

Building a Community with a Shared Future for Mankind: International Law-based Principles and Approaches

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Abstract: Building a community with a shared future for mankind is an important guiding principle for China to address foreign affairs in this new era, and its profound connotations echo the spirit of international law. In the context of globalization, the ever-increasing common interests of the international community lay a material basis for building a community with a shared future for mankind. The doctrine of international community orientation, which is based on sovereignty and at the same time transcends sovereignty, forms an ideological basis for building a community with a shared future. Realizing international socialism and striking a balance between formalism and substantial justice is a moral prerequisite for building a community with a shared future. To reduce existing legal obstacles to international communications, the laws of all countries and regions exhibit a tendency towards legal assimilation, which is expected to be a domestic law approach to the building of a community with a shared future for mankind. The establishment of international legal systems and the development of international organizations have vigorously promoted and maintained world peace yet failed to bring about perpetual peace. International law should attach more importance to the facilitation of human inner peace so as to realize perpetual peace. This is a new international law-based approach to the building of a community with a shared future for mankind. China's peaceful rise, which is based on traditional Chinese culture and the basic principles of international law, is China's special contribution to this great cause.

Keywords: building a community with a shared future; international law; justice and peace

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Since the 18th Communist Party of China (CPC) National Congress, the CPC Central Committee, under the leadership of General Secretary Xi Jinping, has provided great insights into humanity future and destiny and the development trends of the times, and accurately grasped the strategic directions of the relationships between China and the rest of the world. They have proposed important initiatives concerning the building of a community with a shared future for mankind on a range of international occasions, receiving warm responses from the international community while exerting a positive and far-reaching influence on contemporary international relations^①. Economic globalization facilitates complementary interests among countries and regions across the world. The building of a community with a shared future for mankind creates an opportunity for the world's over 7 billion people to seek joint development. The world today has transcended national boundaries and become an inseparable integral whole. The building of a community with a shared future for mankind is to seek a common ground of interests for joint development to help more people create a better future for themselves. This cause contains rich connotations and requires creative applications and advancements of various means concerning foreign communications, international relations, economic and trade development, military development and the international rule of law as it is beyond doubt that this community with a common destiny will be subject to the international rule of law. To promote the building of a community with a shared future, international law needs to echo relevant principles

of law and realization approach so as to ensure the future community with a shared future. It also needs to provide international legal support for mankind to build a community with a shared future, common interests and shared responsibilities.

China is and will always be a promoter of world peace, a contributor to global development and a keeper of international order. It is willing to further increase the common interests of all countries, help build a new model of international relations featuring win-win cooperation, and push forward the formation of a community with a shared future and interests for mankind (Xi, 2016). As a trend, the building of a community with a shared future is a long and on-going process. It manifests the lofty human ideal of achieving global harmony and perpetual peace. Throughout history, territorial separation-triggered unrests and wars have repeatedly overshadowed the entire human race. Today, peace and development has become a defining theme of our time. Yet, there has been no shortage of forces that undermine the cause of peace and development. Worse still, in some historic periods, such disruptive forces might even make a great noise, gaining the upper hand over peace and development. This is particularly true for China, which is now faced with increasingly complicated and ever-changing international and regional landscapes. While striving for rejuvenation and fulfilling development targets, it also must address challenges on various fronts. It is precisely the hard-earned peace and development that highlights people's growing determination and intelligence for seeking peace and development. China will unswervingly advance the cause of building a community with a shared future, however difficult it may be.

① In March 2013, when addressing the Moscow State Institute of International Relations (MGIMO–University), Xi Jinping explicitly argued, “The world today experiences unprecedented connectivity and interdependence. We all now live in the same global village at the same space–time that links history with reality, forming a community of common destiny that engages us all.” Following that, this proposal has been further elaborated by Xi Jinping on some 100 occasions, including but not limited to the SCO summit, China–Arab States Cooperation Forum, Boao Forum for Asia, the 70th Regular Session of the UN General Assembly (UNGA 70), G20 summit, the Fifth Meeting of the Ministers of Foreign Affairs of the Conference on Interaction and Confidence Building Measures in Asia, and the ceremony to mark the 95th anniversary of the founding of the Communist Party of China (CPC). His speeches extended the scope of this community of common destiny from an international community, through an intra–regional community to one for the entire mankind.

1. Common interests of the international community: A material basis for building a community with a shared future for mankind

As pointed out in *The Communist Manifesto*, “Because the bourgeoisie needs a constantly expanding market, it settles and establishes connections all over the globe; production and consumption have taken on a cosmopolitan character in every country”. According to Xi Jinping (2016), “Such insights and arguments shared by Carl Marx and Friedrich Engels profoundly unveil the essence, logic and process of economic globalization and thereby lay a theoretic basis for us to understand economic globalization” (p.21). In the context of globalization, increased material wealth is the fundamental determinant for the emergence of the theory of a community with a shared future for mankind. According to Karl Marx, the (economic) base determines the superstructure in a one-way relationship. The acceleration of economic globalization and international economic globalization determines the building of a theoretical and ideological system for a community with a shared future for mankind. The common interests of the international community, growing alongside the accelerating globalization, lay a material basis for building a community with a shared future for mankind. Common interests of the international community are a prerequisite for building a community of common human interests.

International law should not only echo the call of major powers but also seek the approval of other members of the international community. It is worth pointing out that international law is by no means a tool for selfish profit-making purposes and that it targets the common interests of the international community (France v. Turkey, 1927, p. 18). Only when the individual interests of all countries are integrated into common human interests can the

ideal of international law be fulfilled. International law is idealistic, as well as realistic. Idealism drives the development of international law (Li, 2016). The building of a community with a shared future for mankind proposes a new task for international law and is also its new development ideal.

1.1 Globalization gives rise to the common interests of the international community

At the early stage of human societies and countries, underdeveloped technology and economy forced all countries to keep their borders closed, resulting in little international communications, let alone giving any consideration to the common interests of the international community. Today, with the acceleration of economic globalization and international economic integration, the international division of labor, along with production specialization, has witnessed rapid development. In such a context, countries worldwide are forming a system of interconnection, interdependence and mutual influence, and the international community is becoming a whole with a common destiny. More specifically, this is reflected in the following aspects. First, national economies transcend the boundaries of individual countries and require the allocation of essential production factors worldwide, thus developing indispensable connections among sovereign states. Second, the market disorder of a country inevitably exerts negative influences on others or even the entire human society. Third, supra-national entities such as international political and economic organizations are increasingly empowered, adding a distinctive global feature to international politics and law. Fourth, the collision of different cultures and thoughts enables the complementation and integration of civilization paradigms, codes of conduct and measures of values, which are of universal significance. In this way, the universality of human cultures is thus amplified.

Under such circumstances, “global issues” (such as safeguarding world peace, bridging the north-

south gap, maintaining an eco-balance, curbing environmental pollution and combating transnational crime and terrorism) are extensively highlighted. These issues echo the common interests of the international community. It is such interests that bind people together and who are increasingly willing to rise above differences in social systems and ideology, break national interest-based restrictions, and take a global view to understand and examine the common interests of the international community. Concerning the existence and development of the entire mankind, the common interests of the international community become a must for people to pursue.

1.2 Sovereignty transfer is an important means for the international community to realize common interests

In the context of economic globalization and international economic integration, to achieve the above purposes, certain positive changes took place in international law, which have subsequently fostered the boom in economic integration of global and regional organizations. As held by American scholar A. LeRoy Bennett (1991), without an authority or institution (apart from a sovereign state) capable of influencing most countries' decisions, we cannot expect to have many of the world problems effectively solved (p.4). As the international community becomes more and more organized, narrow-minded nationalism is faced with increasingly severe challenges. It is no exaggeration that no major global issue can be resolved without the involvement of the international organizations concerned. International organizations exert influence on sovereign countries. They profoundly navigate the latter's foreign policies, practice of international law and more importantly their internal affairs (such as trade, environment and individual rights protection). On the other hand, international organizations form a precious international resource that must be properly utilized by sovereign countries. Participating in international organizations is an important component

of a country's external relations and foreign policy. International organizations represent the public interests of the international community, which includes the interests of individual countries (Rao, 2016).

Contemporary international law is a legal system which is built on relations among sovereign countries and aims to coordinate such relations. Exercising the rules of contemporary international law (except some rules of Jus Cogens) requires the agreement and approval of relevant countries. However, there is a significant gap between contemporary international law and the real need of safeguarding values and interests beyond "boundaries." Given the ever-changing international situation, the existing system of international law apparently can no longer satisfy such needs transcending the values and interests of a particular country, namely, safeguarding the common interests of the international community, protecting the interests of the weak side, and promoting the sustainable development of the world. Consequently, transfer of partial sovereignty is hardly avoidable. As famous philosopher E. Laszlo (1997) put it, hasty insistence on the concept of national sovereignty suspends the evolution of social organizations at an arbitrary level and ignores the possible existence of any important organization higher or lower than that level. Such a view was more than an anachronism in the late 20th Century. It is also an obstacle to further progress in this era of significant transformation. Throughout human history, such a developmental trend has enabled human societies to significantly transcend the organizational level of a particular nation (p.135). Therefore, the absolute exclusive doctrine of sovereignty, which has been in effect for centuries, no longer applies.

Economic globalization and integration involves the participation of all countries. Any attempt to avoid it will lead to seclusion and subsequently being marginalized. As sovereign countries are more

and more engaged in the development of the global economy, transfer of sovereignty becomes more common and apparent. International practice today indicates that transfer of sovereignty usually occurs in the economic realm, because such a move is for more economic benefits in international economic activities. The transfer of sovereignty, however, relies on the formulation of international treaties and organizations. In this regard, the World Trade Organization (WTO), growing out of the General Agreement on Tariff and Trade (GATT), is a success in enabling member states' self-restriction of sovereignty through one worldwide international treaty/organization. Moreover, the European Union (EU), growing out of the European Communities (EC), demonstrates another model approach to member states' self-restriction of sovereignty, i.e. a regional arrangement.

The transfer of sovereignty also enhances the legal validity of international law. For example, part of the EU law not only directly applies to its member states but also enjoys a priority over their national laws. Every step of the EU integration involves the EU members' transfer of certain state functions and authority to the European Union to facilitate concentration of power. In addition, the application of WTO law to its member states also significantly improves the profile of international law, which has long been regarded as being soft.

Such changes in international law inevitably lead to a transformation of social functions in sovereign countries and thus expand the scope of the international community's common interests and boost their development within their own territories.

1.3 International law-based interests possess double features of national interests and the international community's common interests

As the saying goes, "Jostling and joyous, the whole world comes after profit; racing and rioting, after profit the whole world goes" (*The Records of the Grand Historian*). Laws are formulated for benefit-

adjusting purposes. Their change and development are in line with the change and development of human interests. In this sense, all laws are interests-based and legal systems are by nature systems of interests. All complicated social phenomena, including those concerning law, can be interpreted from an interest perspective. Interests form the only universal driver for social development, including social contradictions.

Since ancient times, there has been no shortage of views concerning the notion of interests. When expounding the functions and tasks of laws, Roscoe Pound (1984) defined "interest" as "a demand or desire which human beings, either individually or in groups or in associations or in relations, seek to satisfy, of which, therefore, the ordering of human relations must take account". The jurisprudence of interests, advocated by Philipp Heck, is designed primarily to help judges deal with circumstances not prescribed in relevant laws and regulations during the process of their application. Even so, a significant part of this jurisprudence is undoubtedly of universal significance. According to Heck (1948), interest is the very source of law and also the fundamental driver of legal norms; legal order originates from various conflicts of interests (p.158). Interests and evaluation of interests form the basis for the formulation of laws and statutory rules. The functions of law lie in adjusting, coordinating and mediating a variety of complicated and even conflicting interests to satisfy most of them or the most important parts of them while at the same time minimizing the damage to the remaining interests. Therefore, the ultimate criterion for the legitimacy of any ideology, activity, system or undertaking is whether it is conducive to social progress and is in the best interest of the largest possible population.

Heck held that interests cover a wide scope, for which its notion should be understood in an all-round way. Apart from personal interests, there are group interests, social community interests, public interests, as well as human interests (Lv, 2001, p.555). Thus it

can be seen, “human interests” are inherently included in the term “interests” and undoubtedly fall into the category of the international community’s common interests. According to Jean-Jacques Rousseau (2002), “If the opposition of individual interests has rendered the establishment of societies necessary, it is the accord of these same interests which has rendered them possible. It is what is common in these different interests that form the social ties; and if there were not some point, upon which all interests were in accord, no society could exist. Now it is solely through this common interest that society should be governed” (p.49). As a major approach to international community governance, international law is supposed to balance the interests among members or stakeholders of the international community. The international law echoes the common interests of international community members. For common interests, countries across the globe are united to form a community, in which they extensively communicate with each other. The differences in culture, economic structure and political system are no threat to the existence of the international community as a fundamental element of international law (Jennings & Watts, 1995, p.6). One distinctive feature of international law is its being universally applicable. International law relies heavily on the common interests of all countries. With shared values, those countries may identify with each other on similar issues. In his masterpiece *On the Law of War and Peace*, Hugo Grotius defined international law from a perspective of interests. According to Grotius, laws established by an independent country are for the benefit of that country, but there are bound to be laws applicable to different nations that are not solely for the benefit of one country, but for the common interests of all countries concerned. Such laws applicable to different countries are collectively called the law of nations (i.e. international law) (Wang, 1983, p.139).

Judging from the general principles of international law, common interests are a prerequisite

for common consent, which subsequently brings about unilateral agreements, i.e. treaties among member states. International practice indicates that the international community, consisting of equal subjects, has established certain basic values and common interests, which require the protection of international law and lay a basis for its existence and development (Dugard, 1999, p.251). Today, the acceleration of economic globalization and international economic globalization further highlights the common interests of the international community, which exhibit the common characteristics of the interests of all countries and inherently include their interests.

2. The doctrine of international community orientation: An ideological basis for building a community with a shared future

As President Xi Jinping pointed out during the Opening Ceremony of the 2015 Boao Forum for Asia, China should build a new type of international relations, abandon the old thinking of the zero-sum game, promote the new idea of win-win cooperation, attach equal importance to self-interests and the interests of others, and seek self-development and common prosperity. Globalization gives rise to the common interests of the international community and forces countries across the globe to reflect and adjust their corresponding guiding philosophy and ideology. We have discovered that the established doctrine of state orientation, which solely focuses on the interests of that particular state, does not work as well as before. Under such circumstances, an international community-oriented doctrine is coming into being (Li & Li, 2005). The advocacy of building a community with a shared future for mankind today precisely echoes the doctrine of international community orientation and meets the requirement for building a community of common responsibilities.

2.1 The historical evolution: Individual orientation–state orientation–international community orientation

The legal concept of “orientation” originates in civil law. The civil law’s evolution from modern *laissez faire* capitalism to contemporary monopoly capitalism is accompanied by the conceptual transformation from individual orientation to social orientation, which enhances a country’s interference in absolute individual freedom. The doctrine of social orientation stresses a country’s moderate restriction of individual rights by highlighting social interests. Since the 20th Century, social orientation has been a guiding ideology of legislation and a mainstream legal norm for countries worldwide. Admittedly, such a social orientation attaches great importance to public welfare and public standards. Even so, it remains one that only targets the interests and needs of a particular country. It is better to call it “state orientation” to differentiate it from international community orientation. In a broader sense, in the system of international community and law, the doctrine of state orientation, or rather, Statism, has held the dominant position. Statism advocates “reason of state,” allowing a state (or representative of a state) to take any possible measures or means to pursue or safeguard national interests. Statism empowers a state in an all-round way. The earliest mentioning of such a view can be found in the works of Niccolò Machiavelli, Jean Bodin, and Thomas Hobbes, whose thoughts laid a theoretical basis for the concept of the sovereign state in modern international law.

Ever since the emergence of sovereign states, national interests have been the primary focus on the global stage. The contradictions among nation-states, along with the resulting conflicts to safeguard national sovereignty, formed a core phase in the development of the international legal framework and developed into a deep-rooted ideology. As Machiavelli put it, “Where the very safety of the country depends upon the resolution to be taken, no consideration of justice

or injustice, humanity or cruelty, nor of glory or of shame, should be allowed to prevail. But putting all other considerations aside, the life and liberty must be assured in any case.” (Li, 1994, p. 31) Therefore, legal obligations must give way to national interests. Once a country’s interests override the legal obligations to itself and the international community, the country is sure to harm the interests of other countries and the common interests of mankind, and subsequently bring damage to the sustainable development of human society. Thus, the doctrine of an international community orientation came into being.

2.2 Material basis for the international community’s common interests–the doctrine of international community orientation

Since World War II, with the acceleration of economic globalization and international economic integration, more and more countries have realized the definite existence of “common interests beyond their own national interests.”

The highlight of the international community’s common interests, which have resulted from global changes, is inevitably echoed in international law. This means that international law is transforming its overall approach from country-centered to international community-centered. Consequently, the international legal system increasingly focuses on all of mankind, rather than individual countries. Missions like human rights protection, peaceful use of outer space and oceans, development of poverty-stricken countries and ecological conservation are deemed priorities by the international community. And without the primary support of the “common interests” concept, those missions are unlikely to be truly understood.

Now that recognizing the international community’s common interests is a common concern of all countries, changes must be made by relevant countries in their view of international relations. Through coordination and collaboration, countries worldwide have developed and are

practicing international law. Today, in the increasingly globalized international community, no country, however powerful and wealthy it may be, can expect to play safe all on its own when confronted with global issues or dilemmas (beyond borders). It is beyond any doubt for a country will take its national interests into account, however, while realizing and safeguarding its own national interests, one cannot overlook the common interests of other countries or the international community. People today live in the same “global village,” where they can expect to make such extraordinary achievements as holistic security, cultural-ethical development and material progress in the 21st Century only by striking a balance between the interests of one country and those of other countries, and between the interests of individual countries and the common interests of mankind. The doctrine of an international community orientation, built on the international community’s material basis, i.e. common interests, comes into being to adapt to the development requirements in this era of globalization.

Historical experience and lessons tell us that “an order which does not have a substantial foundation in justice will rest on an unsafe and precarious basis” and that in order to properly fulfill its functions, laws must be designed to create a social order of justice (Bodenhimer, 1999, p.318). Since modern times, faced with the obstacle of national sovereignty, international law attaches particular importance to safeguarding state and national interests. With further economic globalization and international economic integration, increasingly interdependent and conditioned relationships have been formed among countries (between developed and developing countries). Therefore “in order to safeguard the common and fundamental interests of all mankind and accelerate the economic and social development of countries (poverty-stricken countries in particular), ‘working together to seek peace and development’ has become a universal demand of people of all countries”

(Liang, 1998, pp.7-8).

The new development of a modern international legal system must aim at safeguarding the common interests of the international community. And it is Edgar Bodenheimer’s sincere wish that one day governments and people of all countries can reach more extensive agreements in the best economic and social interest of mankind and that such unanimous agreements can help eliminate polarization (a problem now standing in the way of international relations) by policy means, namely, by coordinating individual ends with social ends while at the same time striving for economic prosperity, cultural development and world peace.

2.3 The doctrine of international community orientation—A driver for building a community with a shared future

The doctrine of international community orientation helps to better realize the value of law and lays a basis for theoretical building. The survival of such a theory relies primarily on economic globalization, in-depth integration of international economies, as well as increased connectivity, interdependence and mutual restriction among countries. After all, correct theories have to be tested by practice and then used to guide practice. Today, it is undoubtedly of great realistic significance and profound historic meaning to uphold the doctrine of an international community orientation in international relations, effectively safeguarding the common interests of the international community and the interests of the weak parties, and fulfill the objectives of universal prosperity and all-round sustainable development for all countries. As pointed out by Xi Jinping (2016), “The Chinese people are aware of the international community’s contributions to China’s development and therefore we are willing to contribute to the world’s development through self-development. China’s opening-up should not be deemed a mono-drama,

but one that welcomes participation of all parties; not a move to expand our sphere of influence, but one to boost joint development; not a plan to build in its own backyard, but one to foster a blooming garden to be enjoyed by all”.

First, during the building of a community with a shared future for mankind, upholding the doctrine of an international community orientation can more effectively help safeguard the common interests of the international community and particularly the interests of weak parties so as to boost sustainable development. Traditionally, international law advocates sovereignty. For any sovereign state, national interests are the highest principle and ultimate purpose in dealing with international relations. A country's move is determined by its understanding of interests and judgment of development trends. If all countries are in constant tension due to their relentless efforts in safeguarding and maximizing national interests, peaceful co-existence among countries will remain a castle in the air. In the context of economic globalization and international economic integration, diversified and interdependent national interests become a primary feature of current international relations. Consequently, international law inevitably needs to adapt to the changed situation. The ever-deepening interdependence among sovereign countries, along with the increasingly expanding common interests of the international community, influences human survival and development at all levels and enables the gradual formation of the doctrine of an international community orientation. Echoing the development call of the times, the doctrine of an international community orientation requires countries to consider the interests of both their own and others and the safeguarding of the common interests of the international community to avoid results that “Injure one and you injure them all.” Meanwhile, through the international community's institutional design and policy support, such a doctrine is supposed to protect

the interests of poverty-stricken and weak countries and help them achieve due development through win-win cooperation. Only in this way can relevant sovereign countries have the chance to realize peaceful co-existence and eventually boost world peace, stability, development and prosperity.

Second, during the building of a community with a shared future for mankind, the upholding of an international community orientation can better promote sustainable development and tackle global challenges. At present, the so-called common interests of the international community are mainly highlighted by the emergence and existence of global issues, which reflect contemporary human crises in their interpersonal relationships, human-nature relationships, as well as human development. The existence of these challenges has little to do with the ideologies and development levels of different countries. Countries worldwide are invariably faced with arduous tasks such as preventing war, seeking development, eliminating poverty, protecting ecology, rational exploration of recourses, combating terrorism and curbing the spread of drugs. Whether these problems can be solved concerns both current and future common interests of the international community. Besides, the “globalization” of these global issues is demonstrated in the global moves indispensable to problem-solving as well as global ways of existence. It is therefore imperative to improve the doctrine of international community orientation, ensure the common interests of the international community and the interests of the weak parties, and enhance global cooperation. Only in this way can all countries work together to tackle global challenges and achieve common prosperity and stability.

Third, during the building of a community with a shared future for mankind, the doctrine of an international community orientation has received attention from more and more countries, including China. The upholding of such a doctrine is conducive

to the boosting of national economies. Learning from world-class technological achievements is an important approach to the promotion of a country's national economy. In fact, scientific technology and management expertise are beyond borders. As a shared wealth of all mankind, they can be harnessed by the international community to benefit more people. A country needs to be open-minded and inclusive enough to learn from the advanced technological achievements and management expertise so that it can participate in higher-level international economic and technological cooperation and competition in a wider scope, make the most out of both domestic and foreign markets, optimize resource allocation, expand development space, and boost reform and development through opening-up.

3. Realizing international social justice— A moral prerequisite for building a community of shared future

China's advocacy of building a community of shared future for mankind is to promote fairness and justice in the international community. It also marks the establishment of a new international discourse system for China and other countries. Numerous sovereign states, whether big or small, strong or weak, co-exist on this planet while maintaining their own attributes and sharing a long-standing dream: fairness and justice. The advocacy of building a community of shared future for mankind once again evokes man's longing for a fair and just international community. That is why it appeals to all countries joining in the undertaking and becomes the very moral basis of the

growing international community. Wang Yi (2016), Foreign Minister of China also noted that "building a community of shared future for mankind means that, all countries, big or small, weak or strong, rich or poor, should equally enjoy dignity, the fruits of development and security guarantees; safeguard the basic norms governing international relations and international law that are based on the purposes and principles of the *UN Charter*; and advocate common human values, such as peace, development, fairness, justice, democracy and freedom. In that way it adopts the high ground of human morality and historical development."

3.1 Justice is the important value of international law

Debates on interests and justice have raged throughout human history. In China righteousness and interest were generally regarded as two opposing ends^①, while in the Western thoughts, justice and utilitarianism, distinguished by their different focuses, were not necessarily opposite to each other. Pursuing interests is not equal to ignoring justice, for the pursuit of justice itself contains factors of justice. Nor does stressing justice mean denial or rejection of interests. In some way justice can equal interests. For example, Aristotle (1965), advocating his theory of justice, held that "justice" was benevolence in a political sense, which aimed at public interests (p.148). Justice is the other of the two important values of laws besides interests. In some ways the realization of justice acts as both the starting point of the law and its destination. The law in nature is oriented to the pursuit of justice, and that special attribute of the law enables it to become a most dependable guarantee for the maintenance and promotion of justice.

What is justice? Flavius Petrus Sabbatius

① In the history of China, the Confucian school, represented by Confucius and Mencius, valued justice above material gains; while the Legalist school, represented by Shang Yang and Han Feizi, valued material gains over justice. According to Confucius, "The gentleman sees righteousness; the petty man sees profit." According to Mencius, "If the whole nation, from top to bottom, are obsessed with gaining benefits, the nation would be on the brink of collapse." According to Shang Yang and Han Feizi, however, "Sage rulers should attach more importance to law than justice." And both of the two schools acknowledged the antagonistic relation between justice and material gains. Still, there were some ancient Chinese philosophers calling for equal importance to justice and material gains. For example, Mo Zi held that "justice is a manifestation of material gains" and that "people should love each other and help each other."

Justinianus(1989) held that justice was one's never-yielding and permanent desire to claim what he or she deserves(p.5). In the early era of the Roman Empire, Marcus Tullius Cicero described justice as "a human spiritual tendency to enable one to gain what one deserves." That will endow every one with his due portion makes up an important and universally effective element of the concept of justice. "Justice in nature is 'goodness of others' or 'good of others,' because it serves nothing other than things that benefit others." To effectively wield its power, justice calls for the liberation of people from their selfish impulse to only consider their own interest. The concept of justice is in all human beings. Therefore, justice, rather than an involuntary obligation, is an outcome of considerations upon reality and actual interests.

Safeguarding the common interests and protecting the interests of the weak are frequently referred to together and are sometimes even made equivalent. For example, according to Marcus Tullius Cicero (1997), the purpose of the law was to place the weak under the protection of the powerful and its basic value was to safeguard public interests (p.6). In his masterpiece *The Republic*, Plato affirmed that justice was the supreme virtue of mankind and the law its representative. Whether a law was good depended completely on whether it was in line with justice. Obeying the law was obeying justice and the fundamental value of the law was to facilitate justice (Lv & Gu, 1986, p.54). Justice focuses on the content of laws and regulations, their influence on mankind and their value for enhancing human welfare and civilization. In the broadest and most general sense, justice somehow focuses on whether the order of a group or the system of a society is helpful for the realization of basic goals. Just as John Bordley Rawls (1988) said, "Justice is the first virtue of social institutions, as truth is of systems of thought. A theory however elegant and economical must be rejected or revised if it is untrue; likewise laws and institutions, no matter how efficient and well-

arranged, must be reformed or abolished if they are unjust" (pp.1-2).

Justice is a standard that the law must comply with, yet that does not mean that justice is merely a vision or something imagined and far out of reach. Justice, as a requirement, is quite likely to be widely embodied in the substantive laws of a country or a community. Building a community of shared future for mankind, keeping the international community as the basis, and being committed to safeguarding the common interests of the international community and the interests of the weak, is an effective approach to realizing the justice of law. Experience may teach man that they cannot do without their society, and worse still, if they let their desires go wild, the society could no longer be maintained; in such a case there would be an urgent interest that would instantly restrain their deeds and impose upon them those regulations to be followed as principles of justice (Hume, 1980, p.610). An idea, act, or social system (including a legal system), so long as it brings social progress, respects the maximum interests of the majority and follows the objective rules of human social development, is permanently just (Lv & Wen, 1999, p.469). Against the current economic globalization and international economic integration, it has become inevitable that to realize justice through international law and a community of shared future for mankind must be built, and the common interests of the international community and the interests of the weak must be safeguarded. No country should be allowed to pursue its own interests at the price of others' interests or the common interests. Nor should one achieve its own development by sacrificing others.

3.2 Institutional guarantee of justice: International law

Traditional international law, whose force is restrained by sovereign nations' pursuit of national interests is regarded as a "law of co-existence". Any matter that is not clearly stipulated in the international

law falls into the category of sovereign nations “matters of domestic jurisdiction”, which could be subject to the sovereign states’ own considerations. This attribute of international law, as it turns out, pushes countries to pursue more national interests. Just as Henkin said, “State autonomy and impermeability imply the right of a State (not of others) to determine its national interest; to further that interest, not the interests of other States; to promote its own values as it determines them, not the values of other States or values determined by other States” (Menon,1996). Indeed, international law can exert positive influences somewhere and may help build and maintain a certain international order. However, this very order is terribly self-contradictory: it stresses respect for state sovereignty and non-interference in other nations’ internal affairs, yet it permits exceptions to the general principles that forbid the use of violence, and thus to some extent allows nations (mainly major powers) to resort to violence to solve disputes; it drives sovereign nations to pursue their own national interests, to a point that they just trample upon other nations and even the entire international community to gain what they want. The whole thing in consequence sounds like Emanuel Kant’s “antinomies”.

As the economic globalization and international economic integration deepens, the international community is seeing increasing degrees of interconnection and mutual restriction. However, the “antinomies” problem, caused by the old international legal order due to the state-based jurisprudence, is impossible to eradicate. Only by keeping the international community as the basic starting point can international law find a new way out. In the new global context, as Hayek proposed, there must be a power that can prevent all nations’ harmful actions against each other, a set of regulations that stipulates dos and don’ts, and a governing body that can enforce the regulations. What we need and expect to achieve is the creation of an international economic institution

that can provide checks and balances for all kinds of economic interest groups, and, when there are conflicts among the groups, it, because of its non-involvement in economic competition, could be truly just and fair. The governing body of international politics we need is like this: it does not dictate guidelines to the nations, yet it must be able to prevent their harmful actions against each other. Moreover, the rule of law should be more pressing for the international governing body than any one single nation. As nations are becoming economic managers and stakeholders rather than mere monitors, the frictions among them would no longer be on an individual level, but between countries that act as economic governing bodies, and thus there is a growing demand for supranational organizations (Friedrich, 1997, pp.219-220). Some international economic governing bodies like the World Trade Organization (WTO) are already coming forth to safeguard common interests of the international community, and to provide institutional guarantee for the synchronous development of developed countries and developing countries, as well as for international law to realize their value in achieving justice.

3.3 Striking a balance between formal justice and substantive justice: A necessity for building a community of shared future for mankind

The value of legal justice is not entirely abstract, but rather concrete. Justice, under different standards, can be classified into individual justice, national justice and social justice, or substantive justice and formal justice. For laws to achieve justice, different types of justice must be well balanced. To achieve a balance, especially a real balance and harmony between substantive and formal legal justice, realizing the concept that international community is the main interest subject is undoubtedly the way.

Substantive justice is in nature a result-oriented pursuit of justice. As for social mechanisms, there may be one or more unjust mechanisms in a society. However, the overall results may still be just, for one

injustice may be canceled out by another, and some injustices may be counterbalanced by others. In that case, society is, according to principles of substantive justice, just. Formal justice, however, is a kind of justice that, regardless of the result, only pursues a just process. The relationship between substantive justice and formal justice could be best represented by equality, which is an important principle for justice.

Typically, equality is in line with justice. But that is only one side of the coin. On the other side, due to the complexity of issues concerning equality, sometimes inequality may also turn out to be just. The equality we mean is not an absolute, undifferentiated equality as in mathematics. It is a relative equality, which does not exclude differences. Reasonably differentiated treatments, though seemingly unequal in formality, are in fact paving the way for a higher level of equality. Thus, in this sense, inequality is none other than a necessary subsidiary principle for realizing substantive justice. Inequality, under certain circumstances, can coincide with justice and seeking a just result would be a fundamental prerequisite for that. So long as the “inequality” is set to achieve a final equality, it is just in nature. Some scholars share similar ideas when expounding on the concept of justice from the perspective of contractual justice. Edgar Bodenheimer (also John Rawls) held that in a narrower and more defined sense, the concept of justice is entitled to make its way to contracts between individuals, groups and countries. It is also possible that one party to a private agreement, or an international treaty, because of its superior place in the situation, may impose terms upon the other inferior party. Such agreements, or treaties, may seem to be reached based on equality rather than coercing, but they are still tainted by injustice.

Considering current international economic relationships, it is necessary to renew the established international law-based concept of equality in the economic relationships between developing and developed countries. To truly materialize the principle

of fairness and mutual benefit, “compensatory inequality” and non-mutually beneficial differential treatments should be provided to benefit developing countries, since there is a history of predatory economic relations and a huge gap in real economic status between developing and developed countries. Due to the varied political and economic competences, only by means of unequal treatments can equal opportunities be secured for those bodies that seem to own an equal place in law but not in reality(Verdirame,1994). Currently inside the WTO there are some trends that reflect “substantive justice”, such as some “special and differential treatment” provisions for developing countries, as well as institutions specially founded to provide technical aid for developing countries. But unquestionably the mechanism needs further improvement to fully consider the gap in development among all countries, to secure a really equal environment for competition for the relatively weak countries, and to ascend from “formal justice” to “substantive justice”. According to Giovanni Sartori (1993), the ultimate state of equality necessarily calls for unequal means, namely discriminatory (differential) treatment (pp.355-356). Therefore, some social systems must be very ingeniously designed to ensure that however things turn out, the distribution as a result should be just.

Nonetheless, building a community of shared future for mankind, upholding the international community-based ideology, protecting the common interests of the international community and safeguarding the interests of the weak is an important approach to the realization of legal interests and values of justice. According to Edgar Bodenheimer, a civilization highly developed in material and knowledge does not necessarily guarantee a “righteous life”, unless it also teaches people to, for the sake of others’ interests, restrain themselves, to adjust their own interests, to respect others’ dignity and to design appropriate regulations that could balance the co-

existence and cooperation between groups on all kinds at all levels—including the international community level. Perhaps ancient Chinese sages' wisdom in saying that “The universal standard for doing good is to benefit the world and rid it of all evil; do things that benefit other people, never do things that can harm them”^① and that “view others' countries as one's own country”^② is still a goal to be achieved by us today.

4. The growing assimilation of laws of different countries: A domestic law approach to building a community of shared future for mankind

The building of a community of shared future for mankind, which was proposed in the context of global economic and social development, is sure to call for all countries to respond by making due adjustments to their domestic laws. As human development in society, economy and living steps into economic globalization and international economic integration, what immediately happens is that national markets defined and divided by territory are effectively connected and then converge into a global market, changing the original national markets into one homogeneous whole. According to Karl Marx, the pressing needs of a society must and are sure to be satisfied; the changes become a social necessity and sooner or later, the legislation will cater to them.^③ Homogeneous economic systems naturally require that their attendant laws and principles of law enforcement should be synchronized. International economic integration calls for laws and regulations that cater to it. Or else cross-border economic transactions have no chance to be carried out in an orderly manner. During the process of international economic integration, countries

become more dependent on each other, while their laws and regulations also react with, complement and converge into those of the international community. Ideologies, values of laws, law enforcement standards and principles, and even laws and legal systems are all becoming assimilatory across the globe. As President Xi Jinping (2016) noted, “Reform and the rule of law are much like the wheels of a chariot or the wings of a bird.” Through reforms of legal systems, assimilation of laws and reductions or even eradication of legal barriers, domestic and international rules of law will be better delivered and a sound and complete legal environment will be available for building a community of shared future for mankind.

4.1 Approaches to legal assimilation

Legal assimilation means that laws of different countries, as required by the growing international communication, assimilate and permeate into each other, so that they are becoming similar, even uniform. The laws and operations of different countries are more and more integrated, replete with international legal practices and norms while more and more countries are volunteering for the work of unifying international law. Legal assimilation is a complex process of assimilation, transplant and localization, and it has a wide range of forms. It should not be simply regarded as mere homogeneous development of laws and regulations. In fact, it has a broader connotation, which, apart from laws and regulations, also covers the value of laws, legal rights, unwritten laws, concepts of justice and the legal culture. Legal assimilation is a necessary step towards the modernization of laws and is also the core of the modernization of legal ideologies.

Legal assimilation generally has two forms. The first one is a direct form, namely, unifying laws of

① Mo Zi. “Against Music”, *Mozi*.

② Mo Zi. “Impartial Concern” part 2), *Mozi*.

③ *Complete Works of Marx and Engels* (vol. 18): p65.

different countries by binding them with international treaties or invoking related international norms, which impairs none of their sovereignty. National sovereignty is an abstract concept in nomology and it exists in various forms in real practice in the international community. A sovereign nation, by signing or joining an international treaty that is based on equality and mutual benefit, gives up part of its sovereignty, while in fact, it is also exercising this part of sovereignty in a special way. An international treaty or agreement is basically an outcome of all stakeholders' exercising sovereignty and voicing their wills. If something contradicts a nation's interests in the treaty or agreement, reservation clauses are prepared. And if necessary, countries can also quit and reclaim the surrendered part of their sovereignty.

Joining international treaties at the price of forgoing a certain bit of sovereignty must be for more benefits. For example, EU member countries handed their right to issue currency over to the European Union, a regional international organization in exchange for more economic benefits. So it is with the WTO. Countries who elbowed their way into this trade organization must follow its regulations and hand over a part of their sovereignty in exchange for overall domestic economic development and wide-ranging social development. Therefore, to homogenize laws in a direct way does not harm a country's sovereignty. It is, instead, a special form of national sovereignty that is realized in the process of economic globalization and international economic integration.

The second is an indirect form or approach, namely, integrating universal legal practices of the international community into domestic legislation, thus transforming domestic laws and coordinating them with international practices. The moves countries take to mutually learn from or even copy each other's legal systems is voluntary and based on country needs. It still represents the countries' sovereign will, for it must be preceded by a decision or consent of

their government. Those regulations concerning international economy and trade made by international organizations like the WTO, International Monetary Fund (IMF) and World Bank (WB) are always an outcome of following the sovereign will of all the member countries. Take the EU as another example. On the one hand, the universal EU laws co-exist with domestic laws of its member countries, and sometimes even provide room for flexible enforcement of those domestic laws. On the other hand, EU member countries never stop their own legislation, for the EU laws cannot yet cover all fields. Their limitations create a huge vacuum for EU member countries to fill through domestic legislation (Schipani,1997).

Legal assimilation is no doubt a move by developing countries to consciously and selectively (or compulsorily sometimes) to learn from, assimilate and transplant existing legal systems of the developed countries, while in nature it is bilateral. There are also cases where developed countries learn from successful legislative and judicial experiences of developing countries like China. Therefore, legal assimilation is not equal to a concession to the ideologically dramatized "legal colonization" or "legal westernization", nor to the preaching of "Western Centrim". Its key meaning lies in establishing a right attitude towards laws, which could lead people to peer into the thoughts hidden behind each legal tool that is being used, and to take a broad view when reviewing legal problems, to avoid ending up in a bigoted and arbitrary conclusion in legislation, administration of justice, law enforcement and law observation. Only by establishing such an attitude towards laws can the value of modern laws be exalted to a higher level, modern rule of law be realized, and domestic legal guarantees be provided for building a community of shared future for mankind.

4.2 Coexistence of legal assimilation and differentiation among different countries

Legal assimilation never denies legal

differentiation. The concept itself contains a prerequisite in logic that admits the differentiation and diversity of laws of different countries. Without differentiation or diversity, assimilation can never do. In the 21st Century, international communication in laws and culture goes further and there is a consensus on pursuing peace, communication, cooperation and development as the common goal. In such a context, efforts to seek mutually acceptable points of convergence are increased, even though each country still values the characteristics of their own legal system, legal thoughts, history of legal systems and the entire nation in their domestic legislation and international law-making. Mutual integration and assimilation has brought more and more agreement. And there will be more similarities in domestic laws of different countries. The legislative modes of the legally developed countries and societies, which have proven to be advanced and sophisticated by practice, will be further copied by other countries. And those conflicts between legal systems inside domestic laws that are hard to be coordinated or balanced, will also be given more flexible solutions through domestic legislation and uniform international legislation. Law-making inside countries and among countries will be better coordinated through international treaties or charters of international organizations and regulations set down by domestic laws of all countries. Accordingly, the international community is sure to see further and more fruitful assimilation of laws in the 21st Century. The legal assimilation inside the WTO and the EU have been the best testament to this.

Admittedly, however hard people emphasize the trend of assimilation between international and domestic laws or the uniform international legislation, legal differences and confrontations are impossible to eradicate. The laws of the world, as they merge with each other will never elude strife, while economic globalization and international economic integration are in fact accompanied by the diversification of

economies, cultures, laws and lifestyles. The market economy, though it is becoming a universal norm, branches out into different styles in different countries, whose differences may not necessarily decrease as the market economy develops. Germany's market economy, categorized as a social market economy, is in stark contrast with the laissez-faire economy of the UK and the USA. East Asia's market economy, due to government's heavy-handed interventions, does not bear any resemblance to any other market economy. So it is with democracy, for one country can never be exactly the same as another in terms of political system. And all these differences are inevitably reflected in laws.

4.3 Legal assimilation throughout the process of building a community of shared future for mankind

Legal assimilation does not forebode the extinction of legal differences among nations, countries and classes, nor does it mean an absolute uniformity of laws which may end up in an "internationalization of laws", "law of the world" and "globalization of laws". On the contrary, it only means that the laws of the international community, while admitting national characteristics of laws and differences of national conditions, are expected to reduce conflicts, seek common points while preserving differences and encouraging coordinated development. It is noteworthy that the speed of legal assimilation varies, depending on which part of the legal field, which country and which historical stage the country is in. Neither in reality nor in logic would economic globalization or economic integration prove a catalyst for legal integration or globalization because, in fact, both economic globalization and international economic integration are a paradox. In the scientific sense the mainstream ideology of the international community has noticed that, neither economic globalization nor economic integration should be allowed to encroach upon the singularity and independence of any country,

nation or region. Globalization in nature is also a combination of internationalization with localization. Breaking through barriers set up by “old-style” nations and countries, globalization ushers in more and more international standards and regulations to be accepted and followed by all countries. And “keeping pace with the world” accordingly becomes a common slogan chanted by many. However, the countries, while accepting and following those universal international standards, never give up their own traditions and characteristics. Instead, they combine them with the international standards and localize the latter. Even the most open countries in the world still preserve their national birthmarks. The organic connection between one’s laws, nation and character is also carved into the footprints of time. Laws, like language, cannot just snap; laws, like nations and the general orientation of national characters, are not easy to erase. Therefore, there must be a sober understanding that legal assimilation is not in any way likely to be an absolute uniformity of laws across the globe.

International law acts more like an intermediary between countries than a dictator over them; the supremacy of national sovereignty in the international community remains a fundamental prerequisite for international relations in the 21st Century. Therefore, the chance for the emergence of a “law of the world” covering all of the countries in the 21st Century is slight. However, given the large number of common challenges facing people and the objective fact that few of them can be solved by a single country with a single domestic law, and with the current development of science and information as the material basis, the systematized international community as an effective approach, and mutual understanding and consensus over the world as the ideological basis, the domestic legislation of all countries must share some common principles. Any country that only considers its own temporary interests shall be limited or restricted. That means in the 21st Century there will be a new

dimension to all sovereign states whose sovereignty enjoys supremacy in the international community, some common standards will be followed in the international law for certain aspects, and acts of the states will be restricted by international regulations aimed at safeguarding the common interests of mankind.

Legal assimilation is arguably an endless process, which extends throughout the building of a community of shared future for mankind.

5. World peace starting from inner peace—A new international law-based approach to building a community with a shared future for mankind

President Xi Jinping (2016) once pointed out that “The CPC and the Chinese people pledged long ago to make a new and bigger contribution to human development. Having experienced bitter sufferings in the past, the CPC and the Chinese people know the value of peace and development and see it as our sacred duty to promote the peaceful development of the world.” The successful building of a community with a shared future for mankind depends on a peaceful international environment, while permanent global peace has long been dreamt of and pursued by everyone on this planet. In this regard, international law, an international legal system whose fundamental value is to safeguard peace and promote development, exists, to a large extent, to fulfill its mission of keeping world peace. Considering the protracted wars and conflicts devastating one country after another, a justified doubt is: whether there’s a soft underbelly inherent in international law itself which hampers the peace process. To realize the grand strategic goal of establishing a community with a shared future for mankind, it’s imperative to think about and explore new approaches to building world peace through



Immanuel Kant

international law.

5.1. Biased ideology of Kant's perpetual peace

In his famous work, *Perpetual Peace: A Philosophical Sketch*, Immanuel Kant (2005) proposed his theory and listed, first and foremost, the preliminary articles for perpetual peace among states (pp.5-12). These include: no treaty of peace shall be held valid in which there is tacitly reserved matter for a future war; no independent states, large or small, shall come under the dominion of another state by inheritance, exchange, purchase, or donation; standing armies (miles perpetuus) shall in time be totally abolished; national debts shall not be contracted with a view to the external friction of states; no state shall by force interfere with the constitution or government of another state; no state shall, during war, permit such acts as hostility which would make mutual confidence in the subsequent peace impossible: such are the employment of assassins (percussores), poisoners (venefici), breach of capitulation, incitement to treason (perduellio) in the opposing state, etc. According to Kant, the definitive articles for perpetual peace among states shall include: the civil constitution of

every state should be republican; the law of nations shall be founded on a federation of free states; the law of world citizenship shall be limited to conditions of universal hospitality. Some of his thoughts are already incorporated into modern international law, and are being practiced by the international rule of law. His idea of "a federation of free states" is best exemplified by the large number of international organizations operating around the world.

This theory of perpetual peace is generally considered as the ideological and theoretical basis of the international alliance established after World War I, and the United Nations after World War II. The so-called "perpetual peace" by Kant is a peace mechanism established on sovereign states. Full respect for national sovereignty is reflected both in "no independent states, large or small, shall come under the dominion of another state by inheritance, exchange, purchase, or donation," and in "the law of nations shall be founded on a federation of free states." This federation, or league, does not tend to any dominion over the power of the state but only to the maintenance and security of the freedom of the state itself and of other states in league (Chen, 2006). From the very beginning, perpetual peace is strictly defined as being between nations, the nature of which refers to national sovereignty or, "the law of nations" as Kant calls it. This is the absolute bottom line. In this case, the positive concept of "a world republic," though theoretically founded, can only be deserted. In Kant's view, state sovereignty, which is what naturally ought to be, is in itself complete, confined, and self-sufficient (Zhou, 2003). The division and contradiction between states and a federation of free states are, therefore, obvious.

A heated debate on perpetual peace was sparked in Germany. In 1800 Friedrich von Gentz, a student of Kant, published an essay entitled "On Perpetual Peace". Some lines of compliments later, the essay stated that conflict was inherent in human

nature, which ruled out the possibility of perpetual peace (Melchionni, 2004, p.25). Despite too much pessimism, Grotius was correct in identifying the ignorance of people's psychological elements in the theory of his teacher. Some scholars share Grotius's opinion "The law of world citizenship shall be limited to conditions of universal hospitality," proposed Kant in *Perpetual Peace*, but he then stressed that, "It is not a question of philanthropy but of right." Clearly, he excluded philanthropy, i.e. the issue of ethics, in perpetual peace. No doubt that such an extremist theory of right is profound, but it's also complete formalism (Wu, 1998). The issue of ethics, in this paper, focuses primarily on people's inner world.

At least two limitations exist in the perpetual peace upheld by Kant. First, inherent conflict is found between sovereignty and a federation of free states, where the free states find it difficult to overcome the downside due to stress on their sovereignty, and thus truly achieve perpetual peace between states. Second, psychological factors are neglected, which are indeed the weakness in his theory. Scholars of his time have already identified this, while an increasing number of scholars today are also having clearer awareness. It's likely that when this theory was adopted in contemporary international law to build up law systems and international organizations, strengthening inner peace receives far less attention.

5.2 *Opinio juris* of contemporary international law on peace

After the two catastrophic world wars, humanity's aspiration for peace culminated.

The preamble of the *UN Charter* reads, "We the peoples of the United Nations determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, ... and for these ends, to practice tolerance and live together in peace with one another as good neighbors, " and "have resolved to combine our efforts to accomplish these aims." The words

"tolerance", "resolved," and "combine" indicate that all the founding states of the UN are deeply aware of the cruelty of wars and the sufferings of mankind. Therefore, they are eager to establish international organizations for the sake of world peace, social progress and improved wellbeing. Article 13 of the *UN Charter* also declares that, "The General Assembly shall initiate studies and make recommendations for the purpose of: promoting international co-operation in the political field and encouraging the progressive development of international law and its codification. " "Studies," "recommendations," "promoting," and "encouraging" signify the dissemination and education of international law concepts featuring peace, which aims at arousing people's love and pursuit of peace. Among various international legal documents and declarations, multiple words describing feelings and desire can be found to express people's craving for peace. Some examples are: "believing," "faith," "recalling," "whereas," "noting," "considering," "bearing in mind" and "realizing. "

According to Chapter II, Article 3 (n) of the *1948 Charter of the Organization of American States*, "The education of peoples should be directed toward justice, freedom, and peace." In the *Declaration on the Promotion among Youth of the Ideals of Peace, Mutual Respect and Understanding between Peoples* adopted by the General Assembly in 1965, one of the principles is: "Young people shall be brought up in the spirit of peace, justice, freedom, mutual respect and understanding in order to promote equal rights for all human beings and all nations, economic and social progress, disarmament and the maintenance of international peace and security." The *Declaration on the Preparation of Societies for Life in Peace*, adopted by Resolution 33/73 on December 15, 1978, pointed out, "... aware that, since wars begin in the minds of men, it is in the minds of men that the defenses of peace must be constructed." This is a perfect explanation of inner peace that pays attention to internal causes. In his address at

the United Nations Educational, Scientific and Cultural Organization (UNESCO), President Xi Jinping also reiterated the idea that “wars begin in the minds of men,” explaining to the world China’s understanding and position in terms of war and peace.

The strengthening of inner peace owes a lot to UNESCO. It clearly stipulates in its Constitution, “That since wars begin in the minds of men, it is in the minds of men that the defenses of peace must be constructed” (Dong & Liu, 1993, p. 1036). Facing such reality, we must be aware that if peace is to be long-lasting, it must be based on the intellectual and spiritual solidarity of mankind. *The Constitution* also makes it clear that “The wide diffusion of culture, and the education of humanity for justice and liberty and peace are indispensable to the dignity of man and constitute a sacred duty which all the nations must fulfill in a spirit of mutual assistance and concern.”

In a series of declarations and international documents thereafter, UNESCO restates the significance of strengthening inner peace. Article 7 (2) of the *Declaration of the Principles of International Cultural Co-operation*, adopted at its fourteenth session in 1966, states that, “In cultural co-operation, stress shall be laid on ideas and values conducive to the creation of a climate of friendship and peace. Any mark of hostility in attitudes and in expressions of opinions shall be avoided” (Dong & Liu, 1990, p. 1397). At its twentieth session in 1978, the UNESCO General Conference approved *Declaration on Fundamental Principles concerning the Contribution of the Mass Media to Strengthening Peace and International Understanding, to the Promotion of Human Rights and to Countering Racism, Apartheid and Incitement to War*. Article 4 reads, “The mass media have an essential part to play in the education of young people in a spirit of peace, justice, freedom, mutual respect and understanding, in order to promote human rights, equality of rights between all human beings and all nations, and economic and social progress.”

And Article 7, “By disseminating more widely all of the information concerning the universally accepted objectives and principles which are the bases of the resolutions adopted by the different organs of the United Nations, the mass media contribute effectively to the strengthening of peace and international understanding, to the promotion of human rights, and to the establishment of a more just and equitable international economic order” (Dong & Liu, 1990, p. 1344). As the largest international organization that manages comprehensively the world’s educational, scientific, and cultural affairs, UNESCO aims to enhance inner peace, thus promoting and realizing global peace.

International human rights legal instruments rule that the right to freedom of thought, conscience and religion, and the right to hold opinions, to freedom of expression, and to seek information are basic human rights under protection. This is clarified in Articles 18 and 19 of the *International Covenant on Civil and Political Rights*. But according to Article 20, propaganda for war and advocacy of hatred is prohibited. Paragraph 1 reads, “Any propaganda for war shall be prohibited by law.” Paragraph 2 reads, “Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.” The reasoning behind the prohibition is that such behavior leads to the destruction of inner balance. Once it’s accepted mentally, people will take concrete action, stage wars, and give vent to their hatred, causing tremendous suffering to others. Compared with other articles, Article 20 shows, to a greater extent, people’s reactions towards the horrors of national socialism, namely, Nazism (Nowak, 2008, p. 488). It’s a valuable lesson learnt through havoc resulting from constant wars and revenge. Now it is enshrined and codified in international human rights law as a basic code of conduct for all countries and their people.

By adopting the international documents listed

above, the international community is already keenly aware that, to realize truly perpetual peace, we must take further steps beyond international organizations and rules of international law. Inner peace must be gradually established, so that people know in their mind that wars are sinful, and they will completely reject resorting to war at any time and under any circumstances. Only then will long-lasting peace become reality. Existing international law and mechanisms of international organizations, however, are clearly insufficient effort in this area. Therefore, it's necessary to carry out education and awareness sessions on the spirit of peace through relevant legal systems and organizations to promote inner peace, and more importantly, perpetual peace for mankind.

Among the documents mentioned, the *UN Charter*, *Charter of the Organization of American States*, and *International Covenant on Civil and Political Rights* are legally binding; while other declarations and resolutions adopted by the UN General Assembly and UNESCO, with their political sense and morality, and through reiteration in different international documents, may exert similar influence as customary international law.

5.3 Accomplishing perpetual peace by fulfilling the new mission of international law

After Kant, John Rawls proposed to set up the Law of Peoples in pursuing social equity and justice; while Jürgen Habermas aspired to accomplish human rights, with respect for human nature and satisfaction of related hidden needs. Both theories indeed represent a return from the concept of peace focusing on external causes, to one that considers inner peace featuring internal causes as being equally important. The same trend can also be observed in international legal documents and the practice of system construction.

The UN, the EU and other international organizations have made significant efforts in promoting and safeguarding world peace. Successful or not, they constitute initial but important

endorsements for the concept of perpetual peace. This reflection comes after all the wars and disasters. While moving forward, humans will always look back, drawing precious experience as the strength and guidance for further progress. To eventually achieve the longest, and perfect peace, all humans must make full use of their wisdom, and find their way through trial and error.

Contemporary international law and the systems of international organizations are directed towards the design and building of political, economic, cultural, human rights systems, and the rule of law. The focus is on external aspects. Such a path, of course, must be taken if the world hopes to become perpetually peaceful. But to reach the goal, inner peace dealing with internal causes must be enhanced as well, which is the weakness of international law, and also a much more arduous task. As an old saying goes, a journey of a thousand miles begins with a single step. We must start from the existing international rule of law, boost publicity and the building of inner peace focusing on internal causes, and improve historically unequal, unfair and unreasonable practices in relevant systems and organizations. This way, we will be able to facilitate perpetual peace by enhancing inner peace, while maintaining external efforts.

Kant was right in pointing out that, "A state of peace must be established." The effort to strengthen perpetual peace can only begin within people's minds. Therefore, to reach the grand strategic goal of building a community of shared suture for mankind, international law should not only improve existing systems and organizations, but also promote and build inner peace. Thus, inner peace is the new mission given to international law, and where we start to fulfil the shared dream of mankind for the future. As President Xi (2016) mentioned, "To stay true to why we started out and continue going forward, we must remain firmly committed to the path of peaceful development and to a mutually beneficial strategy of

openness; strengthen friendly ties with all countries; and work with all peoples to advance the grand cause of peace and development for humanity.”

6. Peaceful rise rooted in traditional culture and international law – the Chinese model of building a community with a shared future for mankind

In proposing the concept of a community with a shared future for mankind, China will set the example, guiding global development with its own peaceful rise. This great practice will bring a bright prospect to the building of a community with a shared future and the world’s future.

From the perspective of international law, the ongoing peaceful rise is profound. Specifically, there are four aspects. First, the peaceful rise of China is in accordance with the resolutions and principles of the *UN Charter*, and the accepted rules of international law. Second, to achieve peaceful rise, we must pursue an independent foreign policy of peace, continue peaceful development, safeguard world peace, and boost common development. Third, the peaceful rise highlights “rise,” namely, development. Peace and development are considered equally important, indicating their complementarity and mutual influence. This represents an original contribution to the development of international law. Fourth, the peaceful rise of China does not challenge the rational international legal order currently in existence. While obeying recognized rules of international relations, China strives to carry out reform to improve unjustified sections. By participating in, upholding, improving and developing the existing international legal order, China joins the effort in democratization of international relations, so as to facilitate the building

of a community with a shared future for mankind.

The concept of building a community with a shared future for mankind carries forward traditional Chinese philosophical beliefs such as “harmony is of paramount value,” “achieve universal prosperity in the whole world” and “unity of man and nature.” It is in line with the diplomatic traditions of China, including the independent foreign policy of peace, the Five Principles of Peaceful Co-existence, win-win strategy of opening-up and the building of a harmonious world. It also reflects the common aspiration of people all over the world for development and progress and the beneficial experience of some regions and countries in building communities. Embodying both salient Chinese features and common values of all mankind, it has won support from countries all over the world, particularly the developing countries(Wang, 2016).

6.1 Rise rooted in traditional Chinese culture is inherently peaceful

According to President Xi (2016), the profound traditional culture of the Chinese nation has given birth to a distinctive ideological system, reflecting the wisdom and rational thinking accumulated through thousands of years. This represents a unique advantage for China. He proposed that in tackling major issues facing the development of China and other countries, we must focus on providing concepts, ideas and solutions featuring Chinese positions, wisdom, and values. In traditional Chinese culture, the notion of “love without distinction but of mutual benefit” is an effective tool with which to deal with interpersonal and international relations. The highest level of “benevolence and righteousness,” however, is to “benefit men.” “It is the business of the benevolent man to promote what is beneficial to the world, to eliminate what is harmful, and to provide a model for the world. What benefits men he will carry out; what does not benefit men he will leave alone.”^① But the early history

① Mo Zi. “Against Music”, *Mozi*.

of human interactions was basically individualist, with everyone pursuing his personal interest at the cost of that of others, or even nations. National sectionalism that came with social progress considered interest of one's own country as the top priority in decision making, almost regardless of other countries. In the 21st Century, global warming, terrorism, infectious diseases, transnational crime and other new challenges pose serious threats to the harmonious, stable and sound development of all countries. No country or group of countries can solve them alone. This situation of common threats forces every country to stop acting simply for its own good, and start to keep up with the times, and deal with common issues based on an international community orientation. In international law terms, international community orientation means that international law will be further applied in social relations traditionally subject to domestic law. It is required that domestic law shall be in line with rules recognized by the international community. Legal acts or legal rights practiced at the individual as well as the national level shall be without prejudice to the common interest of the international community.

China's peaceful rise just responds to the call of our times, as it is in the fundamental interests of the Chinese people and people all over the world. Peaceful rise means there is no expansion with force, and no international hegemony. No one will be hampered, threatened, or sacrificed. As a responsible power, China needs to consider the fundamental interest of its own and the world's people when deciding how to develop, for it is keenly aware that, "When there is mutual care, the world will be in peace. When there is mutual hatred, the world will be in chaos."^① Economic globalization has strengthened the ties among nations. They depend on each other, influence each other, and

share a common fate, whether it's a super power, or a developing country.

6.2 China's peaceful rise extends and exercises the idea of peace in the *UN Charter*

Peace has always been an aspiration of mankind. Accordingly, the idea of peace enjoys a long history during the development of every country. In the *Analects of Confucius*, an ancient Chinese classic, it contains the idea that "In carrying out the rules of propriety, ease of manner is to be prized." *The Book of Rites* puts it more clearly, saying that, "Let the states of equilibrium and harmony exist in perfection, and a happy order will prevail throughout heaven and earth, and all things will be nourished and flourish."^② It highlights the importance of harmony. These ideas of peace in ancient China are where the future ideologies of peace may start. Kant also proposed to establish "perpetual peace" through a federation of free states. To establish normal international relations, he believed, the principles of international law must be upheld, which included primarily independent sovereignty, protection of peace, and adherence to morality and justice. "Perpetual peace" should be created by code of law. Meanwhile, "perpetual peace," in his opinion, didn't mean to make all citizens subject to one universal monarchy. Differences of language and religion involve a tendency toward mutual hatred and pretexts for war, "but it . . . finally leads to peaceful agreement." This expresses the same idea as the Chinese one of, "harmony in diversity."^③

The *UN Charter*, as the epitome of ideas of peace, takes decisive steps in safeguarding world peace, and promoting ideas of peace. Its first lines read, "To save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind . . . and for these ends, to practice tolerance

① Mo Zi. "Impartial Concern" (part 2), *Mozi*.

② "Doctrine of the Mean," *The Book of Rites*.

③ "Zi Lu," *The Analects of Confucius*.

and live together in peace with one another as good neighbors, and to unite our strength to maintain international peace and security...” It also stipulates the purposes of the UN, which is “to maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlements of international disputes or situations which might lead to a breach of the peace.”^① And “to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of people, and to take other appropriate measures to strengthen universal peace.”^② In pursuit of the purposes of the UN, the Charter also contains principles that shall be followed by the organization and its Members. These include, “All members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.”^③ “All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations.”^④ And one special principle is that, “The Organization shall ensure that states which are not Members of the United Nations act in accordance with these principles so far as may be necessary for the maintenance of international peace and security.” The purposes and principles enshrined in the *UN Charter* are already widely accepted as basic principles in modern international law.

China makes great efforts to rise in a peaceful way

without seeking hegemony. It seeks to foster a peaceful international environment for its own development, and at the same time contribute to world peace through its development. Therefore, China surely objects to the threat or use of force, and supports the settlement of international disputes by peaceful means. This shows that the peaceful rise of China comes from a combination of the idea of peace and the spirit of the times. It extends and puts into practice the ideas of peace proclaimed in the *UN Charter*.

6.3 China’s peaceful rise inherits and deepens the Five Principles of Peaceful Co-existence

The Five Principles of Peaceful Co-existence include: mutual respect for each other’s territorial integrity and sovereignty; mutual non-aggression; mutual non-interference in each other’s internal affairs; equality and cooperation for mutual benefits, and peaceful co-existence. Jointly promoted by China, India and Myanmar, these five principles originate from traditional Chinese culture, which believes “harmony is of paramount value.” The underlying idea is that all countries shall enjoy equal international legal status, regardless of their social systems, ideologies or values. They should live together as good neighbors on this planet, cooperate with good will, and solve disputes by peaceful means. Nowadays, the Five Principles have become an important component of the basic principles of modern international law.

China’s peaceful rise is inherently linked with the Five Principles. First, in terms of mutual respect for each other’s territorial integrity and sovereignty, it’s best explained by a Chinese saying, “With the skin gone, to what can the hair attach itself?”^⑤ Peaceful rise also requires we attach paramount significance to national sovereignty and security, safeguard

① Article 1.1, *UN Charter*.

② Article 1.2, *UN Charter*

③ Article 2.3, *UN Charter*

④ Article 2.4, *UN Charter*

⑤ “The 14th Year under the Reign of King Xi of Lu Kingdom,” *The Spring and Autumn Annals*.

fundamental interests, and uphold sovereignty and territorial integrity. Second, as to mutual non-aggression and mutual non-interference in each other's internal affairs, the same idea can be found in ancient classics, "What I do not wish men to do to me, I also wish not to do to men."^① Peaceful rise also sticks to the same practice. No social system, ideology, or value is imposed on others. Third, regarding equality and cooperation for mutual benefits, "Love without distinction but of mutual benefit"^② is our belief. Again, peaceful rise advocates mutual benefit in dealing with international relations and affairs, so that every nation can benefit from economic globalization. Comparison of the above clearly indicates the strong connection between the Five Principles and the peaceful rise of China, who inherits the essence of the Principles, deepens them and extends them. In the 21st Century, as the balance of power changes, and domestic development enters a new era, China's peaceful rise reflects a timely adjustment and improvement of the Five Principles. Undoubtedly, this rise will exert a profound impact on China itself, and beyond.

6.4 China's peaceful rise corrects and improves the established development pattern of international law

War is not new to human history, and it's one of the factors contributing to the birth of international law. Traditional development patterns of international law show that it is wrecked by wars while revitalized by wars.

The existence of multiple sovereign states and one international community serves as the foundation for modern international law. In Europe, to end the Thirty Years' War (1618–1648) that fundamentally transformed its political landscape, the Peace Conference of Westphalia was convened, and the Peace of Westphalia was concluded. This series of

treaties established principles concerning equality of sovereignty and territorial sovereignty marking the existence of an actual international community, and the birth of international law that was directly binding in international acts.

In every stage of development, international law is inseparable from war. During the new era beginning in the late 18th Century, the French Revolution and subsequent wars resulted in the suppression of the feudal system among European states. Some new rules of international law were formulated during such drastic changes, including the independent sovereignty of states, freedom of the seas, and the inviolability of treaties. A complete and independent system of modern international law started to take shape. In the 19th Century, power politics took a heavy toll. During the mid-19th Century, the invading Western powers to the Far East forced, through gunboat diplomacy, China, Siam, Korea, and others to sign unequal treaties, whose content usually contained business and consular jurisdictions. Colonization then expanded to regions like Africa and South America.

The 20th Century witnessed a turning point in international law, as two world wars took place within less than three decades. Modern international law came into being in the aftermath of World War I. Despite being war-torn, the international law survived, and embraced changes after being tried by war. Its principles and rules were still applicable to adjusting post-war international relations. Some major achievements included the Covenant of the League of Nations, Statute of the Permanent Court of International Justice, and Pact of Paris. Shortly afterwards, international law was devastated by World War II, but still played a role in international relations. The *UN Charter* and the founding of the UN indicated a new stage in its progress.

① "Gongye Chang," *The Analects of Confucius*.

② Mo Zi. "Impartial Concern" (part 2), *Mozi*.

Looking back on the formulation and development of international law, it is obvious that wars were always the driver, but wars caused tremendous suffering. Is there a new way that promotes international law without such a huge cost? The answer may lie in the peaceful rise of China.

The great-power rivalries have proven time and again that the rise of a big power always leads to drastic transformations of the international landscape and world order, or even world wars. Germany before World War I and Japan before World War II are the best examples. One of the important reasons is that these countries were “arrogant and unreasonable”^①, trying to expand through aggression and war. Such a route, however, always ends in failure. To avoid repeated tragedies, China has but one option - peaceful rise. It means to rise in a peaceful situation and in peaceful ways and maintain peace because of rise. This enables international law to better safeguard world peace, while blazing a new trail for the advancement of international law.

Of course, peaceful rise does not exclude the faith and action in preserving national sovereignty and territorial integrity under the framework of international law. All nations, as is required by the international rule of law, waive their use of force based on unilateral decisions to guarantee their rights. If the root of war persists, arsenals exist, and hegemonism and power politics do not disappear, the efforts to “replace war with law” may fail from time to time. Therefore, there’s no room for the fantasy of peace if national sovereignty and territorial integrity are to be defended. It is necessary to reserve the right of self-defense within the framework of the *UN Charter*. President Xi (2016) has clarified that we would never give up our own legitimate rights and interests. “No country should entertain the fantasy that China will barter away its core national interests or allow its sovereignty, security and development interests to be infringed upon.”

(Translator: Wu Lingwei, Xu Qingtong, Cui Min;
Editor: Jia Fengrong, Yan Yuting, Xiong Xianwei)

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