

The Choice between Might and Right: Rule of Law in International Relations

Wenjun Yan*

The interaction between might and right is an important topic throughout the development of international relations. Various ideologies and corresponding practices have been put forward by realism, liberalism, constructivism, and international socialism under both Western international relations theories and China's traditional Wang Dao (王道, "the kingly way" or "benevolent government"), and Ba Dao (霸道, "the hegemonic way" or "rule by force"). In international relations, the rule of law - a phenomenon that has emerged and is continuously developing - is conducive to restraining power politics and promoting right, which is one of the goals of international relations development. China has always opposed hegemony and power politics; it firmly supports a modern system of international law based on the purposes and principles of the UN Charter and aims to build a new international political and economic order with peace, justice, and stability.

Keywords: Might and Right, Rule of Law, Theory of International Relations, Wang Dao, Ba Dao, Hegemony

* Lecturer of International Law at China Foreign Affairs University. LL.M. (Central South U.), Ph.D. (CUPL). ORCID: <http://orcid.org/0000-0002-3598-317X>. The author may be contacted at: yanwenjun@cfau.edu.cn/Address: No. 24 Zhanlanguan Road, Xicheng District, Beijing, 100037, PRC.

I. INTRODUCTION

When international affairs are addressed, a fundamental issue is the choice between “might” and “right” as the mainstream approach to apply. This is often the first question to be tackled when observing the international situation, handling international affairs, or resolving international disputes. Might and right are the two core factors that run through the change and development of international law and relations. There are various ideologies explaining the dynamics between might and right. In the West, the realist approach deems “power”; the liberalist one emphasizes “interconnection and cooperation”; and the international socialism pays attention to “compromise” as the core concept. In traditional China, however, Wang Dao (“the kingly way” or “benevolent government”) and Ba Dao (“the hegemonic way” or “rule by force”) were two modes of political governance.¹

International law and relations are two closely interconnected fields. To a certain extent, international law is the normative essence of international relations. In recent, most sovereign states would comply with basic rules of international law, taking them as important grounds for external policy-making. In a different sense, however, state practices of the same country towards international law would differ due to changes in their understanding and judgment of international relations.

The primacy purpose of this research is to consider the roles of might and right in the evolution of international law and relations. This paper will handle the following questions: what is the main factor for a country to choose right or might in foreign policy-making? How will this choice influence the development of international society as a whole? The author will try to answer those questions through the principle of “rule of law in international relations.” This paper is composed of six parts including Introduction and Conclusion. Part two will discuss the western international relations theories. Part three will look into Wang Dao and Ba Dao in traditional China. Part four will touch the game between might and right. Part five will tackle China’s choice regarding the rule of law in international relations.

II. Might and Right in Western International Relations Theories

A. Realism

Realism assumes that global politics is in a state of international anarchy, an environment that is similar to the “state of nature.”² This Hobbesian perspective believes that state relations, by its very nature, is full of competition, conflicts, and even wars.³ The mutual fear and insecurity among nations lead them to prioritize safety and survival. Every state is eager to gain more benefits by obtaining more power, changing the environment that is unfavorable to itself.⁴ Hans Morgenthau once said: “Politics is a struggle between people for power. No matter what its ultimate goal is, power is its direct goal.”⁵ Realpolitik evolves based on this premise. Safeguarding national interests and seeking national power become the priority of sovereign states when considering foreign policies. According to realists, morality is, at best, a subsidiary consideration in the decision-making process.⁶ Realists maintain that when international obligations under treaties are in conflict with a state’s own interests, the state should sacrifice the former in exchange for the latter.⁷ Realists thus pay attention to hegemony and the balance of power as means to avoid danger.⁸

B. Liberalism

Unlike the realist school, the liberalists do not believe that a state of international anarchy will last forever. Liberalism is more concerned with international cooperation than conflict between countries. The liberalists believe that, through economic exchanges trade, technological cooperation, and so on, the ties between countries can be strengthened, thereby achieving progress and prosperity while reducing the risks of conflicts and wars in the world.⁹ According to the Liberalist school, common values among countries such as economic interests, culture, science and technology, political systems, and international law would improve international relations.¹⁰ Since power only works in certain specific areas, realpolitik is watered down in the process of diplomatic decision-making under liberalism.¹¹ The liberalism emphasizes that cooperation and mutual benefit can bring the modernization and globalization.¹²

C. Constructivism

Realism and liberalism pay attention to the objective aspects of international relations, while constructivism emphasizes subjective ones. As Alexander Wendt famously said: “Anarchy is created by the state.”¹³ Constructivism keeps eyes on the consciousness and culture of various actors in international relations. According to the constructivist school, different positions and attitudes may lead to different national behaviors, thereby changing international relations.¹⁴ The constructivists maintain that there are three types of anarchy: Hobbesian, Lockean, and Kantian. Among them, only Hobbesian anarchy is a violent conflict for survival. In Kantian anarchy, countries treat each other as friends and resolve disputes peacefully.¹⁵ Common beliefs and understandings would contribute to the stability and cooperation of the international system, which is undoubtedly constructive.

D. The International Sociology School

The international sociology school analyzes issues not only from the perspective of a “country,” but also from that of “international society.” The international sociology school emphasizes the notions of international order and justice and respects the role of international law.¹⁶ Bull pointed out that, since 1945, the international community has successfully prevented another world war. A noticeable factor in this regard is the UN Charter, which prohibits aggressive armed measures to resolve international conflict. This school maintains that the international public opinion also supports the norms under the UN Charter.¹⁷ The international sociologists believe that a country should assume responsibility for respecting the legitimate interests and rights of other countries, international law, and human rights.¹⁸ Countries are bound by common rules of the international community to share responsibilities in the operation of the global governance.¹⁹ The international sociologists maintain a “human-society”-centered perspective which pays more attention to the “international community with a shared future for mankind.”²⁰

Meanwhile, Marxism uses the methodology of international political economy to analyze international relations. The core focus of this methodology is the complex interaction between, on the one hand, economy and politics and, on the other, between the state and the market.²¹ Marxism is materialistic, in that it presupposes that economy is the basis of politics and that there are also class conflicts in international relations.²² Finding the underlying economic motives in complex

international politics is a precious insight provided by the Marxist school.²³

III. WANG DAO AND BA DAO IN TRADITIONAL CHINA

In ancient China, various ideas and theories were developed for state governance by thinkers and politicians. Among them, outstanding ones are Wang Dao and Ba Dao. The idea of whole world- *Tianxia* [天下] in ancient China did not strictly distinguish domestic and international society. Both Wang Dao and Ba Dao are, therefore, applicable to a country's internal and external relations alike. This part will analyze the meaning of Wang Dao and Ba Dao in the context of modern international relations theory.

A. Wang Dao (王道)

The term Wang Dao was first seen in Shangshu-Hongfan [《尚书·洪范》], referring to the governing philosophy of the Xia, Shang, and Zhou Dynasties, with ritual and music as its core ideas.²⁴ The concepts of Wang Dao and Ba Dao were first distinguished in “Mencius-Gong Sun Chou (Part 1)” [《孟子·公孙丑章句上》]. Mencius [孟子] said:

He who uses force as a pretense of humaneness is a hegemon. But such a hegemon must have a large state in order to be effective. The man who uses his virtue to practice humaneness is the true king. To be a real king, you do not need an especially large territory. Tang did it with only seventy *li* and King Wen did it with only one hundred *li*. When you use your power to make people follow, they will never follow with their hearts; they follow only because they do not have enough strength to resist. When people follow virtue, they are happy from the bottom of their hearts, and they follow sincerely, the way the seventy disciples followed Confucius.²⁵

Here, Wang Dao formally became a concept of state governance that could be used in a country's foreign relations. Mencius believed that the core of Wang Dao is benevolence and morality. He was of the opinion that people should be convinced with virtue, not force.²⁶ Later, under Confucianism, Wang Dao was gradually developed and interpreted by Dong Zhongshu, Liu Xiang, Cui Miao, Zhu Xi, Chen Liang, Wang Yangming, and others. Wang Dao has rich connotations, including

benevolence [仁], morality [德], justice [义], and courtesy [礼], in traditional Chinese culture. It opposes force and pursues peace. In sum, when the great way prevails, a public spirit rules all under Heaven. All people under the heaven are of one family, and all nations should live in harmony.²⁷

B. Ba Dao [霸道]

Ba Dao is a ruling method of country opposed to Wang Dao. Guan Zhong was the pioneer in proposing Ba Dao and elaborated his theory in Guan Zi [《管子》].²⁸ Later, Mencius interpreted Ba Dao as “superpowers” that do not act benevolently.²⁹ Moreover, under the theory of Ba Dao, there must exist a powerful nation that can lead, dominate, or control other countries through force or power.³⁰ The Five Hegemons of the Spring and Autumn Period [春秋五霸], the Qin State after Shang Yang’s Reform, and the Wei State established by Cao Cao [曹操] are all typical examples of Ba Dao.

Xun Zi [荀子] provides a different interpretation of Ba Dao from Mencius. In Xun Zi-Wang Ba [《荀子·王霸》], he proposes that the foundation of Ba Dao lies in the trustworthiness of a state, which is conducive to its ruling and legitimacy. Such an interpretation greatly enriches the connotations of Ba Dao.³¹

Since Wang Dao embodies the virtue, benevolence, etiquette, and righteousness respected by Confucianism, after the Han Dynasty, mainstream Confucianism almost always worshiped Wang Dao and denigrated Ba Dao.³² Scholars in Song Dynasty even believed that selfish interests or desires are involved in Ba Dao.³³ Even so, there are still thinkers like Chen Liang who put forward different views on Ba Dao. Chen Liang believed that Wang Dao and Ba Dao are two sides of a coin. Benevolent governance of a state needs to be supported by hegemonic force.³⁴ Chen Liang’s theory has much in common with the theory of hegemonic equilibrium in modern international relations.

In the modern international relations theory and traditional pre-Qinperiod Chinese thought, Ba Dao is an impartial term, or in some contexts, a positive one. Since 1949, however, Ba Dao has become a derogatory term, referring to “the act of manipulating or controlling other countries with power in international relations,” while hegemony refers to “with the aid of military and economic strengths, the policies and behaviors of large and powerful countries that forcibly interfere with internal affairs of small and weak countries.”³⁵

C. Difference between Wang Dao and Ba Dao in the Context of Modern International Relations

Wang Dao and Ba Dao were a deep rooted pair of concepts with broad connotations in traditional Chinese political thought. Both embody the strategies and political ideals of ancient Chinese thinkers and politicians. There have been longstanding debates on Wang Dao and Ba Dao, and different conclusions are drawn by different scholars. In fact, Wang Dao and Ba Dao are interdependent concepts with different focuses. Summarizing the debates from ancient China and placing them in the context of modern international relations, the major differences between the two are as follows:

1. The division of benevolence and power

Wang Dao pays attention to ‘benevolence,’ while Ba Dao favors ‘power.’ Mencius already pointed out this distinction in ancient times. By applying Wang Dao, a country could construct and implement a political system centered on morality and justice. Such a system would attract, guide, and influence other members of the international community, thereby realizing international governance. Conversely, Ba Dao focuses on a country’s own power. By pursuing stronger power and armed force, a country can win other countries’ recognition of its identity, status, and interests, maintaining a relative balance of power and, in the end, obtaining greater benefits as a result of said balance.³⁶

2. The difference between good and evil

Wang Dao is committed to stimulating the brighter side of human nature. It believes that justice can be used to influence other countries. Those countries could thus be incorporated into a better value system that cherishes peace and cooperation. In contrast, Ba Dao recognizes the evil side of human nature, believing that contradictions and conflicts are inevitable. Countries will only consider foreign policies based on their own interests. Only when a country becomes stronger can it protect itself and establish a sense of security.³⁷

3. The difference between rigidity and softness

Wang Dao influences international relations through ethical standards and value recognition. It aims to achieve international public governance by gentle and non-

violent means, exerting the influence and effect of rules. Meanwhile, Ba Dao recognizes that a country could use its power to implement national policies, and international disputes can even be resolved by force. Large countries can rely on their strong national hard power to deter and influence other countries, thereby obtaining superior status over them.³⁸

4. The distinction between righteousness and benefit

Wang Dao advocates that a country should follow fairness and avoid the abuse of public power. It pursues a harmonized society where “the world is public [天下为公].”³⁹ In contrast, Ba Dao aims to protect national interests. Justice will only be considered when national interests are satisfied first. The starting point of a state’s behavior is fundamentally based on its survival and security needs, and countries can use force for their national interests.⁴⁰

IV. THE GAME BETWEEN MIGHT AND RIGHT

Might and right can be seen in both Western modern international relations theories and Chinese traditional political thoughts. The game between might and right is behind those theories: if might prevails, the theory supports power politics. Conversely, if the theory is in favor of right, it pays more attention to justice, morality and international law. They can profoundly affect foreign policies and the specific actions of countries and other international entities.

A. Might and Right: Two Interrelated Choices in International Relations

As suggested in Xun Zi- Wang Ba [《荀子·王霸》],⁴¹ if a country chooses right in its foreign policy, it is applying Wang Dao and favors morality. Ba Dao is followed by countries that endorse power politics. When a country enacts foreign policies and takes specific diplomatic actions at the micro level, there is trade-off between might and right. No country can rely solely on might or right at all times; otherwise, those relying on the former will eventually become extremely violent war machines, while those focusing on the latter will degenerate into pedantic countries that hollowly talk about benevolence, justice, and morality. The following section will discuss the relationship between might and right in detail.

1. Interests

People are profit-seeking, and so are countries. Power politics emphasizes that the primary goal of the state in its foreign relations is to safeguard national interests, but this does not necessarily mean that countries pursuing right will disregard their own interests. External interests are the external needs of the state to improve the welfare and well-being of its citizens, and they are also one of the important legal bases on which the state depends.⁴² However, as Zeng Guang Xian Wen [《增广贤文》] said, “a noble man makes his wealth in just and ethical means.”⁴³ It can be seen that, when pursuing its own interests, a state should not infringe on the interests of other countries. Additionally, although the nature of powerful countries is profit-seeking, they may temporarily abandon immediate interests in the face of longer-term interests.

2. International law

The main sources of international law are recognized treaties and international customs, most of which embody elements of right and can be used as the universal code of conduct in the international community. However, international law can also be divided into “good law” and “bad law.” With regard to good laws, the state should abide by them. Bad laws, however, can easily become a tool of power politics and hegemony. Examples of bad laws in history include “acquisition of territory by force” and extraterritoriality.⁴⁴

Power politics does not always mean a total breach of international law. If compliance with international laws is beneficial to hegemonic countries, they are naturally willing to abide by and uphold them,⁴⁵ especially when these legal rules themselves are enacted under the influence of those countries or are conducive to maintaining their hegemony. When the benefits of abiding by international laws are less than the cost of non-compliance, powerful countries will not hesitate to violate the rules or even openly trample on the basic principles of international law.

3. International organizations

International organizations are essentially a series of arrangements and systems for handling international affairs based on international cooperation (mainly through treaties). The rules and systems of international organization are recognized by the consent of the member states. They are obliged to enjoy their rights and fulfill their

obligations and maintain good international governance by enhancing international communication and cooperation.

However, certain international organizations are inevitably affected by hegemonic countries. When they abuse their powers, international organizations are likely to become tools for their hegemony. Creating or joining an international organization means a country's international influence is enhanced. In this case, the country will be enthusiastic to maintaining or operating that organization. If an international organization harms its own interests, the country may eventually "retire from the group."

4. Development

Development is not only an issue of opportunity justice, but also distributive justice. When hegemonic equilibrium is in the early formation stage, major powers are, to some extent, willing to maintain the stability of the international order and leave room for the development of other members of the international community. During this period, the hegemonic countries and the international community are in a symbiotic state, sharing fortune and misfortune together. However, once hegemonic equilibrium is established, as hegemonic countries gradually become stronger, the fruits of the development of the international community will be tilted towards the hegemonic countries and their allies. Here, international development will become more imbalanced. When the development of the international community endangers the monopoly interests or basic security of hegemonic countries, they will do whatever to protect their own interests, even harming the overall interests of the international community. As a result, hegemonic countries may become the main obstacle to the sustainable development of the international community in the end. The international community can be stabilized by the rule-based order for common interests. Such a situation is more conducive to realizing fair opportunities and equitable distribution.

In reality, a country may follow both right and might, thus seeking profit and respecting international law at the same time. Whether a country is pro-might or pro-right is not easy to judge simply by looking at certain actions of the country when handling specific foreign affairs or international disputes. However, each foreign policy has different direction towards either pro-might or pro-right. The basic diplomatic strategy of a country in a specific period depends on its cultural

traditions, diplomatic doctrine, and international environment. When more countries are respecting “right,” then cooperation, development, and peaceful coexistence will prevail in the international community. Conversely, with more countries pursuing “Might,” conflict, chaos, and war will dominate human world at that time.

B. Future Development: Rule of Law in International Relations

To build a new international order, it is necessary to comprehensively consider the foreign policies of different countries at the micro level and the trend of might and right at the macro level. Is there a way to diminish the negative influence of power politics in international relations as much as possible while highlighting the pursuit of right in international rules and making it more in line with modern global governance? Rule of law in international relations is a possible approach.

1. Rule of Law in International Relations as the Key to Solving the Dispute between Might and Right

How to place international relations in a more neutral, clear, and standardized system of international law? Also, how to transform the code of conduct of international relations into rules of international law? These questions have been constantly arising through modern history. A group of scholars in Europe and the US have paid attention to this trend, e.g., Kenneth W. Abbott, Robert O. Keohane, Andrew Moravcsik, Anne-Marie Slaughter, and Duncan Snidal. These scholars proposed the concept of “legalization in international relations” for the first time.⁴⁶ Although they did not define this concept arbitrarily, they adopted three elements, “obligation,” “accuracy,” and “authorization” to describe it.⁴⁷ These three elements are independent and can be measured on a sliding scale. Abbott also develops a measurable model to evaluate the three elements. In the process of legalization, if the three factors are relatively strong, the degree of legalization in international relations is higher, for example, in the WTO law, the European Court of Human Rights and the International Criminal Court. If all three factors are weak, the degree of legalization in international relations is lower, as in the internal relations of the G7 group. If one or two factors are weak, the degree of legalization is in the middle.⁴⁸

Incorporating the code of conduct of international relations into the system of international law, thereby restraining power politics and manifesting international right, is a legitimate requirement for legalization in international relations.

International law should accurately reflect the nature and development of international relations. However, ‘legalization’ is only a preamble of “rule of law.” There are significant differences between the legalization and the rule of law. First, legalization of international relations means to establish static and normative legal rules or systems, while the rule of law means that legal rules are respected as an operation system by the international society.⁴⁹ Second, the legalization of international relations shows the neutrality and objectivity of international law which reflects existing international relations like a mirror. In contrast, once the rule of law is recognized in international relations, it has its own value system which is not dependent on international relations. Third, when there is a rule of law in international relations, there is interaction between international relations and law. If continuously strengthened, international law will in turn influence and regulate international relations.⁵⁰

The internal connection and interaction between international relations and law is important to define the “rule of law in international relations” clearly. When the code of conduct or custom in international relations is transformed into legal concepts, rules, and systems, States and other international entities are fully involved in enacting, implementing, and complying with such legal concepts as rules, and systems. The aim is to build good governance in the international community by law.

2. The significance of rule of law in international relations

The increasing international exchanges and waves of globalization have brought nations and their people closer together. What kind of international relations are needed by the international community? Which concepts and methods ought to be used to resolve international disputes?

Historically, there are roughly three types of method for resolving disputes between countries. First, diplomatic methods include consultations, negotiations, good offices, mediation, investigations, diplomatic protection and containment. They are still widely used on many occasions in international relations. Second, legal methods apply international laws (mainly treaties and customs) or resort to international institutions (such as international courts and arbitration tribunals). Third, military methods mean the use of force to resolve international disputes. The unrestricted use of force has been proven by history to be a source of turbulence and

chaos in international relations. Since World War II, the use of force has been strictly prohibited under the UN system. With increasing codes of conduct in international relations being incorporated into the international law, the rule of law requires countries and other international actors to follow international norms recognized by most countries under the UN Charter. The development from force to diplomacy, and then from diplomacy to law, can be regarded as the progress of international relations.⁵¹ As Ambassador Huang Huikang once said: “Legal diplomacy resulting from the integration of international law and diplomacy is an advanced form of modern diplomacy.”⁵² Contemporary international law based on the UN Charter is a manifestation of “right” in international relations, which embodies the code of conduct recognized and followed by all countries in the world.

Some people would argue that international law cannot really discipline entities because it has limited binding force in international relations, let alone establish a truly effective international order.⁵³ These views, however, misunderstand the nature of international law. First, there are clear rights and obligations under international law that are identical to domestic legal systems. Second, domestic law is citizens’ delegation of power to specific state organs to enact laws, elevating the will of citizens to that of the country. Similarly, international law is formulated based on countries’ common will; otherwise, international treaties and customs would not exist. Third, there are dispute settlement mechanisms in the international legal system, such as the International Court of Justice and the International Criminal Court whose judgments and rulings are legally binding and enforceable. Finally, compliance with international law by countries is a norm, while violation is the exception. The moral values and the pursuit of right embodied in international law are recognized by the international community. No country will manifestly declare that it opposes international law. Even when force is used, the country will assert that its actions conform to international law.⁵⁴

Admittedly, international law has shortcomings, which nevertheless contributes a lot to the formation and maintenance of international order. As Xu Hong, former Chinese ambassador to the Netherlands, pointed out: “... currently, there are rules of international law applicable to all areas of human life. The conclusion of international treaties to regulate human activities in all areas has been one of the most important phenomena in international relations in the past 70 years. It is also one of the most important factors to ensure peace and avoid world wars.”⁵⁵ Moreover, since there

is no central authority in the international community, international relations would be full of danger under the law of jungle. Although current international law is far from completely mature, there is no better way to maintain a stable and peaceful international order without it.

For a long time, power politics has been like a wild beast, provoking countless contradictions and conflicts and seriously damaging the basic order of peace, stability, and development in the international society. Certain powerful countries would apply international law only when it is beneficial to them. Such behavior has greatly weakened the authority and enforceability of international law. Only by keeping the beasts in a cage and letting power operate within the legal framework can the stability of the international society be well maintained and developed. Therefore, all the major powers need to be the backbone of peace and security in the world.

International law itself is, gradually and dynamically, developing. Some international legal rules formed under the influence of power politics should be revised to reflect democratic, fair, and just international relations. The evolution of international law should depend on innovative concepts of international relations and the promotion and pursuit of right by various countries.

Meanwhile, the UN Charter is an important normative base in the postwar global community. The purposes and principles of the UN Charter, which embody the common pursuit and values of all mankind (such as peace, development, fairness, justice, democracy, and freedom), should be the criteria for valuing the code of conduct in international relations. The rule of law in international relations evidences the beginning of a new and integrated stage of the globalization process. Various transnational laws strongly influence international politics, resulting in a closer inter-connection between legal and political systems.⁵⁶ President Xi Jinping said in a speech at the UN headquarters in Geneva on January 18, 2017 that China would firmly uphold the UN system as its basic norms governing its foreign policy and try to embody the purposes and principles of the UN Charter.⁵⁷

V. RULE OF LAW IN INTERNATIONAL RELATIONS: THE CHOICE OF CHINA

Since 1949, China has adhered to independence and self-determination in diplomacy. From the Five Basic Principles of Peaceful Coexistence (hereinafter Five Basic Principles) to a community with a shared future for mankind, China supports modern codes of conduct and the rule of law in international relations based on the purpose and principles of the UN Charter. It further opposes hegemony and power politics, upholds international right, and gives full play to the role of international organizations in global governance. Chinese diplomacy especially respects cooperation, seeks common ground while reserving differences, and promotes the democratization and rule of law in international relations.⁵⁸ President Xi Jinping pointed out in his speech at the UN Headquarters: “The life of law lies in its implementation, and countries have the responsibility to maintain the authority of the international rule of law, exercise rights in accordance with the law, and perform obligations in good faith. The life of the law also lies in fairness and justice. Countries and international judicial institutions should ensure that international law is applied equally and uniformly. Double standards cannot be adopted.”⁵⁹

A. Five Principles of Peaceful Coexistence

In 1954, when the Chinese and Indian governments negotiated on the issues related to Tibet, they put forward the Five Basic Principles for the first time, namely: (1) mutual respect for territorial sovereignty; (2) mutual non-aggression; (3) mutual non-interference with internal affairs; (4) equality and reciprocity; and (5) the principle of peaceful coexistence.⁶⁰ Since then, the Five Basic Principles have been established as constitutional code of conduct for China’s diplomacy and its basic position on international relations and law.⁶¹ Under these Principles, China safeguards peace and self-determination, and opposes hegemony with any major power or group of powers. The Five Basic Principles were quickly recognized by the international community and have been playing a positive role in improving international relations and promoting the sound development of the international community. So far, the Five Basic Principles were widely supported by the majority of states in the world as important principles of contemporary international law

as proclaimed at “The Declaration on Principles of International Law Concerning Friendly Relations and Co-operation Among States in Accordance with the Charter of the United Nations.”⁶² The Five Basic Principles were also frequently mentioned in the Programme of Action on the Establishment of a New International Economic Order and the Charter of Economic Rights and Duties of States adopted by the sixth special session of the UN General Assembly in 1974.⁶³

As an open and inclusive principle of international law, the Five Basic Principles reflect sovereign justice, democracy, and the rule of law. They have become the basic norms governing international relations and law, effectively safeguarding the rights and interests of developing countries and playing an active role in promoting a more just and reasonable international political and economic order.⁶⁴

B. Institutional Innovation: “One Country, Two Systems”

Deng Xiaoping put forward the concept of “One Country, Two Systems.” Under this premise, the mainland adheres to the socialist system, while Hong Kong, Macau, and Taiwan may retain their capitalist systems over a long time to come.⁶⁵ “One country, Two Systems” resolved the systematic differences in China constitutionally. China can properly handle international relations under this principle. According to Deng Xiaoping, the principle of peaceful coexistence works well in dealing with international relations issues as well as helpful in resolving the internal affairs of a country.⁶⁶ Deng Xiaoping innovatively and flexibly applied the Five Basic Principles to international problems on domestic affairs.⁶⁷

1. “One Country, Two Systems” in Hong Kong

With the return of Hong Kong on July 1, 1997, the Hong Kong Basic Law formally came into effect in 1997, legalizing and institutionalizing the “one country, two systems” policy. The Hong Kong Basic Law has established the Special Administrative Region (SAR) system in this region. It stipulates the basic rights and obligations of Hong Kong residents and covers topics including economy, education, science, culture, sports, religion, labor, and social services.⁶⁸ Overall, the central government in Beijing has granted the Hong Kong SAR a high level of autonomy. Apart from national defense and foreign affairs, the Hong Kong SAR enjoys broad powers in the areas of legislation, justice, administration, currency, and customs duties.⁶⁹

2. “One Country, Two Systems” in Macau

Chinese government resumed its sovereignty over Macao on December 20, 1999. Like Hong Kong, the Macao Basic Law is a constitutional document of the Macao SAR. Its overall structure and basic principles are roughly the same as the Hong Kong Basic Law. Due to special characteristics of Macau, however, a different approach is applied in its governance, resulting in a special “Macao Model” in the Macao SAR.⁷⁰

The implementation of “One Country, Two Systems” not only effectively safeguards China’s sovereignty, integrity and national unity, but also helps ensure the fundamental interests and long-term development of Hong Kong and Macao. Despite various challenges, “One Country, Two Systems” still provides valuable experience to international law. It is not only the basic policy toward ultimate reunification but also has a positive and far-reaching impact on contemporary international law.⁷¹ These effects may include: (1) expanding the scope of application of the Five Basic Principles, making them applicable not only to peaceful coexistence between countries, but also to the peaceful coexistence of two different social systems in a country; (2) forming a unique model for the SARs to conclude applicable international agreements (especially in terms of contracting subjects, contracting authorities, and implementation mechanisms), which contributes to the development of international treaty law; (3) granting a high level of local autonomy to SARs in a unitary country, whereby the SARs enjoy a high degree of autonomy; and (4) promoting the integration of different legal systems. There are exchanges and integrations of different legal systems within a country (a socialist legal system on the mainland, an Anglo-American common law system in Hong Kong, and the European continental law system in Macao).⁷²

C. Innovation in a New Era: A Community with a Shared Future for Mankind

Humankind only has one Earth, where all nations coexist. They are obliged to profound adjustment and transformation. All the countries in the world need to understand and respond to the tremendous changes in international relations.⁷³

Promoting a “community with a shared future for mankind” is China’s basic ideas and initiative for future development of the world. In international relations, the spirit of equality, mutual trust, tolerance, mutual learning, and win-win cooperation should be promoted to jointly safeguard international fairness and justice. President

Xi Jinping said: “We must inherit and carry forward the purposes and principles of the UN Charter, promote a new type of international relations with win–win cooperation as the core, and build a community with a shared future for mankind.”⁷⁴

In February 2017, the 55th session of the UN Commission for Social Development passed the resolution on “New Partnership for Africa’s Development.”⁷⁵ The concept of “a community with a shared future for mankind” was written into a UN resolution for the first time. Since then, “a community with a shared future for mankind” has been widely recognized and mentioned in the UN documents many times.

1. “Common factors” and “common consciousness” in the concept of “a community with a shared future for mankind”

“A community with a shared future for mankind” means that the future and destiny of every nation are closely linked. All countries share honor and disgrace together, so that they should strive to build a harmonious family on the planet.⁷⁶ China’s promotion of “a community with a shared future for mankind” does not intend to overthrow and rebuild a new international order. Rather, it aims to develop the world for lasting peace, universal security, common prosperity, openness, tolerance, and cleanliness on the basis of the existing international legal order, with the UN Charter as the core.⁷⁷ Focusing on the “common factors” and “common consciousness” of all human beings, “a community with a shared future for mankind” always interprets international law and relations from the perspective of the world as a whole.

Common factors

Diversification is an engine for development in the world. Differences always exist in human society. However, what really connect the world are common factors among all these differences. There will be more cooperation in the international community only when all countries seek common ground while reserving their differences.⁷⁸ “A community with a shared future for mankind” emphasizes that people in the world are connected to each other and could develop in coordination.

Common interests

The rapid development in various fields such as trade, finance, science and technology, resource development, and environmental protection has bound countries

more closely together. Sharing many common interest they cannot be separated. Such common interests lead to the formation of multiple layers of community, including economic, security, social, and cultural. “A community with a shared future for mankind” is an abstract summary of these communities of interests.

Common values

Throughout the modern history, peace, development, fairness, justice, democracy, and freedom have been a longstanding pursuit. “A community with a shared future for mankind” transcends political systems, ideologies, and civilizational paradigms. It advocates cooperation, integration and tolerance rather than conflicts, disagreement and exclusivity. This is conducive to building a world more favorable to human development.

Common emotions

“A community with a shared future for mankind” pays attention to the self-development and emotional needs of human beings and promotes the establishment of a stable, free, prosperous, beautiful, and happy living environment. This prospect requires the respect of the legitimate emotional expressions of different countries, nationalities, ethnic groups, or specific individuals due to differences in religion, culture, and so on. Despite all the above differences, common emotions of human beings, such as love, compassion, empathy, and awe need to be protected and respected. By connecting people based on their common emotions, different countries can work together to solve global challenges such as environmental protection, cultural heritage protection, human rights protection, humanitarian relief, and counterterrorism.

Common responsibility

In human society, no one can stand aside. The interests and destiny of all countries are closely linked. Every country has the responsibility and obligation to make the Earth a better place and actively promote the well-being of humans. By lawfully exercising rights and performing obligations in good faith, countries can contribute to peace and development in the new international economic and political order.

2. “A community with a shared future for mankind” and the development of modern international law

“A community with a shared future for mankind” will have historical, cultural, legal and institutional foundations in a global sense. It is not a completely new concept; nor is China’s unilateral proposition and contribution, but reflects the basic norms of international law and relations.⁷⁹

Five Basic Principles

“A community with a shared future for mankind” inherits and further develops the Five Basic Principles. In light of updating contemporary international relations, it advocates common factors, common interests, common values, common emotions, and common responsibilities. A community with a shared future for mankind shares the same vision with the Five Basic Principles like international cooperation, mutual assistance, and mutual benefit in line with the purposes and principles of the UN Charter. Democracy, rule of law, and peaceful coexistence and co-prosperity are the connotation of “a community with a shared future for mankind.”⁸⁰

International cooperation

“A community with a shared future for mankind” highlights the “common” and “mutual” factors in all communities. It promotes international cooperation under the UN Charter which denotes two implications. First, international cooperation is the foundation of the collective security system. The UN’s most important mission is to prevent war and ensure the common security of the international community. Without international cooperation, there can be no lasting peace and development. Second, development provides an important guarantee of safety. Only with common development and common prosperity can the international community be safer and more stable. “A community with a shared future for mankind” emphasizes that all countries should consult, construct, and share with each other to achieve a win-win situation. It promotes trade and investment liberalization and facilitation, leading globalization toward a more open, inclusive, and balanced direction.⁸¹

Human rights protection

“A community with a shared future for mankind” advocates the development and prosperity of all mankind as a whole. Accordingly, the international protection

of human rights has become a main purpose of the UN Charter.⁸² It further pays attention to the rights to survival, development, and self-determination. In this regard, different countries and cultures could have different understandings of human rights. Each country thus can protect human rights in the way suitable for its own people under international law. Otherwise, it will become a political bargaining tool.⁸³

Environmental protection and sustainable development

The protection of environment is the basis for the sustainable development of human society. The environment affects the happiness of people's daily lives. The international community shares the consensus that the environmental protection is urgent need for all mankind. As a large number of treaties have been concluded on environmental protection, environmental protection and sustainable development have become the basic principles of international law. "A community with a shared future for mankind" advocates a green, low-carbon, and sustainable lifestyle. It will help to reform global governance and develops international law following the principles of lasting peace, universal security, common prosperity, openness, tolerance, and cleanliness.⁸⁴

VI. CONCLUSION

In recent, Chinese and foreign scholars have conducted in-depth and creative discussions on the assumptions, alternatives, approaches, and models for the development of international law and relations. All these theories are committed to finding a path that can ensure peace, stability, and long-term development for mankind. Might and right are two underlying grounds behind these theories. International relations need to be more democratic under the rule of law. Today's international relations regards international law as a universally recognized, objective, normative, and relatively stable way to restrain power, demonstrate justice, and create a peaceful, fair, and stable international order. The modern international law system is a demonstration of "right" in international relations. It is the common mission of the international community to jointly safeguard and promote the development of international law.

In the past 100 years, China has transformed from a weak semi-feudal and semi-colonial country into a modern country. Its national power is growing rapidly, and its foreign policy is becoming more proactive. However, China and its people are still firmly opposed to hegemony and power politics. Deng Xiaoping said: “China will always stand on the side of the third world. China will never seek hegemony, and China will never take the lead.”⁸⁵ Compared with power politics, China is more inclined to apply Wang Dao in a modern context and build an international order that conforms to the international rule of law. “A community with a shared future for mankind is finally a Chinese solution to solve many major global challenges.” The author would conclude this article with the words of President Xi Jinping: “We should work together to promote the rule of law in international relations and encourage all parties in international relations to abide by international law and universally recognized basic principles of international relations. Countries shall use uniformly applicable rules to clarify right and wrong, promote peace and seek development.”⁸⁶

Received: Dec. 15, 2021

Modified: Jan. 15, 2022

Accepted: Feb. 15, 2022

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