FRONTIERS OF LAW IN CHINA
VOL. 15 MARCH 2020 NO. 1
DOI 10.3868/s050-009-020-0006-6

ARTICLE

INSTITUTIONALIZATION OF A HUMAN COMMUNITY WITH A SHARED FUTURE AND PRINCIPLES OF INTERNATIONAL LAW

ZHANG Naigen[*]

Abstract The doctrine of building "a human community with a shared future" (HCSF) is a Chinese diplomatic strategy in the new era moving closer to the center of global affairs. It includes enriched ideas about international law and the essential elements of institutionalization. The emergence and development of modern international law have revealed the critical importance of the ideas about international law as guidance for institutions. It is necessary and possible to institutionalize the HCSF by setting its ideas as principles of international law. The principles of international law for the HCSF are those of durable peace, universal security, common prosperity, coexistence of different civilizations, and sustainable development. The new five principles of the HCSF are integrated with the existing general principles of international law and Chinese proposals for the new era, which is not only the development of Chinese-initiated Five Principles of Peaceful Coexistence but also a new contribution to the contemporary international law. It will be the new guidance to advance the profound changes of international relations unseen in a century for the common interest of mankind.

Keywords a human community with a shared future (HCSF), ideas, institutionalization, principles of international law, Five Principles of Peaceful Coexistence

INTRODUCTION ····· 85
I. IDEAS ABOUT INTERNATIONAL LAW LEADING TO THE ESTABLISHMENT OF MODERN INTERNATIONAL LEGAL INSTITUTIONS ····· 86
A. Definitions of "Idea" and "Institution" ····· 86
B. Historical Arguments on the Ideas about International Law Leading Institutional Development ····· 87
C. Sociological Analysis of the Ideas about International Law Leading Institutional Development ····· 89
D. The "Profound Changes Unseen in a Century" Need the New Ideas to Be Institutionalized ····· 91
II. INSTITUTIONALIZATION OF THE HCSF: FROM THE PERSPECTIVE OF PRINCIPLES OF INTERNATIONAL LAW ····· 92

[*] ZHANG Naigen (张乃根), Ph.D. in Law, Fudan University, Shanghai, China; Professor, Law School, Fudan University, Shanghai 200438, China. Contact: zhangng@fudan.edu.cn

A. The Perspective of Principles of International Law 92
B. Two Categories of the General Principles: International Law and Law 93
C. The Revival of General Principles of International Law 94
III. INSTITUTIONALIZATION OF THE HCSF RELATING TO GENERAL PRINCIPLES OF INTERNATIONAL LAW 96
A. The Principle of International Law: Durable Peace 96
B. The Principle of International Law: Universal Security 97
C. The Principle of International Law: Common Prosperity 98
D. The Principle of International Law: Coexistence of Different Civilizations 100
E. The Principle of International Law: Sustainable Development 102
F. Summary of Five Principles of the International Law Based on the Ideas of the HCSF 103
IV. THE NEW FIVE PRINCIPLES OF THE HCSF AND THE FIVE PRINCIPLES OF PEACEFUL COEXISTENCE 103
A. The Linkages between the HCSF and the Five Principles of Peaceful Coexistence 103
B. China's Constitutional Amendment and Novelty of the New Five Principles of the HCSF 105
CONCLUSION 105

INTRODUCTION

The doctrine of building "a human community with a shared future"[1] (HCSF), as a part of XI Jinping Thought on Socialism with Chinese Characteristics for a New Era, includes enriched ideas about international law. This is not only because the promotion to build the HCSF must comply with international laws, but also because the doctrine of building the HCSF itself provides ideas such as durable peace, universal security, common prosperity, coexistence of different civilizations (openness and inclusiveness), and sustainable development (a clean and beautiful world), which essentially derived from the contemporary international law.[2] Chinese scholars have discussed the HCSF and principles of international law,[3] but some issues remain untouched; in particular, why

[1] The term "a human community with a shared future" (人类命运共同体) has similar translations, such as "a community of shared future for mankind." This article follows the term used in the book recently published in English: XI Jinping, *On Building a Human Community with a Shared Future*, Central Compilation and Translation Press (Beijing), (2019).

[2] XU Hong, 人类命运共同体与国际法 (*A Human Community with a Shared Future and International Law*), 5 国际法研究 (Chinese Review of International Law), 3 (2018); ZHANG Naigen, 试探人类命运共同体的国际法理念 (*Exploring the Ideas of International Law for a Human Community with a Shared Future*), 中国国际法年刊 (2017) (Chinese Yearbook of International Law), Law Press (Beijing), at 43 (2017).

[3] HCSF and International Law Research Group, HUANG Huikang & HE Zhipeng et al. 人类命运共同体的国际法构建 (*International Law Construction of Building a Human Community with a Shared Future*), 1 武大国际法评论 (Wuhan University International Law Review), 1 (2019).

should the ideas of the HCSF be recognized as the principles of international law to institutionalize the HCSF and what are the relationships between the existing principles of international law and those of the HCSF? Further research must be conducted to explore ways in which the new ideas could be transformed into the new institutions of global governance in the course of "profound changes unseen in a century."[4] It is a critical stage to identify the core of those ideas as the principles of international law for the institutionalization of the HCSF. Accordingly, this article analyzes how the ideas about international law lead to the development of international legal institutions in modern history. The institutionalization of the HCSF is discussed from the perspective of principles of international law. The relationship between the institutionalization of the HCSF and the principles of international law is explained. The article ends by highlighting the linkages between the Five Principles of Peaceful Coexistence (hereinafter referred to as "the Five Principles") and the new five principles of international law in respect of the HCSF and its development.

I. IDEAS ABOUT INTERNATIONAL LAW LEADING TO THE ESTABLISHMENT OF MODERN INTERNATIONAL LEGAL INSTITUTIONS

A. Definitions of "Idea" and "Institution"

In terms of the relationship between the ideas about international law and international legal institutions, the words "idea" and "institution" need to be defined. International law originated in Europe and it is rooted in European philosophy formulated by Plato and Aristotle in ancient Greece. Plato explains his idea about justice (*jus*, *i.e.* law) with different meanings depending on the context, including "that justice is the giving to each man what is proper to him."[5] Aristotle describes an institution as "constitution and other laws" to divide different classes of citizens in order to establish assembly and jury-courts.[6] Aristotle makes it clear "that those constitutions which aim at the common good are right, as being in accord with absolute justice."[7] It may be said that Plato's idea of absolute justice led ancient Greeks to establish their political institutions. An idea is a philosophical concept and, in contrast, an institution, according to Aristotle, is a rather observable arrangement by particular peoples or nations. These definitions of an idea and an institution are very close to dictionary meanings. According to the Merriam-Webster's dictionary, an idea is "what exists in the mind as a representation (as something comprehended) or as a formulation (as of a plan)"; and an institution is "a significant

[4] XI Jinping, 在中央外事工作会议上的讲话 (*Speech at Central Conference on Work Relating to Foreign Affairs*), 人民日报 (People's Daily), (Jun. 24, 2018).

[5] Plato, *The Republic and Other Works*, translated by Benjamin Jowett, Anchor (New York), at 14 (1973).

[6] Aristotle, *The Athenian Constitution*, translated by Peter J. Rhodes, Penguin (New York), at 48 (1984).

[7] Aristotle, *The Politics*, translated by Trevor A. Sinclair, Penguin (New York), at 189 (1981).

practice, relationship, or organization in a society or culture."[8]

B. Historical Arguments on the Ideas about International Law Leading Institutional Development

The ideas about international law led to institutional changes in modern society from Europe to other continents. History provides us with some evidence. Going back to the late sixteenth and early seventeenth centuries, it was the time of emergent independent states with national sovereignty in Europe when virtually no conventional or customary international law existed regarding their relationship. It was the history that "the growth of international law in the new era must be attributed, in the first place, to the rise of national states, especially of Spain, England, and France."[9] Hersch Lauterpacht observes the evolution of legal institutions with a famous presumption: "For law presupposes a political community, just as the notion of a political community presupposes, or is identical with, the existence of some system of law. *Ubi societas, ibi jus.*"[10] Universality is the fundamental nature of international law for all members of international society, although it originated in Western Europe, as Jennings and Watts state, "…the pre-dominant strain of modern international law was in its origins largely a product of Western European Christian civilization during the sixteenth and seventeenth centuries."[11] It seemed unnecessary to have modern international law in the fourteenth and fifteenth centuries when the Western European countries were not absolutely independent from papal supremacy. For an example, Pope Alexander was requested in 1493 to settle the dispute between Spain and Portugal on sovereignty over their newly discovered lands by defining "a line of demarcation running 100 leagues west of the Azores and Cape Verde Islands, and granted to Spain all lands to the west of it, and to Portugal all lands to its east."[12]

In the early seventeenth century, the Dutch jurist Hugo Grotius created a "systematical body of rules" to govern the relations of sovereign nations both in wartime and in peacetime, because "his work [*On the Law of War and Peace*] *De Jure Belli Ac Pacis Libri Tres*, appeared in 1625 and became a foundation of later development."[13]

---

[8] Merriam-Webster, *Merriam-Webster's Collegiate Dictionary* (10th edition), Merriam-Webster (Springfield), at 574, 606 (1994).

[9] Arthur Nussbaum, *A Concise History of the Law of Nations* (Revised edition), MacMillan (New York), at 61 (1954).

[10] Hersch Lauterpacht, E. Lauterpacht ed. *International Law: Being the Collected Papers of Hersch Lauterpacht*, *Vol. 1: The General Works*, Cambridge University Press (Cambridge), at 28 (1970).

[11] Robert Jennings & Arthur Watts eds. *Oppenheim's International Law* (9th edition), Vol. 1, Longman (London), at 87 (1992).

[12] Leften Stavros Stavrianos, *World Since 1500: A Global History*, Prentice-Hall (Englewood Cliffs), at 101 (1971).

[13] See Jennings & Watts, fn. 11 at 4.

Grotius argues that the rules of international relations should be based on the idea of natural law as the solid foundation that even God cannot change. In what way is the existence of the law of nature proved and that something is according to the law of nature? Grotius believes that "the common sense of mankind" should be a demonstration of proof, "For an effect that is universal demands a universal cause; and the cause of such an opinion can hardly be anything else than the feeling which is called the common sense of mankind."[14] Based on such an opinion as the commonsense of mankind, the law of nations "has received its obligatory force from the will of all nations, or of many nations."[15] Grotius' idea was institutionalized as the basic principle of modern international law, *i.e.* the principle of consent. Henkin writes, "State consent is the foundation of international law. The principle that law is binding on a state only by its consent remains an axiom of the political system, an implication of a state autonomy."[16] The consent must be common for two or more states to make a treaty (expressed common consent), and to identify a customary law resulting from a general and consistent practice of states with *opinio juris* (implied common consent). Jennings and Watts clarify, "In this sense 'common consent' could be said to be the basis of international law as a legal system."[17]

As possibly the first institutionalization of Grotius' idea, the Peace of Westphalia was concluded in 1648 with a common consent by a total of 109 delegations, including 16 European countries, 66 imperial states under the Holy Roman Empire and 27 interest groups to restore European peace and make an institutional arrangement after the Thirty Years' War.[18] The overall development of international legal order in the seventeenth and eighteenth centuries in Europe was led or influenced by Grotius' idea of international law, particularly his ideas about natural law, common consent, and equality of national sovereignties. It is arguable whether Grotius' idea about international law actually led European nations to reach the Peace of Westphalia but there is no doubt that Grotius wanted his works to provide guidance to end the Thirty Years' War. He revised his book *On the Law of War and Peace* in 1631, 1642, and 1646. He did not live to see the Peace of Westphalia in 1648. Holk and Roelofsen suggest, "Maybe his work contributed to prepare the legal framework for this peace. It continued to be a source of inspiration whenever international relations were submitted to the principles of Justice."[19]

---

[14] Hugo Grotius, *On the Law of War and Peace*, translated by France W. Kelsey, Clarendon Press (Oxford), at 42 (1925).

[15] Id. at 44.

[16] Louis Henkin, *International Law: Politics and Values*, Martinus Nijhoff Publishers (Dordrecht), at 27 (1995).

[17] See Jennings & Watts, fn. 11 at 14.

[18] Rudolf Bernhardt ed. *Encyclopedia of Public International Law*, Vol. 7, Elsevier Science Publishers B. V. (Amsterdam), at 160–162 (1984).

[19] L. E. van Holk & C. G. Roelofsen ed. *Grotius Reader: A Reader for Students of International Law and Legal History*, T. M. C. Asser Instituut (The Hague), at 41 (1983).

However, the Peace of Westphalia did not bring enduring peace in Europe. European countries engaged in 67 large-scale wars from the 1650s to the 1800s.[20] Encouraged by the humanitarian ideal, German legal philosopher Immanuel Kant called for perpetual peace in his writing of 1795 and preferred an institutional approach to establish a league of free nations for perpetual peace. "For these reasons there must be a league of a particular kind, which can be called a league of peace (*foedus pacificum*), and which would be distinguished from a treaty of peace (*pactum pacis*) by the fact that the latter terminates only one war, while the former seeks to make an end of all wars forever."[21] Kant's idea about perpetual peace had a great influence on the movement of international organizations in the late nineteenth and early twentieth centuries. If we understand Kant's idea correctly, it means that perpetual peace could not be secured by having a once-off international league but by establishing a permanent league with its members' regular cooperation. "Kant's prediction makes sense if we think of the role of the United States assumed in setting up the League of Nations (1919) and the United Nations (1945) even if they might not have been wholly motivated by cosmopolitan ideas of justice."[22] In this sense, it might be said that Kant's idea about perpetual peace led the international community to choose a permanent international organization such as the United Nations (UN) after World War II.

C. Sociological Analysis of the Ideas about International Law Leading Institutional Development

The ideas about international law such as Grotius' and Kant's ideas in practice led to institutional development in the history of modern international law. Why? It might be due to the character of the international society as a community. Modern international law originated in the European society of nation-states with independent sovereignty. This society is also regarded as the Christian society in terms of the common religion of European nations.[23] The contemporary international society is regulated by the Charter of United Nations (hereinafter referred to as "the UN Charter") "based on the principle of the sovereign equality of all its Members" (Article 2.1). Both European society and contemporary international society are fundamentally different from national society with centralized governance. The international society is still a community of equal sovereign nations. In comparison with the national societies, which have thousands of years of political evolution as the "*Leviathan*,"[24] *i.e.* the state as an artificial sovereignty to

---

[20] Archer Clive, *International Organization* (3rd edition), Routledge (London), at 4 (2001).

[21] Immanuel Kant, *Perpetual Peace*, translated by Lewis White Beck, Bobbs-Merrill Educational Publishing (Indianapolis), at 18 (1952).

[22] Georg Cavallar, *Kant and Theory and Practice of International Right*, University of Wales Press (Cardiff), at 126 (1999).

[23] See Stavrianos, fn. 12 at 10.

[24] Thomas Hobbes, *Leviathan*, Collier Books (New York), at 19 (1962).

exercise the ruling power over national society, the international society has only a shorter history of several hundreds of years and has even been institutionalized by many organizations, but it is primarily a human community of anarchy or quasi-anarchy. The rule of the jungle, sometimes and somehow, governs the international relations in pursuing national interests and powers. "The typical view of international relations is fundamentally the same as it was in Thucydides' day and has not been transcended in modern times, when world politics is still marked by the struggles of states for power, prestige, and wealth in a condition of global anarchy."[25]

When the modern international law appeared, European countries struggled against the papal supremacy and alleged no jurisdiction above national sovereignty. The Peace of Westphalia provided "that the Controversy touching Lorain shall be referred to Arbitrators nominated by both sides, or it shall be terminated by a Treaty between France and Spain, or by some other friendly means" (Article 5). However, the applicable laws were not clear for dispute settlement. Grotius predicted that the law of nations founded on non-theological ideas of natural law would be applicable. "Even if such a foundation had not been a sound one, no other would have been possible in the sixteenth century."[26] Grotius' idea was accepted by European countries and had such a great influence on followers of international jurisprudence such as Grotius School in the seventeenth and eighteenth centuries.

However, on the one hand, European countries reached more treaties of peace, while on the other hand, each of them with equal sovereignty had the right to wage war if it was self-judged as a just war. Therefore, there were many cycles of war and peace in modern European history. In addition, European countries expanded their powers to many countries as colonies in Asia, Africa, and Latin America. The colonization drove the Western countries, including Japan, who declared to join the European Club to fight each other, finally resulting in two world wars in the first half of the twentieth century. It was the turning point to establish the UN in June 1945 with the primary purpose to stop any wars by imposing an obligation on all its members refraining from the threat or use of force against other countries. It is prohibited to use force in international relations unless authorization is granted by the UN Security Council to maintain or restore international peace and security, or self-defense taken by a country under the UN Charter.

The purposes and principles of the UN Charter show a combination of Grotius' idea of equal sovereignty and Kant's idea of perpetual peace, *i.e.* all members of the UN have equal sovereignty and shall act in accordance with its purposes "to maintain international peace and security" (Article 1.1); "to develop friendly relations among nations based on

---

[25] John Rawls, *The Law of Peoples: With "the Idea of Public Reason Revisited,"* Harvard University Press (Cambridge), at 28 (1999).

[26] Andrew Clapham ed. *Brierly's Law of Nations* (7th edition), Oxford University Press (Oxford), at 22–23 (2012).

respect for the principle of equal rights and self-determination of peoples" (Article 1.2); to promote and encourage "respect for human rights and for fundamental freedom for all...as to race, sex, language, or religion" (Article 1.3). It supports that, as argued, the ideas about international law led to institutional changes in modern society from Europe to other continents.

D. The "Profound Changes Unseen in a Century" Need the New Ideas to Be Institutionalized

At the beginning of the twenty-first century, the international community was full of hope for the future after ending the Cold War, which lasted half a century. However, the terrorist attack in the United States shocked the world and the anti-terrorist wars followed in Afghan and Iraq. The "profound changes unseen in a century" refers to the collapse of the Soviet Union as one of the two superpowers in the early 1990s and the declining course of the United States in recent years, in the meantime, China and other emergent powers are arising in the context of the multilateral trend of international relations.

How should the "profound changes unseen in a century" be compared with the situations in the last century? World War I ended a hundred years ago. Unfortunately, World War II followed, not only in Europe but also in Asia and the Pacific area and even extended to Africa. The scourge of war brought untold sorrow to humankind. The UN was born from the world alliance against fascism. "The only true basis of enduring peace is the willing cooperation of free peoples in a world in which, relieved of the menace of aggression, all may enjoy economic and social security"[27] if "a wider and permanent system of general security" could be established.[28] Currently, "it is the time for mankind to face greater development, change and adjustment" and "many challenges ahead with increasing risks."[29] The United States wants to keep its global superpower and to protect its national interests with the abused unilateral actions, which brought greater uncertainties for the whole world. The widespread terrorists are overlapping with regional conflicts, which has resulted in great harm to international peace and security. The United Kingdom exits the European Union (EU), which makes the future of the EU integration uncertain. The revival of populism and parochial nationalism have a negative impact on responding to global challenges such as climate change, reduction of poverty, and promotion of development.

---

[27] See *1941: The Declaration of St. James' Palace*, available at http://www.un.org/en/sections/history-united-nations-charter/1941-declaration-st-james-palace/index.html (last visited Jun. 16, 2019).

[28] *The Atlantic Charter, August 14, 1941*, in Henry Steele Commager ed. *Living Documents of American History*, Today World Press (Hong Kong), at 108 (1979).

[29] XI Jinping, 共同构建人类命运共同体——在联合国日内瓦总部的演讲 (*Work Together to Build a Community with a Shared Future for Mankind: A Speech at the United Nations Headquarters in Geneva*), 人民日报 (People's Daily), (Jan. 20, 2017).

Where should the world go? What is the future of mankind? The "profound changes unseen in a century" need the new ideas of the HCSF to be institutionalized. Chinese proposal to build the HCSF directs the way for the development of human society in the next hundred years. The ideas of the HCSF represent the common interests of the international community and will have a prolonged influence on the institutional reform of global governance in the future.

II. INSTITUTIONALIZATION OF THE HCSF: FROM THE PERSPECTIVE OF PRINCIPLES OF INTERNATIONAL LAW

A. The Perspective of Principles of International Law

The modern international society is a human community with sovereign states as its primary members. Therefore, the ideas of the HCSF to be institutionalized must be based on respect for each nation's sovereignty to make its choice of development independently. The institutionalization of the HCSF must be conducted as a goal to establish a new model of international relations for not only mutual respect, justice, equity and win-win cooperation, but also democratic global governance toward durable peace, general security, common prosperity, openness and inclusiveness, and a clear and beautiful world. It must have a multilateral trade system with non-discrimination to promote economic globalization toward greater openness and inclusiveness, general preference, balance and win-win outcomes for all. It has a focus on the Belt and Road Initiative by all parties to provide a new platform of international cooperation in order to get a new driving force for the common development of the whole world.[30]

From the perspective of principles of international law, these ideas of the HCSF have inherited institutional elements and relevance to the principles of international law.

The principles of international law as an institutional legal source originated in the Peace of Westphalia, which stipulated several basic principles: (1) universal peace, *i.e.* "there shall be a Christian and Universal Peace, and a perpetual, true, and sincere Amity…a good and faithful Neighborhood" (Article 1); (2) perpetual oblivion, *i.e.* "there shall be on the one side and the other a perpetual Oblivion, Amnesty, or Pardon of all that has been committed since the beginning of these Troubles, in what place, or what manner soever the Hostilities have been practiced" (Article 2); (3) non-use of force, *i.e.* "the one shall never assist the present or future Enemies of the other under any Title or Pretense whatsoever, either with Arms, Money, Soldiers, or any sort of Ammunition" (Article 3); (4) peaceful settlement of disputes, *i.e.* "the Controversy touching Lorain shall be referred to Arbitrators nominated by both sides, or it shall be terminated by a Treaty between

[30] XI Jinping, 在庆祝改革开放40周年大会上的讲话 (2018年12月18日) (*Speech at the Conference for the Fortieth Anniversary of Reform and Opening Up (Dec. 18, 2018)*), People's Publishing House (Beijing), (2018).

France and Spain, or by some other friendly means" (Article 5); (5) restitution, *i.e.* "if the Possessors of Estates, which are to be restored, think they have lawful Exceptions, yet it shall not hinder the Restitution" (Article 7) ; and (6) sovereign rights, *i.e.* "all and every one of the Electors, Princes and States of the Roman Empire, are so established and confirmed in their ancient Rights, Prerogatives, Liberties, Privileges, free exercise of Territorial Right" (Article 64). Those principles regulated the post-Westphalian relations of European countries.

The UN Charter provides the general principles of contemporary international law such as "sovereign equality of all its Members" (Article 2.1), fulfilling "in good faith the obligations assumed by them in accordance with the present Charter" (Article 2.2), settling "their international disputes by peaceful means" (Article 2.3), refraining "in their international relations from the threat or use of force" (Article 2.4), giving "the United Nations every assistance in any action it takes in accordance with the present Charter" (Article 2.5), ensuring "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" (Article 2.6) and non-interference "in matters which are essentially within the domestic jurisdiction of any state" (Article 2.7). These general principles of contemporary international law are recognized as the institutional foundation for the peaceful coexistence of all states and applicable to settle their disputes in appropriate ways.

In addition to the general principles of international law provided by the Peace of Westphalia or the UN Charter, the general principles of law have been listed as the applicable law to decide a case by the International Court of Justice (ICJ) and its predecessor Permanent Court of International Justice (PCIJ). How do we understand the two categories of the general principles?

B. Two Categories of the General Principles: International Law and Law

The general principles of international law were described as the basis of international law in Grotius' books *On the Law of War and Peace* in 1625 and Vattel's book *The Law of Nations or the Principles of Natural Law* in 1758, which had an influence on international law until the late nineteenth century. Grotius' book begins with a general principle of justice guided by the idea of natural law, which argues that war should be justified if it accords with the natural law: "It is sufficiently well established, therefore, that not all wars are at variance with the law of nature; and this may also be said to be true of the law of nations."[31] Vattel's "great contribution to the science of international law is irrefutable."[32] His book also begins with a chapter on general principles of

[31] See Grotius, fn. 14 at 57.

[32] Tetsuya Toyoda, *Theory and Politics of Law of Nations: Political Bias in International Law Discourse of Seven German Court Councilors in the Seventeenth and Eighteenth Centuries*, Martinus Nijkoff Publishers (Leiden), at 161 (2011).

international law: Every nation shall do its best to make a contribution to other nations while promoting its own welfare. "The laws of the natural society of Nations are so important to the welfare of every State that if the habit should prevail of treading them under foot no Nation could hope to protect its existence or its domestic peace, whatever wise, just and temperate measures it might take."[33] In other words, every state shall be compliant with international laws based on natural law to protect peace not only for itself but also for other states.

The traditional theories of general principles from Grotius to Vattel lost influence as the decline of the Natural Law School in the late nineteenth and early twentieth centuries when the Legal Positivism School arose. For example, the textbook *Oppenheim's International Law* does not discuss general principles like Grotius and Vattel, instead, it refers to general principles of law as one of the positive sources of international law. In accordance with the understanding in *Oppenheim's International Law*, the intention of Article 38(1) (c) of the Statute of the ICJ to list "the general principles of law recognized by civilized nations" is that the Court would "apply the general principles of municipal jurisprudence, insofar as they are applicable to relations of states."[34] In respect of general principles of law essentially derived from municipal jurisprudence (*i.e.* domestic laws), they are different from the general principles of international law provided by the Peace of Westphalia or the UN Charter. The contents of the two categories of general principles are obviously different. It is evident from Professor CHENG Bin's widely cited book inducing several general principles of law as applied by international courts and tribunals including the principles of good faith, liability, judicial process.[35] Professor Brownlie added the principles of estoppel, acquiescence and more about evidence, procedure, and jurisdiction.[36] Those are definitely rooted in domestic law and resorted by international courts or tribunals as general principles of law. However, it is an obsolete phrase "recognized by civilized nations" to denote the general principles of law because of its implied indication of Christian civilization.

C. The Revival of General Principles of International Law

The revival of general principles of international law has its foundation in the UN Charter. It developed systematically from the Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations (hereinafter referred to as "the UN Declaration on

---

[33] E. de Vattel, *The Law of Nations or the Principle of Natural Law* (a translation of the 1785 edition), Henry Dunant Institute (Geneva), at 8 (1983).

[34] See Jennings & Watts, fn. 11 at 37.

[35] CHENG Bin, *General Principles of Law as Applied by International Courts and Tribunals*, Stevens and Son (London), at contents (1953).

[36] James Crawford, *Brownlie's Principles of Public International Law* (8th edition), Oxford University Press (Oxford), at 36 (2012).

Principles"), which emphasizes the paramount importance of the UN Charter on general principles of international law for the maintenance of international peace and security and for the development of friendly relations and cooperation among states.[37]

Chinese scholars of international law have contributed significantly to elaborate on the general principles of international law since the 1980s. They believed that these principles "are not the particular principles of specific sectors of international laws, but the legal principles recognized universally by states and constituted as the legal basis being applicable for all of coverages of international law."[38] The system of general principles of contemporary international law is included in the UN Charter, the UN Declaration on Principles and the Five Principles, mainly regarding the sovereign equality of all states, the equal rights and self-determination of peoples, the duty of states to co-operate with one another in accordance with the UN Charter, the duty of every state to refrain in its 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 UN Charter, settlement of international disputes between states by peaceful means, and non-intervention of domestic affairs of any state under the UN Charter. The Five Principles, *i.e.* mutual respect for each other's territorial integrity and sovereignty, non-aggression, non-interference in each other's internal affairs, equality and cooperation for mutual benefit, and peaceful coexistence, are mostly overlapped with those general principles of contemporary international law, except for the principle of equality and cooperation for mutual benefit related to economic cooperation, which is similar to the general principle of "mutual and equitable benefit" adopted by the Charter of Economic Rights and Duties of States.[39]

The ICJ has confirmed the existence of general principles of international law in several cases and even identified them as customary international law. For instance, in the case of "Military and Paramilitary Activities in and against Nicaragua," the ICJ said, "The principle of non-intervention involves the right of every sovereign State to conduct its affairs without outside interference; though examples of trespass against this principle are not infrequent, the Court considers that it is part and parcel of customary international law."[40] In the case of "Oil Platforms," the ICJ applied the general principle prohibiting unlawful use of force under the UN Charter as the relevant rules of international law: "The application of the relevant rules of international law relating to this question thus forms an integral part of the task of interpretation entrusted to the Court by Article 21.2 of

---

[37] *Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations*, A/RES/2625 (XXV), (1970).

[38] WANG Tieya ed. 国际法 (*International Law*), Law Press (Beijing), at 48 (1981).

[39] *Charter of Economic Rights and Duties of State*s, A/RES/3281 (XXIX), (1974).

[40] *Military and Paramilitary Activities in and against Nicaragua* (*Nicaragua v. USA*), ICJ Reports, at Para. 202 (1986).

the 1955 Treaty."[41]

It should be clarified that the contents of the HCSF are relevant to the general principles of international law, but not to general principles of law. It is the necessary approach and a critical step to institutionalize the core of ideas of the HCSF as an integral part of the system of general principles of contemporary international law and advance them.

III. INSTITUTIONALIZATION OF THE HCSF RELATING TO GENERAL PRINCIPLES OF INTERNATIONAL LAW

A. The Principle of International Law: Durable Peace

The primary content of the HCSF is to build a world with durable peace. Many stories of war and peace have been recorded since the literal history of mankind began. Chinese civilization originated in the ancient time of "Xuanyuan (the Yellow Emperor)," in which "local rulers engaged wars against each other due to decline of the Shennongshi (神农氏), which resulted in countless sufferings of common peoples," and finally, "Xuanyuan forced local rulers to obey him and brought peace for peoples everywhere."[42] The Code of Hammurabi is the most outstanding Babylonian code of law in ancient Mesopotamian. The code begins with a prologue by Hammurabi stating that the gods of old had predestined Babylon to be supreme in the world, and predestined him "to cause justice to shine in the land, to destroy the wicked and the evil, that the strong might not oppress the weak." It ends with a prayer to the gods for protecting him in the war against the enemy.[43] It is human history from the very beginning with peace and war as companions, but the dream of peaceful living is the nature of human beings. Of course, it is a controversial issue about human nature as good or bad. The debates were similar in ancient China between the doctrine of Confucius and Legalist, compared to the ancient Greek philosopher Aristotle, who argued that "among all men, there is a natural impulse towards this kind of association," *i.e.* a state with the virtue of justice,[44] and modern philosopher Hobbes, who believed that "out of civil states, there is always war of everyone against everyone,"[45] but he trusted in the reason of human beings leading to seek peace and to follow it by reaching a social contract. This is also applied to international relations.

The purpose of the Peace of Westphalia and the UN Charter as the landmarks of modern international law is to pursue durable peace. Drawing lessons from the two world

---

[41] *Oil Platforms* (*Iran v. USA*), ICJ Reports, at Para. 41, (2003).

[42] SIMA Qian, 史记 (*Shiji*), 卷一: 五帝本纪 (*Vol. 1: Wu Di Benji*), Zhonghua Book Company (Beijing), at 3 (1959).

[43] The Code of Hammurabi is translated from 外国法制史资料选编 (*The Collection of Materials of Foreign Legal Systems*), Peking University Press (Beijing), at 17–50 (1982).

[44] See Aristotle, fn. 7 at 60–61.

[45] See Hobbes, fn. 24 at 100.

wars, in particular, the UN Charter begins with the pledge of mankind:

> *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 ensure, by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest....*

The general principles are stated by the UN Charter accordingly: "All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered" (Article 2.3). "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" (Article 2.4). The ideas of the HCSF insist on building a world of durable peace by peaceful means including dialogue and consultation between states, which is fully consistent with the UN Charter. Therefore, the idea of durable peace of the HCSF should be institutionalized as a part of the existing system of general principles of international law.

B. The Principle of International Law: Universal Security

The important content of the HCSF is to build a world with universal security by constructing it together to share benefits for all states. Security is different from peace in the sense that peace is the opposite of war, while, taking peace as its precondition, security has a wider coverage with its independent value in certain conditions. The primary purpose of the UN Charter is "to maintain international peace and security" (Article 1.1). Any war shall be prohibited to seek durable peace for mankind. Collective measures must be taken effectively to prevent or remove any threats to peace to afford each state to have security without suffering aggression or other acts disrupting the peace. The international society depends on modern international law and, meanwhile, has been regulated by this legal system. Such a society, from the beginning, has also been a community in which states are living in coexistence and impossibly isolated from each other. Perhaps the most important lesson of World War II is that the international society dominated by Europe and the United States took the attitude to indulge and even connive the Japanese invasion into northeast China in 1931 and followed the policy of appeasement or so-called neutrality to avoid conflicts with Nazi Germany, which resulted in "untold sorrow" to everyone. After World War II, the UN created the mechanism of collective security with the consensus of Big Five to represent the international society as a whole for international peace and security. "In the international society there is at present no unfailing and overriding enforcement of that fundamental aspect of the law by a superior body; such enforcement is dependent upon the collective action of the community not organized as a State."[46] This is the principle of universal security of

[46] See Lauterpacht, fn. 10 at 263.

contemporary international law.

It is based on this principle towards a world with universal security to construct it together and for all states to share benefits in two aspects. The first aspect of the principle of universal security is that international society must respond to both traditional and non-traditional threats to security by way of coordination under the existing mechanism of collective security. It might be known from the subjects of the UN Security Council's resolutions that those threats are very diversified and serious; for example, in 2018, the situation in the Middle East (4 resolutions), the situation in Somalia (3 resolutions), the situation in Afghanistan and Non-proliferation/Democratic People's Republic of Korea (1 resolution each) and in previous years (2015–2017), in addition to those subjects of traditional threats to security, non-traditional subjects such as threats to the international peace and security caused by terrorist acts (4 resolutions in 2017), international criminal tribunals for the former Yugoslavia and for Rwanda (4 resolutions in 2016), women, peace and security (1 resolution in 2015), children during armed conflict (1 resolution in 2015). Those subjects concern the common interests of mankind. Universal security covers very broad subjects of both traditional and non-traditional threats to international security and may be extended to food security, health security, etc. The second aspect is that the construction of the HCSF needs the necessary reform of global governance. The existing mechanism of global governance with the UN Security Council as core could not effectively respond to a variety of both traditional and non-traditional threats to international security. China proposes a solution of global governance with the approach of construction by all and sharing of benefits by all states to resolve the root-problem of the undemocratic system of decision-making for global governance and to create a democratic mechanism accordingly, including the reform of the UN. China intends to achieve universal security for all states by discussing global issues for the HCSF.

C. The Principle of International Law: Common Prosperity

Common prosperity focuses on economic relations and is different from the principles of durable peace and universal security regarding the political relations of sovereign nations. China stands on common prosperity by building the HCSF, which presumes the integration of economic globalization as an objective condition and promotes the liberalization and facilitation of trade and investment in order to advance economic globalization toward greater openness, inclusiveness, general benefit and a balanced system, as well as win-win cooperation. One of the aims of the UN Charter is "to employ international machinery for the promotion of the economic and social advancement of all peoples" (Preamble) and one of its three purposes "to achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character" (Article 1.3). In early 1946, the UN called for a conference on trade and employment to establish the International Trade Organization (ITO) for post-war

economic cooperation. The establishment of the ITO failed but the General Agreement on Tariffs and Trade (GATT) was concluded in October of 1947.[47] The GATT was created with a view "to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, developing the full use of the resources of the world and expanding the production and exchange of goods" (Preface). These purposes imply the elements of the principle on common prosperity. However, it is different from the situation more than seventy years ago as, currently, 193 members of the UN, as an international community, need greater openness, inclusiveness, general benefit and a balanced system if the different levels of economic development and diversified domestic systems of those members are considered.

Common prosperity presupposes openness and inclusiveness. It is necessary to promote the development of not only domestic but also global economy for every country, in particular, for major countries with economic powers and larger trade volumes to continue opening up their markets for foreign goods, services, and investments in order to afford more commercial opportunities to other countries and companies. The aims and purposes of the UN do not consider different systems of social, political, economic, cultural, and religious aspects, instead of maximum inclusiveness of all peace-loving countries in the UN. It was of no benefit to mankind during the Cold War because of the confrontation between different social systems and ideologies. The mind of the Cold War shall be abandoned while building a world of common prosperity upon mutual respect of each other to choose own systems of social and economic development, and mutual inclusiveness to seek a common ground of rules accepted by all for cooperation. Those are the basic requirements for the principle of common prosperity. It should be applied not only for bilateral economic and trade relations between states but also for regional and global organizations of economic and trade affairs. Taking an example of the World Trade Organization (WTO), the Marrakesh Declaration of April 15, 1994, confirmed that the Agreement establishing the WTO determines:

> *to build upon the success of the Uruguay Round through the participation of their economies in the world trading system, based upon open, market-oriented policies and the commitments set out in the Uruguay Round Agreements and Decisions,…[to note that] significant measures of economic reform and autonomous trade liberalization were implemented in many developing countries and formerly centrally planning economies,…conferring differential and more favourable treatment for developing economies.*

It is clear that the WTO system continues the "open and market-orientated policies" (not the certain unified types of market economy), encourages "economic reform and autonomous liberalization" (necessary reform and transition of systems) accordingly, and

---

[47] John H. Jackson, *The World Trading System: Law and Policy of International Economic Relations*, The MIT Press (Cambridge), at 32 (1989).

recognizes the "differential treatment for developing economies" (reality of different levels of economic development). This means that the WTO values openness and inclusiveness and should continue moving toward a more open and inclusive future.

Common prosperity should be reflected in general benefit and balance. Almost all countries in Asia, Africa, and Latin America are developing or least-developed due to historical experiences. The building of the HCSF must pay attention to the claims of those countries. In the 1970s after the world-wide movement of decolonization, the emerged new states obtained their political independence and claimed to change the old international economic order through the Declaration on the Establishment of a New International Economic Order (NIEO). The NIEO is

> *based on equity, sovereign equality, interdependence, common interest and cooperation among all States, irrespective of their economic and social systems which shall correct inequalities and redress existing injustices, make it possible to eliminate the widening gap between the developed and the developing countries and ensure steadily accelerating economic and social development and peace and justice for present and future generations...*[48]

More than forty years have passed; however, it is still very difficult to have the NIEO established. At the UN Sustainable Development Summit in 2015, the 2030 Agenda for Sustainable Development was adopted, which recognizes "that eradicating poverty in all its forms and dimensions, including extreme poverty, is the greatest global challenge and an indispensable requirement for sustainable development" and commits to set out together "on the path towards sustainable development, devoting ourselves collectively to the pursuit of global development and of 'win-win' cooperation which can bring huge gains to all countries and all parts of the world."[49] China has contributed significantly to the world to reduce poverty and promote social and economic development in the past forty years through its policy of reform and opening up while favoring the common prosperity of mankind with general benefit and balance. Both China's contribution and position are fully compliant with the purposes and principles of the NIEO and the 2030 Agenda for Sustainable Development. In short, the pursuit of common prosperity with general benefit and balance is the universal requirement of international society as the general principle of the HCSF, and also of international law.

D. The Principle of International Law: Coexistence of Different Civilizations

The society of mankind is a community of diversified civilizations. It is vital for building the HCSF to have coexistence of different civilizations in addition to durable peace, universal security and common prosperity of social and economic development. It

---

[48] *Declaration on the Establishment of a New International Economic Order*, A/9556,3201 (S-VI), (1974).

[49] *Transforming Our World: The 2030 Agenda for Sustainable Development*, A/RES/70/1, (2015).

is different, to some degree, from the inclusiveness of systems for common prosperity that the inclusiveness of civilizations should be the coexistence of diverse cultures and ideologies. The modern international law originated in Christian civilization. The Peace of Westphalia provided coexistence in terms of international law for both Catholic and Protestant States, thus contributing to religious tolerance by recognizing "the equality of the Catholic and Lutheran Confessions in Germany and independence and legal equality of the States (including the 355 sovereignties of Germany) of Western Christendom, whether Catholic or Protestant, monarchical or republican."[50] It is noticeably inclusive of the Christian civilization itself. From European eyes, international law is only for the Christian civilization, not any other civilizations in the world. This view is reflected in Article 38(1) (c) of the Statute of the ICJ that the Court shall apply "the general principles of law recognized by civilized nations," which initially means that nations of Christian civilization are subject to those principles. Grotius began his endeavor on modern international law to discuss the seizure of prize and booty, focusing on "sometime just for Christians to take prize or booty from Christians."[51] It is evidence confirming this reflection that the Supreme Court of the United States found the customary international law on the exemption of coast fishing vessels from hostile capture by tracing its history to the final establishment generally throughout the civilized world in which Japan was "the last State admitted into the rank of civilized nations."[52] During World War II, the peace-loving nations and peoples faced the unbridled invasions of Nazi Germany, Italy, and Japanese militarism, and united as an anti-fascist alliance without any barrier of different civilizations and political ideologies. The so-called "peace-loving" became the primary requirement of membership of the UN, which is the first step to recognize the coexistence of different civilizations as the principle of international law.

The HCSF is based upon the principles of the UN Charter to emphasize more about mutual understanding and learning from each other of different civilizations, cultures, and religions so as to achieve peaceful coexistence. As ending the Cold War with the collapse of the Soviet Union, the rigid type of socialism based on planning economy gave way to the Western ideology and system of democracy and market economy. Meanwhile, China insists on her unique socialist system and ideology. Is China allowed to coexist with others in contemporary international society? The United States appears to exclude China in some ways. For instance, the United States regards China as the top rival to "challenge American power, influence, and interests, attempting to erode American security and prosperity," and believes that "the policies of the past two decades were based on the assumption that engagement with rivals and their inclusion in international institutions and global commerce would turn them into benign actors and trustworthy partners. For

---

[50] Amos S. Hershey, *The Essentials of International Public Law*, Macmillan (New York), at 54 (1919).

[51] Hugo Grotius, *Commentary on the Law of Prize and Booty*, Clarendon Press (Oxford), at 57 (1950).

[52] *Paquete Habana*, United States Supreme Court, 175 U.S. 677, at 700 (1900).

the most part, this premise turned out to be false."[53] In other words, the policy should be turned to exclusiveness. The joint statement of the Trilateral Meeting of the Trade Ministers of the EU, Japan and the United States, at the beginning of 2019 claimed against China on the issues of a non-market economy, etc.[54] The policy and the statement targeted China because of her system and ideology being fundamentally different from the Western system and ideology. It is, in essence, the out-dated mindset of the Cold War era. No matter what the United States' strategy is, China will continue her approach to open up to the world and to reform the domestic system, responding to the need for social and economic development while holding peaceful coexistence as the general principle of the HCSF. This is consistent with the principle of inclusiveness among different systems and civilizations under the UN Charter and leads the international community toward peaceful coexistence and inclusive harmony in order to avoid another cold war.

E. The Principle of International Law: Sustainable Development

It is absolutely required for building the HCSF to sustainably preserve a clean and beautiful world. The earth is only the planet in the universe for human life. Therefore, it is common sense to protect the earth for ourselves. Since the Declaration of the UN Conference on the Human Environment in 1972 and the Rio Declaration on Environment and Development in 1992, sustainable development has been recognized as the general principle of international environmental law, even though "what 'sustainability' actually means is still very uncertain and controversial."[55] Generally speaking,

> *Sustainable development is thus not merely a principle of modern international law. It is one of the most ancient ideas in the human heritage. Fortified by the rich insights that can be gained from millennia of human experience, it has an important part to play in the service of international law.*[56]

The earth would have not afforded resources for human beings if the ancestors had not lived in sustainable ways for generations. Human beings would have been exterminated if the earth had not been treated in a sustainable way. The 2030 Agenda for Sustainable Development "reaffirm[s] the outcomes of all major UN conferences and summits which have laid a solid foundation for sustainable development and have helped to shape the new Agenda."[57] The commitments of the 2030 Agenda and the previous

---

[53] *National Security Strategy of the United States of America*, Washington, DC, The White House, (2017).

[54] *Joint Statement of the Trilateral Meeting of the Trade Ministers of the European Union, Japan and United States*, Washington, DC, (2019).

[55] Ved P. Nanda & George (Rock) Pring, *International Environmental Law and Policy for the 21st Century* (2nd revised edition), Martinus Nijhoff (Leiden), at 26 (2012).

[56] *Gabcikovo-Nagymaros Project* (Hungary/Slovakia), Separate Opinion of Vice-President Weeramantry, ICJ Reports, at 110–111 (1997).

[57] See *Transforming Our World*, fn. 49.

Agenda 21 seem to imply that international law requires every country to consider those goals of sustainable development and the procedures accordingly. In this sense, the requirements of sustainable development oblige every country to implement those goals. It is one of the demonstrated determinations of the majority of the international community to implement those commitments through action under the UN Framework Convention on Climate Change, the 2016 Paris Agreement and following the 2018 rules.

It is a very important consideration for China to propose the HCSF that China wants to develop an environment-friendly economy and reduce carbon dioxide emission to respond to global climate change as China's implementation of its international obligation. What China has done is fully compliant with the principle of international law on sustainable development.

F. Summary of Five Principles of the International Law Based on the Ideas of the HCSF

From the above discussion, it can be summarized that the contents of the HCSF are fully consistent with existing principles of international law under the UN Charter and other international laws. The ideas of the HCSF reflect China's proposition being institutionalized as the components of general principles of contemporary international law. These includes (1) the new formulation of durable peace to enhance the principle of international peace for generations and to seek the ultimate goal of perpetual peace through durable peace; (2) the principle of universal security to improve the mechanism of collective security and to advance the democratic system of global governance through consultation and cooperation for shared benefits; (3) the principle of common prosperity to stand in greater openness and inclusiveness through development of international cooperation for general benefit and balance; (4) the principle of coexistence of different civilizations to encourage mutual understanding and learn from each other for connection of peoples to peoples among countries and regions; and (5) the principle of sustainable development to meet the requirements of development toward an environment-friendly society for human beings, and China will take a leading role in this respect. In other words, the five principles of the HCSF as formulated above should be regarded as China's new contribution toward the institutional development of contemporary international law.

IV. THE NEW FIVE PRINCIPLES OF THE HCSF AND THE FIVE PRINCIPLES OF PEACEFUL COEXISTENCE

A. The Linkages between the HCSF and the Five Principles of Peaceful Coexistence

The five principles of international law based on the ideas of the HCSF should be applicable to govern international relations in the course of profound changes unseen in a century. Those principles are the new development of the Five Principles. In comparison with the Five Principles, mainly for the bilateral relations with neighboring countries in

the 1950s, the new five principles of the HCSF mainly concern multilateral diplomacy and global issues. The overall guideline is that China "aims to foster a new type of international relations and build the HCSF."[58] "Diplomacy is in fact, as the Duc de Broglie remarked, the best means devised by civilization for preventing international relations from being governed by force alone...Only in 1648 when the Treaty of Westphalia — which concluded the Thirty Years Wars — had established a new order of relationships, however precarious at first, could the age of classical European diplomacy (the direct origin of all modern diplomacy) be said to have begun."[59] Modern diplomacy was born with modern international law, and international law is a necessary means of diplomacy for peace. China's new diplomacy will promote contemporary international laws and institutional building of the HCSF.

The first bilateral treaty concluded upon the founding of the People's Republic of China (PRC) was the Sino-Soviet Treaty of Friendship, Alliance and Mutual Assistance in 1950, which stipulated that "two parties promise to have a friendly cooperation in accordance with the principles of equality, mutual benefits, mutual respect for each other's national sovereignty and territorial integrity, and non-intervention in each other's internal affairs."[60] On April 29, 1954, the Five Principles were expressly included in the Agreement between the PRC and India: "mutual respect for each other's territorial integrity and sovereignty, non-aggression, non-interference in each other's internal affairs, equality and cooperation for mutual benefit, and peaceful coexistence."[61] In June 1954, Chinese former premier ZHOU Enlai visited India and Myanmar with the joint statements respectively to proclaim the Five Principles as rules and guidelines for international relations. It ensures that countries with different social systems coexist peacefully if those principles are followed by all states.[62] It was critically important for the PRC to establish friendly relations with neighboring countries under the Five Principles while responding to the United States and its allies to isolate China in the early days of the PRC. The Five Principles were expanded by the Ten Principles of Bandung in 1955 and the UN Declaration on Principles in 1970. Those principles are consistent with the purposes and general principles of the UN Charter and, therefore, had already become applicable laws

---

[58] XI Jinping, 决胜全面建成小康社会 夺取新时代中国特色社会主义伟大胜利——在中国共产党第十九次全国代表大会上的报告 (*Secure a Decisive Victory in Building a Moderately Prosperous Society in All Respects and Strive for the Great Success of Socialism with Chinese Characteristics for a New Era — Delivered at the 19th National Congress of the Communist Party of China*), (Oct. 18, 2017).

[59] Sir Ivor Roberts ed. *Satow's Diplomatic Practices* (6th edition), Oxford University Press (Oxford), at 5–10 (2009).

[60] 中华人民共和国条约集: 第六集 (*Collection of Treaties of the People's Republic of China: VI*), Law Press (Beijing), at 2 (1957).

[61] 中华人民共和国条约集: 第七集 (*Collection of Treaties of the People's Republic of China: VII*), Law Press (Beijing), at 1 (1958).

[62] Id. at 13.

governing international relations.

B. China's Constitutional Amendment and Novelty of the New Five Principles of the HCSF

China's Constitution, revised in March 2018, provides that China holds the independent foreign policy and acts autonomously under the Five Principles to promote the HCSF as its goal. The new five principles of the HCSF have similarities with the Five Principles of Peaceful Coexistence in these symmetries: durable peace versus peaceful coexistence; universal security versus non-aggression; openness and inclusiveness versus equality and cooperation for mutual benefit; coexistence of different civilizations and non-interference in each other's internal affairs. The novelty of five principles of the HCSF is to build a clean and beautiful world upon sustainable development. It is significant that the new five principles of the HCSF have the orientation of multilateralism as China is moving closer to the center of global affairs. China strongly supports the authority of the UN to maintain international peace and security while promoting reform in the UN. It is different from the time when the Five Principles were initiated before returning to the UN, as China is now playing a very important role as one of five permanent members of the UN Security Council. For example, China has been the largest contributor to the UN peace-keeping force, and it proposed to establish several international organizations such as the Shanghai Cooperation Organization and the Asian Infrastructure Investment Bank. China also actively participated in the conclusion of the Paris Agreement to respond to global climate change and became one of the earliest ratified countries. With great progress in recent decades, China must have a new diplomatic strategy of multilateralism. It might be the starting point to understand the HCSF aiming for international relations with durable peace, universal security, common prosperity, inclusiveness and openness and a clean and beautiful world with sustainable development for humankind.

China has successful experience to have the Five Principles recognized by the international community within a short time and integrated into the system of principles of international law, which ensures that the new five principles of the HCSF will be institutionalized as components of the principles of contemporary international law sooner or later.

CONCLUSION

Modern history has demonstrated the tremendous influence of the ideas of international law over institutions such as the Peace of Westphalia, the League of Nations, and the UN. Currently, there are many challenges and opportunities in the course of profound changes unseen in a century, which need the new ideas of international law as the guidance for institutional reforms of global governance. As China's diplomatic

strategy in the new era moving closer to the center of global affairs, the doctrine of building the HCSF embodies the elements of institutionalization and can be formulated as the five principles of international law, *i.e.* durable peace, universal security, common prosperity, coexistence of different civilizations, and sustainable development in accordance with the UN Charter and other international legal documents. These principles are expected to be institutionalized in practices with recognition by the international community and evolutionally integrated with the existing system of principles of contemporary international law. The new five principles of the HCSF certainly develop the Five Principles of Peaceful Coexistence and may contribute to reshaping the global institutions for the common interest of mankind.