light. In concluding his reflection on the possible functions of international organizations, Rao refers to the opinions of Charles Pentland of Queen's University and emphasizes that international organizations may constrain and modify the behaviour of states, even when international organizations may entertain autonomous authority and act as independent international actors.⁶³ Rao's scholarship is coloured by a policy reading of international organizations, especially in comparison to Liang's book.

A careful examination of Rao's textbook and his subsequent works suggests that his engagement with counterpart scholarship in political sciences and international relations has remained limited. Rao transferred and adopted observations and arguments seen as useful in a non-systemic way. Nevertheless, the engagement with political scientists did bring transformative aspects to his scholarship. He became aware of the two parallel bodies of scholarship on international organizations, making him receptive to a multi-disciplinary account of the subject. This factor equipped Rao intellectually to argue for the necessity of China to participate in international organizations from a national interest perspective. Rao underlined the importance and usefulness for China to join international organizations. He was anxious to highlight the relevance of the nascent discipline of the law of international organizations to China. For this purpose, an instrumental concept of international organizations was a necessary move.

In elaborating the concept of international organizations in 1996, Rao made extensive reference to European international legal scholarship. Among others, his references include the textbook by Schermers,⁶⁴ the entry in the *Encyclopedia of Public*

⁵⁹ *Ibid.*, at 5–6.

⁶⁰ *Ibid.*, at 6.

⁶¹ *Ibid.*, at 7–10.

⁶² *Ibid.*, at 4.

⁶³ Pentland, 'International Organizations and Their Role', in P.F. Diehl (ed.), *The Politics of International Organizations: Patterns and Insights* (1989) 5, at 5–14.

⁶⁴ H.G. Schermers, *International Institutional Law* (1980).

International Law on 'international organizations, general aspects' by the Swiss international lawyer Rudolf Bindschedler,⁶⁵ the book chapter on 'definition and classification of international organizations' by French lawyer Michel Virally⁶⁶ as well as the *Yearbook of International Organizations* edited by the Union of International Associations.⁶⁷ Rao's definition of international organizations formulated in 1996 was very close to that of Michel Virally published in an article 15 years earlier:⁶⁸ an international organization was defined as a union of states or an association of states, established by an agreement among its members per international law and possessing a permanent system or set of organs whose purpose was to pursue objectives of common interest through cooperation among its members.⁶⁹

In Rao's definition, the function of promoting cooperation among states is singled out.⁷⁰ It is the communitarian dimension that fundamentally characterizes international organizations. At this point, Rao distances himself from a realistic, instrumental interpretation of international organizations. It is also fundamentally different from a radical Marxist interpretation of international organizations, which may incline to view international organizations as part of the political structure for global capitalism and hegemony. Rao opted for a cooperative, peaceful outlook on the world order and also an apolitical, institutional concept of international organizations.

Both the communitarian and instrumental approaches have influenced Rao's concept of international organizations. In a sense Rao's concept of international organizations is inconsistent and unstable, oscillating between a communitarian and an instrumental concept. The formal, legalist approach does not easily align with a realistic reading of international organizations. Despite a visible use of the instrumental account of international organizations, Rao still leaned more towards the communitarian concept. There are several possible explanations. Primarily, he was writing about the law of international organizations for the students and practitioners of international law who often share an internationalist ethos. Second, a communitarian concept of international organizations is more consistent with China's experience and expectations in the 1990s. Accession to international organizations for developing or newly independent states often means international recognition and political inclusion by the Western world. The fact of China's participation in the UN and other international organizations adds legitimacy to the Chinese government

⁶⁵ Bindschedler, 'International Organizations, General Aspects', in R. Bernhardt (ed.), *Encyclopedia of Public International Law*, Instalment 5 (1983) 119, at 119–140; consolidated library edition, volume 2 (1995), at 1289–1309. Rudolf Bindschedler, elected to the IDI in 1961, served as a member on the encyclopedia's editorial advisory board.

⁶⁶ Virally, 'Definition and Classification of International Organizations: A Legal Approach', in G. Abi-Saab (ed.), *The Concept of International Organization* (1981) 50, at 51.

⁶⁷ Union of International Associations, *Yearbook of International Organizations 1991/1992* (28th edn, 1991).

⁶⁸ See Virally, *supra* note 66.

⁶⁹ See Rao, *supra* note 17, at 14.

⁷⁰ *Ibid.*, at 17.

both internationally and domestically.⁷¹ Third, Rao's positive experience of visits to foreign universities propelled him to hope for improved cooperation between China and the rest of the world, which he felt could be further advanced by the operation of international organizations.

It was clear to Rao that international organizations neither make a world government nor operate above sovereign states.⁷² European integration is an exceptional case that does not apply to international organizations in general.⁷³ International organizations exist to promote and facilitate cooperation among states, not to replace states. Yet international organizations are also referred to as 'a union of states' or 'an association of states' in a loose sense.⁷⁴ This expression was chosen by Rao to suggest that international organizations are to be seen as more than technical, administrative or institutional entities. International organizations harbour and consolidate the common will of states to act through the organizations to pursue their common interests. Despite all kinds of shortcomings, international organizations reaffirm the very existence of an international society and the mutual obligations among its members. For Rao, it was important to rise above instrumentalism and examine the phenomenon of international organizations in the broad social and historical processes of the world.

5 Identifying International Organizations: Between Organizational and Institutional

Rao's definition of international organizations is not static. In an article published in 2004, his definition takes an institutionalist turn. International organizations are redefined as 'institutional arrangements for multilateral cooperation among states under international law'.⁷⁵ His move towards institutionalism was motivated by the observation of the diversity of international organizations in international life. This was partly assisted by the statistics offered in the *Yearbook of International Organizations* compiled by the Union of International Associations. It noted that the total number of conventional intergovernmental organizations steadily declined from 369 to 232 between 1986 and 2001, making up only 3.2 per cent of the total number of intergovernmental organizations.⁷⁶ Meanwhile, there has been a rise of less formal international organizations, which considerably outnumber treaty-based intergovernmental organizations. Consequently, Rao has made critical reflections upon, and revision to, the concept of international organizations offered in his 1996 textbook. To him, the definition in 1996 would only apply to an intergovernmental organization with a treaty basis, and he felt that this parochial concept of international organizations does not

⁷¹ See Kent, 'China's Participation in International Organisations', in Y. Zhang and G. Austin (eds), *Power and Responsibility in Chinese Foreign Policy* (2001) 132.

⁷² See Rao, *supra* note 17, at 15.

⁷³ *Ibid.*, at 17.

⁷⁴ *Ibid.*, at 14.

⁷⁵ Rao and Hu, 'Institutional Varieties of Inter-state Cooperation at an Era of Globalization' (全球化时代国家间多边合作的组织形态), in G. Rao (ed.), *International Organizations in the Process of Globalization* (全球化进程中的国际组织) (2004) 36, at 87.

⁷⁶ *Ibid.*, at 41.

fully grasp the dynamic of international organizations in reality, causing an unjustified reduction of the scope of the study of international organizations.

Rao labours to reconceptualize international organizations from an institutionalist perspective. For him, the line between formal international organizations and less formal ones is increasingly blurred. The criterion for identifying an international organization is neither the formal foundational treaty nor the autonomous will or independent legal personality. The decisive element, instead, is the existence of an institutional form functioning to advance cooperation among states. Moreover, such functionality is largely assumed rather than laboriously proven. In essence, it is the institutional form that defines an international organization. Rao even goes further to suggest replacing the term 'international organizations' with 'international institutions'. The term 'international organizations' may be reserved for those treaty-based intergovernmental organizations, and the term 'international institutions' could nicely cover a broad range of institutional varieties.⁷⁷

By taking a broad definition of international organizations, Rao attempts to construct a more inclusive field of research for the law of international organizations. For him, this broader field of the law of international organizations would include not only treaty-based intergovernmental organizations but also those less formalized or less autonomous institutional arrangements. This list of international organizations under consideration would include the club organizations such as Group of Seven, Group of Twenty (G20), Asia-Pacific Economic Cooperation (APEC), joint programmes of international organizations, internal organs of international organizations having external functions, treaty bodies and others. As a result, it is important to reconsider the law of international organizations so as to fully reflect the breadth and diversity of international organizations.⁷⁸

It is widely held, among European scholars, that the corporate will is a constitutive element of an international organization, despite its vagueness and controversy.⁷⁹ This portrays the international organization as an autonomous body, capable of independent decisions and actions even in defiance of the will of certain members. This is very much in line with a liberal concept of international organizations.⁸⁰ International organizations grow out of the chaos of sovereigns in the hope of bringing about peace, order, efficiency and cooperation. To fulfil such a liberal imagination, the autonomous will, however artificial, is an indispensable element of an international

⁷⁷ *Ibid.*, at 87.

⁷⁸ *Ibid.*, at 86–88.

⁷⁹ For example, when defining international organizations, Schermers and Niels Blokker require that the organization has 'at least one organ with a will of its own'. See H.G. Schermers and N.M. Blokker, *International Institutional Law* (6th edn, 2018), at 48–49; see also P. Sands and P. Klein, *Bowett's Law of International Institutions* (6th edn, 2009), at 15. While accepting the relevance of distinct will, Klabbers offers some critical reflections on this concept. See J. Klabbers, *Introduction to International Organizations Law* (3rd edn, 2015), at 12–13.

⁸⁰ For a useful discussion on the liberal underpinnings of international organizations, see Barnett and Finnemore, 'The Power of Liberal International Organizations', in M. Barnett and R. Duvall (eds), *Power in Global Governance* (2005) 161, at 161–184.

organization.⁸¹ For international organizations to perform such constraining, socializing and reforming functions,⁸² international organizations have to be separable from their constituents – the autonomous will of international organizations serves such a distinguishing function. Moreover, the autonomous will lifts the organization above its constituents, transforming the treaty text into a living institution. Without the independent will, the entity would remain undesignated. Accordingly, a treaty body cannot be qualified as an international organization – it does not possess an independent will of its own.⁸³ For those scholars, the requirement of independent will bars a large number of entities from the denotation of international organizations.

For Rao, on the contrary, the independent will is only ancillary in the recognition of an international organization. It is the institutional form, rather than the autonomous will, that defines an international organization. Therefore, what matters to Rao is not the existence of an autonomous organizational will but, rather, whether the entity under consideration advances cooperation among states.⁸⁴ This assessment is to be sought from the institutional forms and their actual activities. The existence of an effective international secretariat would matter more than the hypothesized organizational will.⁸⁵ Rao advocates the inclusion, in addition to the traditional intergovernmental organizations with a treaty basis, of other flexible, informal frameworks for cooperation, such as the G20, APEC and treaty bodies, into the ambit of the study of international organizations.⁸⁶ Rao is not alone in calling for attention to the less formal international organizations. In an article published in 2001, Jan Klabbers had already observed the rise of soft international organizations and endeavoured to explain the phenomenon from a sociological and policy perspective.⁸⁷ Most recently, Angelo Golia and Anne Peters call for the inclusion, in the ambit of international organizations, of some institutions falling short of the full elements, such as the treaty bodies, institutions with a private law form but with public functions and thin intergovernmental actors.⁸⁸ The diversity and richness of international organizations have created difficulties for an attempt at a one-size-fits-all definition of international organizations.

What may be of particular value in Rao's approach lies in its potential to systematically explore a non-formalistic approach to international cooperation. The embodiment of institutional forms at the international level is profoundly a product of European history, a process starting from the late 19th century. For Asia and

⁸¹ See, e.g., Golia and Peters, 'The Concept of International Organization', in J. Klabbers (ed.), *The Cambridge Companion of International Organizations* (2022) 25, at 34–39. However, the term 'will' is criticized by the authors as 'outdated, obscure and even metaphysical' and called to be replaced by 'more modern concepts of autonomy and legal personality'.

⁸² See A. Anghie, *Imperialism, Sovereignty and the Making of International Law* (2004); see also G.F. Sinclair, *To Reform the World: International Organizations and the Making of Modern States* (2017).

⁸³ See Schermers and Blokker, *supra* note 79, at 48.

⁸⁴ Rao, *Essentials*, *supra* note 34, at 64–65.

⁸⁵ For a contrary opinion in the case of the GATT, the 'organizationhood' of the GATT is not recognized by F. Morgenstern, *Legal Problems of International Organizations* (1986), at 23.

⁸⁶ Rao and Hu, *supra* note 75, at 48–60.

⁸⁷ See Klabbers, 'Institutional Ambivalence by Design: Soft Organizations in International Law', 70 *NJIL* (2001) 403.

⁸⁸ See, e.g., Golia and Peters, *supra* note 81, at 34–39.

elsewhere, international organizations are largely alien to their traditional thoughts of international order.⁸⁹ Instead, informal arrangements, flexible frameworks and loose networks are well appreciated in the organization of world affairs.⁹⁰ For Rao, it is important to bring these elements into the study of international organizations. The distinction between formal institutions and those flexible alternatives is less consequential. It is noteworthy that Rao's work has animated some young scholars in China to pursue further research in this direction based on China's experience with the BRICS group (Brazil, Russia, India, China and South Africa) and the Belt and Road Initiative.⁹¹

6 Functionalism Light: Institutions as Fora

Functionalism sits at the centre of contemporary studies of international organizations law.⁹² International organizations are created by states to address common problems and are therefore entrusted with necessary powers to fulfil such functions. It is those functions that delineate the powers of international organizations and further justify their very existence. Functionalism is another example of the liberal imagination of how international organizations may fix problems and bring about progress. International organizations are seen as technical managers, a viable means to displace politics.⁹³ International organizations rely on the joint will of member states to be created. Once created, however, international organizations become valuable independent actors, especially when states lack political will or are, in fact, divided. International organizations are celebrated for being able to do what states wish them to do and for being able to stand against their member states.

Rao takes a light functionalism approach to international organizations. For him, the primary function attributed to international organizations is to provide the fora

⁸⁹ For the experience of preferring informality over the binding documents and insistence on decision-making consensus in the context of the Association of Southeast Asian Nations, see R.C. Severino, *Southeast Asia in Search of an ASEAN Community: Insights from the Former ASEAN Secretary-General* (2006), at 35.

⁹⁰ In international relations scholarship an attempt to articulate a model of relational governance based on relation, morality and trust, in opposition to rule-based governance, is made by Y. Qin, *A Relational Theory of World Politics* (2018), at 335–349.

⁹¹ For example, an attempt was made to discuss the institutional nature of the BRICS group from the perspective of international organizations law by applying Rao's theory. See Xie and Huang, 'The Nature of BRICS Group: A Perspective of International Organizations Law' (金砖国家集团属性初探: 基于国际组织法的视角), 10 *Academic Forum* (学术论坛) (2016) 160. It is also observed that, under the Belt and Road Initiative, international institutions are often much less institutionalized in bureaucracy, less open and universal in membership and less formal in decision-making. See Cheng, 'The Reform of International Legal Teaching under the Belt and Road Initiative: The Case of International Organizations Law' (一带一路倡议下国际法专业课程改革探析——以《国际组织法》为例), 5 *Legal System and Society* (法制与社会) (2020) 204.

⁹² For the most comprehensive account of functionalism in the law of international organizations, see Klabbers, 'The Transformation of International Organizations Law', 26 *EJIL* (2015) 9.

⁹³ See Barnett and Finnemore, 'The Power of Liberal International Organizations', in M. Barnett and R. Duvall (eds), *Power in Global Governance* (2005) 161.

for interstate deliberations and negotiations.⁹⁴ International organizations are approached mainly from the vantage point of their procedural nature and channeling function. While international organizations are important actors, states remain dominant in determining public policies worldwide. The central role of states is not reduced by the rapid growth of international organizations. When discussing the implementation of international law, Rao has underlined the assisting and supplementary role of international organizations as opposed to the fundamental role of states.⁹⁵ International organizations are fora where states may jointly deliberate and decide on global issues. It is a continuation, rather than a replacement, of states' politics. The independence of international organizations does not shield the member states from making responsible decisions. The function of international organizations is not to displace politics but, rather, to institutionalize and internalize politics. In this way, states and international organizations are mutually embedded in the political process of international society.⁹⁶

Therefore, Rao emphasizes the fundamental feature of international organizations in inducing cooperation among states.⁹⁷ This may be achieved through the institutionalization and rationalization of politics. International organizations exist for debate, deliberation and reasonable decision-making. International organizations thus contain and constrain conflicts among states, not by the autonomous, regulatory function of international organizations but, rather, by the rationality, openness and publicness that international organizations offer as fora. It remains the politicians and diplomats who bear the major responsibilities for global governance. Nevertheless, Rao's emphasis on cooperation leaves many questions unanswered. For example, what counts as cooperation? Would disagreements or even conflicts between states under the frameworks of international organizations be viewed as cooperation? Would an international organization cease to be an international organization if it persistently fails to bring about cooperation? It seems that for Rao the cooperation in international organizations is assumed rather than proven. After all, institutionalization by itself implies cooperation.

At the same time, Rao is not blind to the regulatory role increasingly assumed by international organizations. He recognizes that international organizations are in some sense exercising the governmental power of the international society.⁹⁸ He writes with a positive tone in observing the expanding role of international organizations in globalization. Having examined the functions of international organizations

⁹⁴ See Rao, *supra* note 21, at 129. For a useful discussion on the agora concept of international organizations, see Klabbbers, 'Two Concepts of International Organization', 2 *International Organizations Law Review* (2005) 277.

⁹⁵ See Rao, 'International Organizations and the Development of Implementation of International Law' (国际组织与国际法实施机制的发展), in G. Rao (ed.), *International Organizations and the Development of Implementation of International Law* (国际组织与国际法实施机制的发展) (2013), at 12–13.

⁹⁶ See Rao, *Essentials*, *supra* note 34, at 62.

⁹⁷ *Ibid.*, at 65.

⁹⁸ See Rao and Huang, 'The Dynamics of Globalization and International Organizations' (论全球化进程与国际组织的互动关系), 20(2) *Law Review* (法学评论) (2002) 3, at 8.

in managing environmental protection, monitoring the international financial system and financing the development of the Southern countries, Rao concludes by suggesting that these global problems can only be addressed by international organizations, not by a single state.⁹⁹ He further suggests that the establishment of a fair and reasonable international economic order would also partly hinge upon the reformation and strengthening of the distributive functions of existing intergovernmental organizations.¹⁰⁰ Rao's functionalist, optimistic understanding of international organizations may also be seen from his doctrinal construction of the international legal personality and implied powers of international organizations.¹⁰¹

Yet Rao's acceptance of functionalism is rather qualified and measured. This can be seen from his position on the responsibility of a state for its participation in international organizations. Rao's attention to the issue of responsibility of international organizations dates back to an article published in 1999. In discussing the normative order created by the activities of international organizations, Rao suggested the inclusion of the responsibility of international organizations. In this connection, Rao briefly mentioned the possibility of the member states' responsibility towards a third party for the activities of international organizations, without spelling out the conditions and scope of such responsibility.¹⁰² The international legal personality of an international organization is understood to be a formal qualification that enables the organization to conduct its business with other international actors. This autonomy allows international organizations to fulfil the entrusted mandates and protect them from injury by member or non-member states.¹⁰³ As a consequence, its international legal personality also enables the organization to bear civil liabilities arising from its administrative and operational activities.¹⁰⁴ For Rao, however, the assumption of responsibility by an international organization does not necessarily absolve the responsibility of member states that made the political decision in the first place. International organizations may assume only the type and extent of responsibility that is commensurable with their institutional capacity. The personhood of international organizations should not be abused to protect states from unlawful activities under the umbrella of international organizations. When international organizations are obviously acting beyond their usual capability, member states should take the residual responsibility by

⁹⁹ *Ibid.*, at 8–9.

¹⁰⁰ *Ibid.*, at 8.

¹⁰¹ See Rao, 'Legal Personalities of the Intergovernmental Organizations' (论政府间国际组织的法律人格), 15(3) *Peking University Law Journal* (中外法学) (2003) 13; Rao and Cai, 'On the Implied Powers of International Organizations' (国际组织暗含权力初探), 4 *Chinese Law Journal* (中国法学) (1993) 96.

¹⁰² See Rao, 'On the Relationship between International Organizations and International Organizations Law' (试论国际组织与国际组织法的关系), 11(1) *Peking University Law Journal* (中外法学) (1999) 68, at 74.

¹⁰³ See *Reparation for Injuries Suffered in the Service of the United Nations*, Advisory Opinion, 11 April 1949, ICJ Reports (1949) 174.

¹⁰⁴ See Rao, *supra* note 101, at 13.

virtue of their membership as well as their actual involvement in the decision, financing and execution of culpable organizational activities.¹⁰⁵

The institutional veil entertained by international organizations is thin. International organizations are not reducible to their member states. Yet the fact that states' influences do permeate the operation of the organizations has to be taken into account when constructing doctrines of international organizations law. The institutional veil is valid as long as the activities of international organizations are lawful. This perception may well explain China's request for direct compensation from the USA when the Chinese embassy in the capital city of the former Yugoslavia suffered severe damage as a result of bombing by an American warplane acting in the name of NATO.¹⁰⁶

Rao's reservation towards an international organization's fully-fledged functionalism can be explained by a number of factors. The importance of the principle of sovereignty can never be overstated among Chinese international lawyers. The quest for sovereignty and autonomy has been central to China's century-long struggle against its colonial status. The principle of sovereignty is one of the five principles of peaceful coexistence advocated by China since the mid-1950s. Rao observed the limitation and erosion of state sovereignty arising from the accession to international organizations and questioned whether this would render sovereignty an obsolete concept. Having acknowledged the increasingly intense impact upon states by international organizations, Rao nevertheless saw international organizations as creatures of states and for states.¹⁰⁷ The use of international organizations aims at strengthening the sovereignty of states, an attitude very close to what Guy Sinclair refers to as the 'postcolonial imaginary'.¹⁰⁸ This reservation also suggests a relatively downplayed expectation about the actual functioning of international organizations. The real change brought by international organizations would be gradual, incremental, supplementary and, at best, reformatory. It seems that China's primary goal of diplomacy in the post-reform era, including its policy towards international organizations, remains constantly to preserve a peaceful and stable external environment conducive to its internal economic and social development.¹⁰⁹ Such a reservation as Rao has expressed towards functionalism cannot be disassociated from Rao's observations of the limited influence that China used to have in the decision-making of general international organizations, the lack of qualified Chinese professional staff in international organizations

¹⁰⁵ This position is extensively reflected by He Yang, who completed his doctoral thesis under the supervision of Rao Geping. See Y. He, 'The Responsibilities of Member States of an International Organizations towards Third Parties' (国际组织成员国对第三方责任问题研究) (2016) (Doctoral thesis on file at Peking University, Beijing).

¹⁰⁶ For a succinct official account of the case, see J.L. Duan (ed.), *Chinese Practice and Cases on International Law* (中国国际法实践与案例) (2011), at 58–60.

¹⁰⁷ See Rao, *supra* note 102, at 75.

¹⁰⁸ See Fiti Sinclair, 'Towards a Postcolonial Genealogy of International Organizations Law', 31 *Leiden Journal of International Law* (2018) 841, at 863–868.

¹⁰⁹ Kent, *supra* note 71, at 145.

and the under-developed status of the discipline of international organizations law in China.¹¹⁰

7 The Evolving Concept of International Organizations in China: From Virtuous to Pragmatic and Beyond

To uphold institutions as forms and fora was a deliberate choice by Rao. By this purposeful choice, Rao's writings on the law of international organizations have played a double role, translating the European, progressive ideas of international organizations into domestic international legal studies and, at the same time, facilitating China's continuous economic transformation and political integration into the international system. Rao's work has followed a professional commitment to 'an effective universal international law', as pronounced by Wang Tieya.¹¹¹ It can be seen as part of a continuous effort to lead Chinese international lawyers to bridge differences between the West and the non-West towards international law and political order.

International organizations were seen as virtuous as they embodied order, foresaw progress and upheld the international rule of law.¹¹² These organizations point to a larger political and social space where humanity's solidarity and common prosperity are presented as a possibility. The very existence of international organizations is an assurance that international society is not Hobbesian, anarchical and tyrannical. International organizations as an organizational force produce order, rationalize governance, socialize sovereign states and offer global commons.¹¹³ In former times, the accession to international organizations, in itself, symbolized the civilized status of the acceding states. Joining universal international organizations became a vital means for states to participate in international society effectively. Such a virtuous image of international organizations, as presented by Rao, remains an important aspect of Chinese scholars' conception of international organizations.

Rao's scholarship has focused primarily on universal international organizations and on the assumption of lasting peace as a desired social background. Contrary to ideas held and promoted by critical scholarship, international organizations in Rao's presentation are distinctively conceived in their advancement of economic cooperation, public participation and the settlement of disputes.¹¹⁴ As a consequence, the supposed neutrality of international organizations is highlighted as a valuable feature that enables international organizations to reconcile differences among states.¹¹⁵ In addition, the supposed neutrality of international organizations is expected to protect

¹¹⁰ See Rao, *supra* note 102, at 75.

¹¹¹ See Wang, *supra* note 6, at 356.

¹¹² See Rao and Huang, *supra* note 98, at 6.

¹¹³ On theorizing the use of international organizations in two parallel senses, see Fiti Sinclair, *supra* note 108, at 846–848.

¹¹⁴ See Rao, *supra* note 102, at 69.

¹¹⁵ See Rao, *supra* note 95, at 22–23.

them from the undue influence of hegemonic powers.¹¹⁶ International organizations and their constituent documents, not to be celebrated as emerging constitutions of international society,¹¹⁷ may nevertheless contribute to the speedy development of international law.

Rao's virtuous imagination of international organizations, despite its broad acceptance,¹¹⁸ is susceptible to academic critiques from various directions. The organizational and constraining function of international organizations may be overstated as their policies often may not withstand the opposition of powerful states. International organizations are at times impotent in bridging fundamental differences between states. The virtuous conception of international organizations assumes the cooperative nature and peaceful context of international society, downplaying the conflicts and power struggles in the daily life of international organizations. A state-centred approach may exclude the experimental endeavours in substantive regional integration or foreclose discussions about constitutional theories of international organizations that look to the positive externalities that international organizations may bring to world order in general.¹¹⁹ In reducing organizations to procedures and venues, Rao's concept also circumvents substantive politics. Furthermore, it also displaces the relevance of virtues and leadership in fostering a more just global order,¹²⁰ missing an opportunity to form a bridge between Confucianism and the international rule of law.¹²¹

It seems likely that, in the future, international organizations studies in China will lean towards a pragmatic foreign policy perspective. It is felt that the teaching of international organizations based on the universal international organization does not easily meet China's actual and current experience, particularly with regard to the Belt and Road Initiative where institutions are often less formal.¹²² Increasingly, international organizations are discussed in the vocabularies of national influences and

¹¹⁶ Neutrality is seen as an important operational element conducive to the independence of international organizations. See Haftel and Thompson, 'The Independence of International Organizations: Concept and Applications,' 50 *Journal of Conflict Resolution* (2006) 253.

¹¹⁷ See Wang, *supra* note 16.

¹¹⁸ In a recently published textbook on international organizations, prepared under the auspices of the Marxism Textbooks Project, the definition of international organizations is directly taken from Rao's textbook. See Zheng, *supra* note 43, at 17. Other examples can be found in J. Ge (ed.), *International Organizations: The Politics of Global Governance* (全球治理视野下的国际组织) (2019), at 5; L. Yang and K. Ding (eds), *Global Governance and International Organizations* (全球治理与国际组织) (2017), at 1; Yu, 'Theorizing Changes in International Organizations: Theoretical Evolution and Implications' (国际组织变革理论的演进与启示), 43(3) *Journal of International Studies* (国际政治研究) (2021) 39.

¹¹⁹ For a self-reflective discussion, see Peters, 'Constitutional Theories of International Organisations: Beyond the West', 20 *Chinese Journal of International Law* (2021) 649.

¹²⁰ For discussions on the relevance of virtue ethics to global governance, see G.V. Vilaça and M. Varaki (eds), *Ethical Leadership in International Organizations: Concepts, Narratives, Judgment, and Assessment* (2021).

¹²¹ An attempt to apply Confucianism to international relations can be found at T.D. Bai, *Against Political Equality: The Confucian Case* (2019).

¹²² See Cheng, *supra* note 91.

soft power.¹²³ The current state of competition between China and the USA further fosters this perspective. In most cases, China's influence in international organizations seems limited or even marginal when it comes to agenda setting and policy formulation. For a long time, China has been listed among the most under-represented countries in the UN staff. The situation is considered awkward as China's fiscal contribution to the UN's regular budget has increased to more than 15 per cent,¹²⁴ second only to the USA. Therefore, around 2016, the Chinese government buttressed its investment in the studies of international organizations, leading to the creation of schools or departments of international organizations in several universities where, in most cases, international lawyers are only marginally involved.

A concluding aspect concerns Rao Geping's intellectual legacies – his work, engaging and inspiring, has been built on the works of his Western counterparts, and it raises questions as to the significance and future relevance of such intellectual projects. Quite obviously, there exists no recognizable intellectual school of Rao, though he trained a handful of doctoral students at Peking University Law School. While most of his students conducted research on subjects related to international organizations, only two remain currently active in the field of international organizations law.¹²⁵ It would also be hard to measure the actual impact, past or ongoing, of Rao himself or his scholarship on China's governmental position towards international organizations,¹²⁶ given the complex nature of decision-making structures in China's administrative bodies.

The value of Rao's work probably lies in its situatedness, being sensitive to various contextual elements that condition and frame the possibilities and closures. In his concept of international organizations, Rao had to resort to instrumental arguments to buy currency for the incipient discipline while committing to a communitarian view of international organizations. His expansive reading of international organizations

¹²³ See Ma, 'The Discursive Power of States in International Organizations' (国际组织中的国家话语权), 4 *International Outlook* (国际展望) (2021) 90; Cai Gaoqiang, 'On the Promotion of Chinese Discourse Power in the Development of International Organizations Voting Mechanism' (论国际组织表决机制发展中的中国话语权提升), 39(3) *Modern Law Science* (现代法学) (2017) 148.

¹²⁴ See Scale of Assessments for the Apportionment of the Expenses of the United Nations, UN Doc. A/RES/76/238, 4 January 2022.

¹²⁵ In this case, one person who can be mentioned is Sun Meng (孙萌), professor at the China University of Political Sciences and Law, who published *Responsibility of the UN Peacekeeping Operations for Unlawful Activities* (联合国维和行动违法责任研究) (2005) and, more recently, *China and the United Nations Human Rights Mechanism: Influences and Changes* (中国与联合国人权机制: 影响与变革) (2020) as well as Li Zan (李赞), associate professor at the Chinese Academy of Social Sciences, who published *Judicial Immunities of International Organizations* (国际组织的司法管辖豁免研究) (2013) and, co-authored with Tang Yanjia, *Appellate Mechanism of the European Union Internal Justice* (欧洲联盟内部司法上诉机制研究) (2022).

¹²⁶ Only occasionally did Rao have opportunities to apply his expertise to governmental work on international organizations. For example, Rao was consulted on institutional design and other constitutional matters in the establishment of the Shanghai Cooperation Organization in 2001. Rao and his co-workers also prepared the draft statute for the World Tourism Cities Federation in 2012. Rao was appointed by the Ministry of Foreign Affairs as a member of its Advisory Committee on International Law at its inauguration in 2015, signalling an informal acknowledgement on the part of the government towards Rao's authoritative stature in matters of international law and international organizations.

based on institutional forms has been done at the cost of setting aside substantive activities of international organizations. The acceptance of the functionality of international organizations is cautiously balanced by vigilance against hegemony in and of international organizations. His internationalist orientation is constantly curtailed by a need to watch over China's insistence on sovereignty. These inconsistencies exist as structural forces constraining, enabling and obliging Rao to constantly define and redefine his own concept of international organizations in a dynamic way, decode the elusive role of international organizations in the production of a world order and negotiate the evolving position of China in the world system. In other words, international organizations are seen as forms and fora where choices are made, purposefully or unintentionally, between a broad range of possibilities and alternatives. The choices coincide with China's active search for international recognition and involvement rather than isolation, for incremental reforms and peaceful change rather than revolution, for expanding influence in global governance rather than resistance and for a reconfiguration of its relationship with the developing world through the Belt and Road Initiative rather than a continued, traditional Third World solidarity.

The purpose of this article, in addition to an exposition of Rao Geping's scholarship, has also been to uncover the parameters, inconsistencies and paradoxes that condition possible conceptions of international organizations and are, accordingly, of general importance. Using Rao as a relevant example, this article has aimed to increase the awareness and sensitivities of international lawyers who are often deeply embedded institutionally, socially, politically, intellectually and culturally within those structural forces that demarcate contextually between what is possible, plausible and legitimate and what seems contrary. This exercise may not only shed light on missed opportunities and alternatives but also invoke the faculties and responsibilities inherent in international lawyers. As such, these parameters are valuable for present and future international lawyers to critically reflect upon their own theories and projects. Such an uncovering project would be most relevant to Chinese international lawyers as well as to jurists from the global South in general.