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The development of Chinese international jurisprudence over the past 70 years can be divided into three stages: fledging; recovery and development; and flourishing. During the period, Chinese international lawyers have made great contributions to the development of international law through, inter alia, the Five Principles of Peaceful Co-existence, recognition and succession, the peaceful settlement of international disputes, the Belt and Road Initiative, the Shared Future for Mankind, and so forth. However, participation in international legislation and international judicial activities needs to be further improved, because the theoretical ground for China’s foreign policy and diplomatic practice is still insufficient and academic works with global influence are not enough yet. The development of Chinese international law follows such trends: more valuable interpretation and application of international law; the theoretical innovation of international law; and the improvement of China’s discourse power. These are important missions for Chinese international lawyers.

Keywords
Chinese International Law, International Jurisprudence, Belt and Road Initiative, A Community of Shared Future for Mankind

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I. Introduction

The establishment of the People’s Republic of China (PRC) in 1949 was a historic event. It was significant to the postwar power politics in East Asia. New China initiated revolutionary ideas for the renovation of old China. Accordingly, China should change its views of foreign policy and international law. PRC finally joined the international society as a completely independent State. The Common Program of the Chinese People’s Political Consultative Conference in 1949 expressly provided: “The principle of the foreign policy of the People’s Republic of China is protection of the independence, freedom, integrity of territory and sovereignty of the country, upholding of lasting international peace and friendly co-operation between the peoples of all countries, and opposition to the imperialist policy of aggression and war.”¹ For the past seven decades, while extensively applying the rules and regulations, PRC has introduced many innovations to contemporary international law. It is theoretically and practically significance to review the development of international law in China 1949 to find a right way for the next stage of international law studies in the time of G2.

This article is divided into six parts including Introduction and Conclusion. Part two will elaborate the progress of Chinese international law over the past 70 years. Part three will analyze the major contributions of China to contemporary international law. Part four will systematically summarize the major characteristics and problems in Chinese international law over the last 70 years. Part five will indicate the future orientation of Chinese international law.

II. Development of Chinese International Law since 1949: Three Periods

A. Preliminarily Period (1949-78)

1. The First Phase (from 1949 to the late 1950s).

Shortly after its establishment, PRC should solve many international legal issue, such as recognition and succession, abolishment, alteration and establishment of

treaties, nationality issues, its rights and interests in international organizations, etc. In the course of handling and addressing these issues, the Chinese government urgently needed the knowledge of modern international law.²

From 1949 to 1952, some institutions of higher education introduced international law courses, including Peking University, Wuhan University, Renmin University of China, and Sun Yat-sen University, among which Renmin University of China had employed an expert from the Soviet Union to teach international law. In 1952, Chinese institutions of higher education were subject to adjustments. As a result, international law education was suspended. Since 1956, Peking University, Peking College of Political Science and Law, and other institutions of higher education resumed or newly started to teach undergraduates international law. Meanwhile, each school and department of politics and law had systematically compiled teaching and reference materials.³

During this period, abundant Soviet works on international law were translated and published in the field of Chinese international law, including the **Soviet Union and International Law**,⁴ **United Nations: A History**,⁵ and **Problem of Territorial Waters in International Law**.⁶ Moreover, there were dozens of academic papers such as **International Law and International Organization** by Vyshinsky, **Some of the Main Questions of the Modern Theory of International Law** by Korovin, **Discussions and Conclusions on Theoretical Issues in International Law** published by the Editorial Department of the **State and Law** (a journal from the Soviet Union), and so forth. Chinese scholars simultaneously translated and published some authoritative European and American works on international law, such as **Oppenheim’s International Law**,⁷ **A Guide to Diplomatic Practice**,⁸ **The International Law of the Sea**,⁹ and **The United Nations Specialized Agencies**.¹⁰

It is noteworthy that the Chinese government released the Declaration on

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⁴ Kozevnikov, **Soviet Union and International Law** [苏维埃国家与国际法] (Renmin University of China Press, 1955).
⁵ **Sergei Krylov, United Nations: A History** (vol. 1) [联合国史料(第1卷)] (Renmin University of China Press, 1955).
⁶ Nikolayev, **Problem of Territorial Waters in International Law** [国际法中的领水问题] (Law Press, 1955).
Territorial Sea in 1958.\textsuperscript{11} Thereafter, some scholars published research papers\textsuperscript{12} which was compiled into \textit{On the Territorial Sea Issue of China}\.\textsuperscript{13} Since the 1950s, the PRC Ministry of Foreign Affairs has published some collections of treaties and foreign documents including \textit{A Collection of the Treaties of the People’s Republic of China}, \textit{A Collection of International Treaties and A Collection of Documents on the Foreign Relations}, and \textit{A Collection of Documents on Agreement between the Government of the People’s Republic of China and the Government of the Union of Myanmar on China-Myanmar Border Areas}\.\textsuperscript{16}

At this stage, Soviet international law had a significant influence on the education and research of international law of China. In particular, the teaching materials, textbooks and expertise were mainly adopted from those of the Soviet Union.\textsuperscript{17}


“Left-leaning” ideas and legal nihilism prevailed at this time mainly due to the Cultural Revolution, severely impeding and withering the progress of Chinese international law for almost two decades.

Regarding the education of international law at that time, some colleges and universities of politics and law were shut down and international law teachings in other universities and colleges were limited. As for research on international law, scholars in this field were either forced to halt their academic research or sent to villages to engage in physical work. For instance, Professor Wang Tieya from Peking University was sent to a farm in Poyang Lake.\textsuperscript{18} Then, even a single paper on international law was not found in newspapers or magazines from 1961 to 1978. Luckily, research on international law was not completely suspended. Some experts


\textsuperscript{14} \textit{A Collection of the Treaties of the People’s Republic of China} (1949-1960) [中华人民共和国条约集] (PRC Ministry of Foreign Affairs eds., 1960).


\textsuperscript{17} C. Xiaoxia, \textit{Theoretical Questions of International Law} [国际法的理论问题] 42 (Tianjin Education Press, 1989).

\textsuperscript{18} S. Ying, \textit{A Biography of Mr. Wang} [为王先生写传记], \textit{in Selected Works of Wang Tieya} [王铁崖文选] 603 (Zhenglai Deng ed., 2003).
working at the Ministry of Foreign Affairs continued their research. One research achievement was the *Paper Collection of International Law*[^19] that was later compiled by Professor Chen Tiqiang.

Moreover, *International Law*[^20] (Volumes 1 & 2) written by Mr. Zhou Gengsheng was the “first momentous work on international law”[^21] published after 1949. It was “a unique teaching material on international law” before 1981. As a self-contained law-based work in international law field worldwide, this book filled the research gap between international law in China and global world, and paved the way for the future development.


It was after the Third Plenary Session of the 11th Central Committee of the Communist Party of China (CCCPC) in 1978 that Chinese international law was fully promoted.

*a. International law gained growing attention*

First, the government came to realize the importance of international law. For example, in 1996, Chairman Jiang Zemin participated in the legal knowledge lecture held by the CCCPC, at which he stated clearly that: “All comrades that engage in political, economic, cultural and judicial work on behalf of the state should learn knowledge about international law as well.”[^22] Moreover, academic platforms for international law appeared one after another.

For instance, the Chinese Society of International Law, the first national academic organization in international law in Chinese history, was established in 1980. It was governed by the Ministry of Foreign Affairs, with its first President, Mr. Huan Xiang, a renowned diplomat who had been the Vice President of the Chinese Academy of Social Sciences. In addition, about 80 universities or research centers, including Wuhan University, set up education and research institutes for international law. Finally, academic publications on international law began to increase.[^23] Since the


Chinese Yearbook of International Law was launched in 1982, the first academic publication specializing in international law in Chinese history, some international law magazines such as Wuhan University International Law Review, Chinese Review of International Law, and China Oceans Law Review were launched followed by the first English publication - Chinese Journal of International Law.

b. The practice of international law was diversified

Instead of sustaining a negative attitude towards international judicial institutions, first, the Chinese government took the initiative to participate in relevant procedures of international courts and tribunals. In 2009, the Chinese government submitted its opinions in writing on the “Case concerning Advisory Opinion of Unilateral Declaration of Independence in Respect of Kosovo” to the International Court of Justice (ICJ). “This was of great significance, as it was the first time for the People’s Republic of China to take part in judicial activity of the International Court of Justice.” In 2010, the Chinese government submitted its written opinions on the “Responsibilities and obligations of States sponsoring persons and entities with respect to activities in the Area (Request for Advisory Opinion submitted to the Seabed Disputes Chamber)” to the International Tribunal for the Law of the Sea (ITLOS).

Second, Chinese scholars actively participated in the practice of international law launched by various international organizations, some of whom could be seen in organizations such as the ICJ, the International Criminal Tribunal for the former Yugoslavia (ICTY), the ITLOS, the United Nations International Law Commission, and the Appellate Body of the WTO. Others even acted as principals of some international organizations.

25 Wuhan University International Law Review [武大国际法评论].
26 Chinese Review of International Law [国际法研究].
27 China Oceans Law Review [中国海洋法学评论] (published by the Center for Marine Policy and Law, Xiamen University).
28 Chinese Journal of International Law [中国国际法论刊].
32 Zewei Yang, The Features, Problems and Trends of Chinese Science of Public International Law in the Forty Years of
Finally, numerous colleges and universities hosted a number of international law moot court competitions nationwide, such as the Jessup International Law Moot Court Competition, the “International Space Law Moot Court Competition,” and so forth.

c. Talents in international law grew rapidly
In this period, legal education was promoted in China. By the end of 2005, apart from independent colleges and universities and those specializing in law, 559 institutions of higher learning in China had set the law major for undergraduates, with the number of students pursuing bachelor and master’s degrees in law reaching 300,000.33 There was a considerable amount of talents specializing in international law. Moreover, many students had received their master’s or doctoral degrees in international law home and abroad. In addition to the three main discipline core courses—Public International Law, Private International Law, and International Economic Law—some institutions of higher education included the following in their teaching plans: Law of International Organizations, International Human Rights Law, Law of the Sea, Law of International Treaties, International Civil Procedure, International Investment Law, International Financial Law, International Trade Law, etc.

4. Flourishing Period (2012-Present)
“The kick-off of the 18th National Congress of the Communist Party of China in 2012 marked a new era of the development of the Chinese international jurisprudence."34 As China has already become the second largest economy in the world, contemporary international law plays a prominent role in safeguarding the national interests of China. Therefore, with the constant reinforcement of organization and guidance on international law research,35 consultation agencies

33 By the end of 2017, 626 Chinese universities had offered undergraduate majors in law, and more than 310,000 students graduated, majoring in law. See Ministry of Education of the People’s Republic of China, http://www.moe.gov.cn/jyb_xxgk/jyxxgk/201611/20161104_287655.html. See also Lin Zhang & Lingsheng Zhang, Research and Teaching of International Law in Contemporary China: A Landscape Sketch, 10 J. East Asia & Int’l L. 429-30 (2017).


35 For example, the Chinese Society of International Law officially launched its website in 2015, and set up the Award for Outstanding Scientific Research in Chinese and International Law [中国际法学优秀科研成果奖] and the Award for
specializing in international law were founded. In 2014, the Ministry of Education approved the establishment of the first international law-related “2011 Plan Collaborative Innovation Center of Judicial Civilization”: “Collaborative Innovation Center for Territorial Sovereignty and Maritime Rights.” In 2015, the Ministry of Foreign Affairs officially approved the founding of the “Expert Advisory Committee for International Law.” In this year, Wuhan University Institute of International Law was also approved one of the first plotting entities for the construction of national high-end think tanks by the Publicity Department of the CPC. Finally, more talented individuals joined international law research teams.\textsuperscript{36}

Today, China is attaching more importance to the function of international law and increasing efforts to boost its development. In 2014, Wang Yi, the Foreign Minister addressed in a newspaper article, \textit{China is a Staunch Defender and Builder of International Rule of Law} that: “China, which is committed to rule of law at home, will naturally act as a strong defender and active builder of international rule of law.”\textsuperscript{37}

**III. Main Contributions of PRC to Contemporary International Law**

So far, PRC has made significant contributions to theories and practices of international law through, \textit{inter alia}, the Five Principles of Peaceful Coexistence and admission and succession, nationality issues, the peaceful settlement of disputes, the “Belt and Road” Initiative, and the building of “a community with a shared future for mankind.” “China has taken a constructive part in the formulation of international rules and contributed its input on major issues concerning the interpretation, application and development of international law.”\textsuperscript{38} China has concluded 25,000 bilateral treaties, ratified approximately 500 multi-lateral treaties,\textsuperscript{39} and joined almost all intergovernmental organizations.


\textsuperscript{37} Wang Yi, \textit{China is a Staunch Defender and Builder of International Rule of Law} [中国是国际法治的坚定维护者和建设者], \textit{Guangming Daily} [光明日报], Oct. 24, 2014.

\textsuperscript{38} Id.

\textsuperscript{39} \textit{Selected Cases of Chinese International Law Practice}, supra note 29, at 81.
A. Five Principles of Peaceful Coexistence

The Five Principles of Peaceful Coexistence address the mutual respect for sovereignty and territorial integrity, mutual non-aggression, non-interference in each other’s internal affairs, equality and mutual benefit, and peaceful coexistence. These are a set of systematic international law principles and systems jointly proposed by China, India, and Myanmar in the 1950s. After its proposal, the Five Principles of Peaceful Coexistence were supported by many countries and prescribed in numerous international legal documents as a basic maxim guiding contemporary international law and relations.\(^{40}\)

The Five Principles of Peaceful Coexistence are taking national sovereignty as its core concept and principle. The Five Principles highlight “Law of Reciprocity” for building and guaranteeing just and reasonable international orders.\(^{41}\) President Xi Jinping addressed: “In the new era today, the spirit of the Five Principles of Peaceful Coexistence, instead of being outdated, remains as relevant as ever; ... its significance, rather than diminishing, remains as important as ever; and its role, rather than being weakened, has continued to grow.”\(^{42}\)

B. Recognition in International Law

Since its establishment in 1949, PRC has shaped its consistent stance and attitude toward the question of recognition.

1. Government Recognition

PRC was established by overturning the previous nationalist government.\(^{43}\) Therefore, it needed to be recognized as a sole legitimate government in mainland China. In this regard, PRC has made the following two contributions.

One is the Recognition with “Adverse Requirements.”\(^{44}\) At that time, the PRC government required foreign countries to recognize it as the sole legitimate

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\(^{43}\) Xue, *supra* note 40, at 65.

government representing all China. It means that no country was allowed to maintain diplomatic relations with the so-called “government of the Republic of China” in Taiwan, while recognizing the government of the People’s Republic of China.\textsuperscript{45} Thus, any country with the diplomatic relationship with PRC should uphold the “One China” policy in its State practice towards recognition.\textsuperscript{46}

The other is that recognition was ‘reciprocal.’ This was quite true when it came to the recognition between PRC and Canada, Austria, Mali, and the US. Both parties merely showed the intent to establish diplomatic relations without a formal expression of “recognition.”\textsuperscript{47}

2. Recognition of State and Government by PRC
When a country regained the sovereignty from colonial rule, PRC recognized its statehood under the right of national self-determination. In 1958, for instance, the PRC government recognized the Algerian provisional government set up in Cairo, Egypt as the sole legitimate government of the Algerian people.\textsuperscript{48} Meanwhile, the PRC government adhered to the principle of non-interference in the internal affairs of other countries. It would not impose its own ideology on other countries. For example, when the new governments emerged in Eastern Europe after the dissolution of the Soviet Union in 1989, PRC promptly recognized them as legitimate governments.\textsuperscript{49}

C. Succession in International Law

1. Treaty Succession
Article 55 of the Common Program of the Chinese People’s Political Consultative Conference in 1949 provides: “The Central People’s Government of the People’s Republic of China shall examine the treaties and agreements concluded between the Kuomintang and foreign governments, and shall recognize, abrogate, revise, or re-negotiate them according to their respective contents.”\textsuperscript{50} This provision defined

\textsuperscript{45} Compilation of Documents on the Foreign Affairs of the People’s Republic of China (1949-50) [中华人民共和国对外关系文件集 (1949-50)] (1957).
\textsuperscript{46} Xue, supra note 40, at 70-4.
\textsuperscript{47} Chen, supra note 44, at 27.
\textsuperscript{49} HUHUA WANG (ED.), PUBLIC INTERNATIONAL LAW [国际公法学] 104 (2015).
\textsuperscript{50} The Common Program of Chinese People’s Political Consultative Conference, Sept. 29, 1949, art. 54, https://sourcebooks.fordham.edu/mod/1949-ccp-program.asp.
the general principle of the PRC government on the succession of treaties. Among the treaties concluded by the nationalist government, some were recognized, some remained valid after revisions, while others were abrogated by the PRC government.

2. Property Succession
Under international law, PRC was entitled to succeed all the properties legitimately within and beyond the territory of China that the nationalist government owned prior to its establishment. Regarding the ownership of overseas property in Hong Kong, Singapore, and other regions, it solemnly stated that all national property of China naturally belonged to the PRC.\(^{51}\) The PRC government showcased its stance on the succession of property in the practice of the Khoka-Ryo Student Dormitory Case.\(^ {52}\)

3. Debts Succession
The PRC government treated debts differently following the nature and conditions of debts. No “odious debts” were recognized, while legitimate debts were negotiated with related countries justly and reasonably. For instance, after the Huguang Railway Bonds Case in the US, the so-called “Case of Unsolved Old Bonds of Morris” that took place in the US in 2005 was another case of unsolved old bonds involving the Chinese government, whose settlement fully displayed the basic stance of the PRC government regarding the succession of debts.\(^ {53}\)

D. Peaceful Settlement of Disputes

1. Negotiation and Consultation
PRC always settle international disputes peacefully through negotiation and consultation,\(^ {54}\) including boundary issues involving China.\(^ {55}\) Currently, China has signed boundary treaties with 12 adjacent countries,\(^ {56}\) which resolved the boundary issues with these countries fully or essentially. Likewise, China and Vietnam officially signed the Agreement between the People’s Republic of China

\(^{54}\) ZHOU, supra note 51, at 759.
\(^{55}\) DUAN, supra note 53, at 165.
\(^{56}\) Xue, supra note 40, at 85.
and the Socialist Republic of Vietnam on the Delimitation of the Territorial Seas, the Exclusive Economic Zones and Continental Shelves in Beibu Bay/Bac Bo Gulf in 2000.\textsuperscript{57} PRC also resolved the territory issues with the UK and Portugal successfully through the Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People’s Republic of China on the Question of Hong Kong and the Sino-British Joint Declaration on the Question of Hong Kong, Joint Declaration of the Government of the People’s Republic of China and the Government of the Portuguese Republic on the Question of Macao.\textsuperscript{58} These Declarations were highly reputed in the international society.\textsuperscript{59}

2. International Arbitration

PRC has been reluctant to international arbitration. Excepting some foreign trade protocols stipulating certain arbitration methods,\textsuperscript{60} there is no single arbitration provision included in any general international treaty. When joining multi-lateral treaties or international conventions, China has held a reserved attitude towards arbitration as a solution for disputes. In practice of resolving territory conflicts with adjacent counties, for example, the PRC government prefers negotiation and consultation to arbitration.

In 2013, when the Philippines requested a compulsory arbitration concerning South China Sea disputes with China in accordance with Article 287 of the United Nations Convention on the Law of the Sea and Appendix VII thereto,\textsuperscript{61} the PRC government solemnly stated that it would neither accept, nor take part in any arbitration applied by the Philippines.\textsuperscript{62} Nevertheless, China has recently adjusted its policies towards arbitration in case of non-political international treaties, namely, those of economy, trade, technology, and culture. In this regards, China began to include arbitration provisions therein as a method of international disputes settlements. Today, China would apply arbitration for dispute settlement in economy, trade, and maritime transportation.\textsuperscript{63}

\textsuperscript{57} This is the first maritime boundary China has demarcated with its neighbors in accordance with the United Nations Convention on the Law of the Sea 1982.

\textsuperscript{58} Xue, \textit{supra} note 40, at 82.


\textsuperscript{60} See \textit{A Collection of the Treaties of the People’s Republic of China} (1949-60) [中华人民共和国条约集(1949-60)] 91-138 (PRC Ministry of Foreign Affairs Department of Treaty and Law ed., 1958).


\textsuperscript{63} Duan, \textit{supra} note 53, at 371.
3. International Court and Tribunal

a. International Court of Justice
For nearly two decades after the establishment of PRC, relations between the Chinese government and the ICJ were merely a blank sheet. In 1972, the Chinese government declared: “It would not recognize the Statement on Acceptance of Compulsory Jurisdiction by the International Court of Justice made by the previous government on October 26, 1946.” Actually, PRC had never concluded any special agreement with any country on submitting international disputes to the ICJ. China reserved nearly all terms and conditions of international conventions on the submission of disputes to the ICJ for settlement. Until today, China has never submitted any international conflict or case to the ICJ.

b. International Tribunal for the Law of the Sea
The PRC government ratified the United Nations Convention on the Law of the Sea (UNCLOS) in 1996 and Zhao Lihai, Xu Guangjian, Gao Zhiguo and Duan Jielong from China have held the position of judges of the ITLOS. In 2006, according to Article 298 of the UNCLOS, it submitted a statement to the UN Secretary-General:

In regard to any dispute (i.e. disputes related to division of sea, territory and military actions) set forth in Item (a), (b) and (c) of Clause 1 of Article 298 in the United Nations Convention on the Law of the Sea, the government of the People’s Republic of China would not subject itself to any international judicial or arbitral jurisdiction provided in Section II of Part XV of the United Nations Convention on the Law of the Sea.

Regarding disputes involving the division of sea, historical gulfs or their ownership, military and enforcement activities, and the Security Council’s performance of duties empowered by the UN Charter, the PRC government would thus accept neither any settlement procedure of disputes under of Part XV, Section II of the UNCLOS, nor the jurisdiction of the ITLOS. Until today, China has not submitted any international conflict or case to the ITLOS.

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64 After the founding of the PRC, from 1949 to 1971, its lawful seat in the UN was occupied by the Taiwanese authorities. This is based on the fact that the Chinese were on both sides of the partition at this stage. The PRC was excluded from the UN and could not have any contact with the ICJ, while Taiwan’s authorities remained in contact with the ICJ. After Xu Mo’s death in 1956, Gu Weijun succeeded him as a judge member of the Court, until 1967. See ZEWEI YANG, LIANG ZHU’S INTERNATIONAL ORGANIZATION LAW (梁著国际组织法(第六版)) 104 (Wuhan University Press 6th ed., 2011).


66 Xue, supra note 40, at 193.

E. The “Belt and Road” Initiative

The “Belt and Road” Initiative, which was proposed by Chairman Xi Jinping in 2013, gained significant attention from the international society and active responses from the relevant countries. The National Development and Reform Commission, the Ministry of Foreign Affairs, and the Ministry of Commerce jointly published the Vision and Actions on Jointly Building Silk Road Economic Belt and 21st-Century Maritime Silk Road in 2015. The next year, 193 member states of the United Nations unanimously approved a resolution to build the “Belt and Road” and to be bound by related initiatives for economic cooperation, as well as to urge the international society to create a safe environment that would serve as a guarantee for the building of the “Belt and Road.” In the Security Council Resolution 2344 (the situation in Afghanistan), the “Belt and Road” Initiative was referred to for the first time. By the end of March 2020, China signed 200 intergovernmental documents with 138 countries and 30 international organizations on joint efforts to build the “Belt and Road.” “Working together to build the “Belt and Road” is, so to speak, becoming a Chinese scheme in its participation of global opening-up and cooperation, improvement of global economic and political systems, promotion of global development and prosperity and acceleration of building a Community of Shared Future for Mankind.”

As a new mode in international partnership, new platform for global governance, and new dimension for international cooperation in different regions under international law, the “Belt and Road” Initiative has influence on the development of contemporary international law in multiple arenas, such as boosting the advancement of the basic principles of international law, optimizing the international system of transit transport, and enriching the implementation of international law and of international systems on development assistance. The “Belt and Road” Initiative complies with the new trends for the 21st century’s international cooperation and

embraces a new and revolutionary world orders.73

F. A Community of Shared Future for Mankind

To build “a Community of Shared Future for Mankind [人类命运共同体] is an important component of Xi Jinping’s Thoughts on Socialism with Chinese Characteristics for a new era. It is also a general target, overall outline, and strategy for Chinese diplomacy in the new era.”74 In 2017, Chairman Xi Jinping gave a keynote speech titled, Work Together to Build a Community of Shared Future for Mankind at the UN headquarters in Geneva, proposing the principles for building a Community of Shared Future for Mankind and the orientation of such efforts.75

In 2018, “promoting the building of a Community of Shared Future for Mankind” was included in the PRC Constitution.76 It contains five pillars, namely, “lasting peace, universal security, common prosperity, openness and inclusiveness, cleanliness and beauty,” making it rich in connotations found in international law.77 “The thought of promoting the building of a Community of Shared Future for Mankind is a core concept of Chinese view on international law in the new era and a major theoretical contribution by China to the development of international law.”78

On the one hand, the concept of “a Community of Shared Future for Mankind” has indicated the advanced pursuit of value, which is beneficial to the revolution of international law in this profoundly changing global society. The concept of “a Community of Shared Future for Mankind” comprises such notions as international law, namely, sovereignty, democracy, fairness, and justice. It involves all aspects of human life and embodies the development trend of international relations towards democracy and legality.79 On the other hand, “a concept of a Community of Shared Future for Mankind” is a positive outcome of the Five Principles of Peaceful Coexistence. To a certain extent, the principles of “a Community of Shared Future for Mankind” are upgraded version of the previous Five Principles proposed six

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73 Zewei Yang, Understanding the Belt and Road Initiative under Contemporary International Law, 5 China & WTO Rev. 316-8 (2019).
77 Xu, supra note 74, at 6.
78 Selected Cases of Chinese International Law Practice, supra note 29, at 20.
decades ago representing the cutting edge of the new era.  

### IV. Main Characteristics and Problems of Chinese International Law

#### A. Main Characteristics of Chinese International Jurisprudence for the past 70 Years

1. Paying attention to the principles of international law of topical issues.

For the past 70 years, Chinese international law scholars have commented the major issues of international relations such as the Korean War (1950-53), the Iran hostage crisis (1979), the signing of the UNCLOS (1982), the Gulf War (1991), the establishment of the World Trade Organization (1995), the Pinochet Case (1998), the “September 11 Attacks” and War on Terror (2001) (2003), the Iraq War (2003), the Beijing Olympic Games (2008), Crimea’s vote to join Russia (2014), the Paris Agreement on Climate Change (2015), and the South China Sea arbitration case (2016).

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80 Xu, supra note 74, at 9.
86 Zhonghai Zeng (ed.), *Analysis of the Pinochet Case* [皮诺切特案析] (CUPL Press, 1999).
88 Shaoping Shao et al. (eds.), *The Impact of Iraq War on International Rule of Law* [伊拉克战争对国际法治的冲击和影响], 3 *LEGAL F.* [法学论坛] 5-10 (2003).
In addition, some scholars have studied theories and practice of WTO,\(^{93}\) the United Nations reform,\(^{94}\) the International Criminal Court,\(^{95}\) and so forth, all of which are of distinct characteristics of the contemporary world. This close combination has served as important legal grounds for the relevant policies made by the Chinese government.

2. Attaching Importance to the Combination of Chinese Practice

For instance, Chinese scholars have made suggestions on the history of Chinese international law,\(^{96}\) the boundary issue between China and India,\(^{97}\) Chinese Nationality Law,\(^{98}\) the Huguang Railway Bonds Case,\(^{99}\) America’s sale of weapons to Taiwan,\(^{100}\) treaty law,\(^{101}\) Khoka-Ryo Student Dormitory Case,\(^{102}\) the Yinhe (Milky Way) incident,\(^{103}\) the China-US Aircraft Collision Incident/Hainan Island incident,\(^{104}\) the Sino-Japanese Dispute on Sovereignty over the Diaoyu/Senkaku Islands,\(^{105}\) the Joint Development in the South China Sea,\(^{106}\) and the G20 Hangzhou Summit.\(^{107}\)

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94 Shibin Yuan, UN Mechanism and Reform [联合国机制与改革] (Beijing Languages College Press, 1995).
100 Tiqiang Chen, America’s Sale of Weapons to Taiwan from the Perspective of International Law [从国际法论美国向台湾出售武器问题], People’s Daily [人民日报], Feb. 5, 1982.
3. Enlarging Fields of International Law by Chinese Lawyers
After World War II, the European and American lawyers developed teaching materials mainly focusing on the law of peace, while “the law of war was either neglected or introduced with simple words.” In particular, the scope of international law has been fast expanding due to the scientific development. In this course, Chinese international lawyers have been exploring new research areas such as outer space law recently valued in China. They have deep interest in the law of international organizations, international human rights law, international criminal law, and migrant and refugee law. Furthermore, Professor Yang Zewei and his research team conducted significant research on international energy law. They systematically demonstrated that international energy law was a breakthrough for the development of international law. The research achievements of Chinese international lawyers over the past 70 years have not been even, with those in the latter 35 years far exceeding the former.

B. Major Problems in Chinese International Law
1. The Lack of Systematic Approaches to the Theories and Practice of International Law
International law in China has developed in many different dimensions. Hence, it is necessary for Chinese international lawyers to make systematic summaries and descriptions on the theories and practices of international law for the last 70 years in order to elaborate on the stance and interests of the PRC on international law and its significant contributions to the development of contemporary international law. Summarizing the theories and practices of international law is significant to not only China’s foreign policymaking, but also Chinese research of international law.

113 SHAPING SHAO, MODERN INTERNATIONAL CRIMINAL LAW [现代国际刑法教程] (Wuhan Univ. Press, 1993).
116 ZEWEI YANG, RESEARCH ON LEGAL PROTECTION OF ENERGY SECURITY IN CHINA [中国能源安全法律保障研究] (CUPL Press, 2009).
2. Participation in International Legislation and International Judicial Activities

It was not until 1971 that PRC recovered its legitimate seat in the UN. Then, the PRC government sent a delegation to attend the Third United Nations Conference on the Law of the Sea; recommended the candidates for the members of the UN International Law Commission, judges of the ICJ, the ITLOS, the ICTY, and the Dispute Settlement Body of the World Trade Organization, as well as principals of some intergovernmental international organizations. Nevertheless, PRC has not represented its positions enough in international legislation and international judicial activities. Regarding the agenda-setting and drafting of international treaties, for example, China has generally adopted the so-called “e-post game” strategy, which means developed countries take the initiative to propose subjects to be discussed and drafts for international treaties, whereas China, as a participant, responds to them in a passive manner. Typical examples are lawmaking process of the WTO and climate change. China also maintains a negative attitude towards dispute settlement through international court or tribunal. It has never submitted a single conflict to the ICJ or ITLOS. Worse still, Chinese judges are not so positive in the decision-makings of international courts and tribunals.

3. Lack of Theories Supporting the Foreign Policymaking or Practice.

Basic theory of international law has remained a vulnerable link in Chinese international law research. When it comes to some fundamental issues related to international law theory, no comprehensive, systematic, or in-depth studies are found. In particular, Chinese research on international law, mainly focusing on the traditional theories and certain cases, fails to fully integrate with the overall development strategy or foreign policymaking as a whole. Chinese international law circles have not yet provided influential ideas, concept and suggestions with global impact.

Conversely, the US has proposed the “preventive self-defense” theory in the early 21st century along with the War on Terror and the “International Commission on Intervention and State Sovereignty” in Canada has proposed the “Responsibility to Protect (R2P)” theory. Though we may not fully agree with these theories,

121 Zewei Yang, The “Responsibility to Protect” and its Implications for National Sovereignty [“保护的责任”及其对国
the abovementioned theories have undoubtedly wielded great influence in the international society. Some scholars noted:

In contrast to traditional strong powers in international law, the awareness, experience, capacity and mechanism of full utilization of international law is not developed in China. Instead, their development is unbalanced and it is obvious that China is weak in participation into and employment of international judicial institutions.122

4. Rare International Law Scholarship with Global Influence
Over the past 70 years, many academic works of international law have been published in PRC. These articles and books have been playing a significant role in cultivating talents in international law in China, sharing international law with people all over the country, and maintaining national interests. With the exception of works by leading scholars like Chen Tiqiang and Wang Tieya, however, very few have global influence. Indeed, China is not the hometown of modern international law and Chinese is not generally spoken among international lawyers for their research and practice. These are critical factors restricting the academic impact of the works written by Chinese international law scholars. Still, to launch great academic works with global impact like Oppenheim’s International Law, Principles of Public International Law (I. Brownlie), Introduction to International Law (J. Stark), and International Law (M. Show)123 is a lofty dream that Chinese international law scholars should follow.

V. Conclusion and Prospects: Future Direction of Chinese International Law Studies

A. Interpretation and Application of International Law
As international law is dominated by treaties and customs, its interpretation and application would easily encounter contradictions and divergences. However, there are new trends along the development of international law such as: fierce conflicts between the fragmentation of international law and its unified application,

122 Selected Cases of Chinese International Law Practice, supra note 29, at 20.
123 Shaw, supra note 109, at 1-253.
powerful expansion of treaties concerning human rights protection, the execution of adjudications of the international court and tribunal like ITLOS, as well as more independent opinions of the ICJ judges. These factors are representing the immense division of power and growing diversity of interests in today’s international society. In order to provide a legal basis for these changes and protect their own interests, each country offers lopsided explanations of international law that are favorable only to them. Because the South China Sea arbitration was unilaterally applied by the Philippines alone in 2013, the relevant terms and conditions in the UNCLOS were misinterpreted by the Philippines and the arbitration court. Therefore, it is necessary for Chinese international lawyers to consider and apply international law for better justice and rule of law in the global community.

B. Further Improvement of Theoretical Innovation in International Law

Recent years have witnessed significant changes in international relations. On the one hand, while the US hegemony is decreasing, comprehensive national strength of the emerging powers continue to grow. On the other hand, China has become not only the second largest economy in the world, but also political hegemony. Against such backdrop, China should invoke international law for its overall development strategy supporting diplomatic practice. To this end, Chinese international law scholars should boost theoretical innovation in international law. Thus, the Chinese international law society should propose, in a timely fashion, new ideas or outlooks of international law that address Chinese national position for international peace and prosperity which can be recognized by the international community. Those universal approaches to international law will lead core value of the world.

C. Amplifying China’s Voice in the Development of International Law

In the past, China played a limited role in international law-making. As a “latecomer” and “reformer” of the international law system, it lagged behind in terms of agenda-setting, developing voice, and formulating regulations for the development of international law. Because a pattern of “strong in the west but weak in the east” and intensive “western color” and “European style” still remains, China’s voice is too weak in international law research and practice. Since 2012, however, China has been no longer satisfied with mere participation in international legislation process. Instead, it is trying to shape and affect international laws and global governance.
Chairman Xi Jinping expressed in his speech upon the invitation of the Korber Foundation in Berlin, Germany in March 2014: “With the lofty cause of peace and development of the world in mind, we will contribute the Chinese vision to the management of contemporary international relations, offer the Chinese solution for improving global governance, and work with the international society to meet various challenges of the 21st century.”124

Hence, to reinforce China’s voice and ground in the development of international law, it will “improve and value international law, utilize international law and shape the awareness of international law in an all-rounded manner, be more active and positive in proposing Chinese schemes and propositions with clear stands for the development of international law and strive to realize the fundamental transformation of China from the receiver and participant into constructer, contributor and leader in international orders, rules and concepts,”125 and meet the aspirations of international society. These are the important missions that have been bestowed upon Chinese international lawyers in the next decades.

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125 Selected Cases of Chinese International Law Practice, supra note 29, at 21.