

THE INFLUENCE AND CONTRIBUTIONS OF CONFUCIANISM TO THE DEVELOPMENT OF INTERNATIONAL LAW

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Abstract: Confucianism requires individuals to take into account the fairness, justice, harmony and peaceful development of others and the whole society while developing themselves. Contemporary international law lacks this requirement of Confucianism. International law, dominated by western civilization, has neither proper regulation nor necessary condemnation toward some countries' behaviors of neglecting morality and sacrificing the common interests of mankind when pursuing their own interests. In this regard, Confucianism can play a positive theoretical role in the proper development of contemporary international law for it to return to the direction of justice and morality. Besides, Confucianism itself has a theoretical and historical connection with international law and its natural law thoughts. It also has already made positive contributions to the sustainable development of international law, world peace and the development of international human rights. Thus, it is feasible for Confucianism to contribute to the improvement of contemporary international law. The idea of building a human community with a shared future is the modern interpretation of Confucianism, which can be more systematically used as the theoretical basis for improving contemporary international law, so as to ensure the unity of powers and responsibilities of all countries and to take into account the interests of other countries in their own development.

Keywords: International Law; Confucianism; Unity of Nature and Man; Human Community with a Shared Future

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INTRODUCTION

The 21st century is in a major upheaval that global economic and security issues are becoming increasingly serious due to deglobalization. The United States, in pursuit of its own national interests, shows reluctance to cooperate with the current multilateral international system and instead the United States intends to adopt protectionism, replacing the broad and long-term global common interests with its own demands and interests.¹ To be more specific, the U.S. government takes climate change and environmental protection as political leverage and to ensure their superiority in global digital and economic governance, national security, long-arm jurisdiction and sanctions have been abused to suppress emerging technology and economy entities especially in developing countries such as China.² In addition, for decades, the United States has maintained double standards on issues such as human rights, justice and peace and by means of the “Indo-Pacific Economic Framework”, the United States seeks to exclude countries such as China from global and regional market chain.³ These actions of the United States are incompatible with the purposes of the United Nations Charter (hereinafter referred to as the “Charter”). However, the current international legal system faces difficulties in regulating these actions.

Natural law, defined by Hugo Grotius, the founder of international law, as the rule of right reason which teaches us that an act is just in so far as it conforms to natural reason and moral just⁴, serves as the basis of international law, though it gradually declines after the rise of positivism.⁵ As a result, the development of international law lacks due justice and moral judgment to forbidden or condemn unjust behaviors. Furthermore, the revival of the new natural law school after the two world wars still fails to turn the direction of the development of international law back to the line of just and morality. The reason is that the concerning ideology of international law is still Western-centered.

Broadly defined, western centrism is an aspect of ethnocentrism, as it relates to the theory and practice of privileging western norms, categories, and narratives in the construction and development of international laws and institutions.⁶ As a result, the idea of systemic western centrism commingles with the language of international law, translating values, claims, and critiques which are inherently western such as the concept of sovereignty and human rights into international law, leading those concepts and norms as dominant during the modernization and development of international law.⁷ Besides, the structure of the international law is western-centered as international standards are often set by western institutions to scale and rank the non-western counterparts, and members of the international bench tend to pursue their studies in western universities prior to their appointment as judges which shows the domination

¹ See Zhipeng He, *Constitutional Moment: The Dilemma and Opportunity in the Development of International Law*, 34 CONTEMPORARY LAW REVIEW 14 (2020).

² See Joe Gould, *White House Aims to Release Overdue Security Strategies within Weeks*, DEFENSE NEWS (2022), <https://www.defensenews.com/pentagon/2022/08/01/white-house-aims-to-release-overdue-security-strategies-within-weeks/> (last visited Sep 21, 2023).

³ See Wang Shuqin, *Indo-Pacific Economic Framework Cynical Manipulative Tool of US: China Daily Editorial*, CHINADAILY (2022), <https://www.chinadaily.com.cn/a/202205/25/WS628e20dba310fd2b29e5ef6e.html> (last visited Sep 21, 2023).

⁴ See GROTIUS HUGO, *DE JURE BELLI AC PACIS LIBRI TRES* (1925).

⁵ See Guoqiang Luo, *The Evolution of Western Natural Law Thought*, SOCIAL SCIENCES INTERNATIONAL 33 (2008).

⁶ See George Gheverghese Joseph, Vasu Reddy & Mary Searle-Chatterjee, *Eurocentrism in the Social Sciences*, 31 RACE & CLASS 1 (1990).

⁷ See Sally Merry, *Human Rights and Transnational Culture: Regulating Gender Violence through Global Law*, 44 OSGOODE HALL LAW JOURNAL 53 (2006).

of western background in the actors in international law.⁸ The distribution of power in the area of international law is thus biased and western centrism is exclusive to countries which do not share the dominant western values, leading to war and the ignorance and sacrifice of those countries' interests while western countries pursuing their own interests. Therefore, against the western-centered background of international law, a new methodology instead of western centrism needs to be introduced as a different approach to analyze and improve the international law system to be in line with justice, morality and equality.

Although international law is a product of Western civilization, this does not mean that the ideology of traditional Chinese culture, especially Neo-Confucianism (hereafter referred to as "Confucianism"), the Confucianism inherited and developed in Song and Ming Dynasty, has no connection with international law, nor does it mean that Confucianism has no impact or can make no contribution to the development of international law. As the essence of Confucianism, "unity of nature and humanity" leads the traditional Confucian ethics of "self-restrain", "tolerance" and "moderation" with "benevolence" as the core, as well as the thought of "seeking harmony in diversity" to reach the "Great Harmony Society". Confucianism pursues "balance" and requires that "one should not do to others what one doesn't want to do to himself" for the purpose of social fairness, justice, harmony and peace. At the same time, according to Confucianism, everyone should restrain their own behavior in a reasonable and legal manner so that while self-developing, people can balance their own interests and the interests of other people and the whole society. The ideology of Confucianism can provide positive contribution for the contemporary international law to move toward a more just and moral direction. First, the "balance" advocated by the Confucianism is precisely what contemporary international law lacks. Secondly, the Confucianism itself has theoretical and historical links with the development of international law and its ideological basis of natural law. Thirdly, Confucianism has had positive influences on the development of international law from the aspects of global sustainable development, world peace and international human rights. Having made those beneficial contributions, Confucianism can also continue to contribute to the future development of contemporary international law.

The report of *the 20th National Congress of the Communist Party of China* points out that although in modern age, traditional Chinese culture should be inherited, creatively transformed and developed.⁹ As a result, in the area of international law, the idea of building a human community with a shared future has been raised as the modern interpretation of Confucianism, which will be more conducive for Confucianism to make its positive theoretical contributions to the development of international law in a systematic way so that every country can take into account the reasonable concerns of other countries when pursuing their own interests, and to promote the common development of all countries.

I. THE DEVELOPMENT DILEMMA OF INTERNATIONAL LAW: CAUSES AND NEW SOLUTIONS

A. The Development Dilemma of International Law and its Causes

International law as the conception in terms of order of the conduct of independent states including bodies of treaties, customs and other generally accepted principles governing

⁸ See Salvatore Caserta, *Western Centrism, Contemporary International Law, and International Courts*, 34 LEIDEN JOURNAL OF INTERNATIONAL LAW 321 (2021).

⁹ See Xi Jinping, *The Report to the 20th National Congress of the Communist Party of China*, (2022).

relations among states¹⁰, was the law of war and peace at the outset. The thought of natural law, as the theoretical basis of international law, was also used to demonstrate and support that the wars launched by western countries were just.¹¹ It was until the Charter that the use of force was banned permanently. The natural law school was once almost replaced by the positive law school, but the result of the replacement was the two world wars, which failed people's high expectations for international morality and pursuit of global justice, peace and other common interests of all mankind.¹² Natural law school was thus revived, and the new school of natural law has reduced the abstraction of the natural law thought and secularized it into morality, believing that besides following the requirements of international law, countries should also take into account the universal responsibility of international morality.¹³ However, the "Western-centered" value in the international system is so influential that it still dominates the contemporary international law, making it difficult for the idea of the new natural law school to regulate and condemn immoral even unlawful behaviors.

After World War II, the United Nations and other international political, economic and security institutions and the international legal system have been established, transforming the ideas of freedom, democracy, human rights, rule of law, and peaceful settlement of disputes into international laws. Indeed, those rules have played a positive role in regulating global economic and trade exchanges and have protected the interests of countries all over the world. However, some rules have been used by some Western countries as a tool for them to interfere the elections and internal affairs of other countries so as to seek geopolitical and economic interests for themselves, resulting in political instability and armed conflicts in the intervened countries.¹⁴ For example, in global human rights governance, "responsibility to protect" requires that under the authorization of the Security Council, international community can only intervene to help when sovereign countries are unwilling or unable to protect their citizens from avoidable disasters such as slaughter, rape, and hunger.¹⁵ However, in its first practice in Libya in 2011 and in Syria since 2015, "responsibility to protect" still serves as the tool for neo-interventionism of Western countries and cannot truly resolve humanitarian catastrophe.¹⁶

In addition, since the Trump administration took office, trade "war" between China and the United States has been constantly escalated by the United States, disrupting the global industrial chain.¹⁷ In 2021, the United States even held the Summit for Democracy, trying to divide civilized countries again in the name of "democracy".¹⁸ Pelosi, then the Speaker of the United States Congress, visited Taiwan China, on August 2nd, 2022, disregarding of China's strong opposition and solemn negotiations, seriously violating the one-China principle and the

¹⁰ See Roland R. Foulke, *Definition and Nature of International Law*, 19 COLUM. L. REV. 429 (1919).

¹¹ See ARTHUR NUSSAUM, *A CONCISE HISTORY OF THE LAW OF NATIONS* (1947).

¹² See María Elósegui, *International Law and the Natural Law Tradition: The Influence of Verdross and Kelsen on Legaz Lacambra*, in *THE THREADS OF NATURAL LAW: UNRAVELLING A PHILOSOPHICAL TRADITION* 153 (2013).

¹³ See Roland H. Bainton, *Review of Man and the State.*, 67 POLITICAL SCIENCE QUARTERLY 127 (1952).

¹⁴ See Ru Sun, *China-US Competition and Their Different Ideas about International Order*, 373 CONTEMPORARY INTERNATIONAL RELATIONS 9 (2020).

¹⁵ See BanKi-mon, *Implementing the Responsibility to Protect*, (2009).

¹⁶ See Han Aiyong, *The Development and Evolution of Western Humanitarian Intervention after the Cold War*, STUDY TIMES, Jan. 25, 2019.

¹⁷ See Office of the State Council, the People's Republic of China, *THE FACTS AND CHINA'S POSITION ON CHINA-US TRADE FRICTION*, CHINADAILY (2018), http://www.chinadaily.com.cn/kindle/2018-09/26/content_36981813.htm (last visited Sep 21, 2023).

¹⁸ See Chi Ma, *Summit of Democracy Looks Back in Anxiety: China Daily Editorial*, CHINADAILY (2021), <https://www.chinadaily.com.cn/a/202111/25/WS619f782fa310cdd39bc7793d.html> (last visited Sep 21, 2023).

provisions of the three China-U.S. Joint Communiqués.¹⁹ The pursuit of national interests and development of the United States is one-sided. However, the existing international legal system, though after the revival of the new natural law school, has not provided necessary legal regulations and moral condemnation against the actions of the United States and cannot prevent recidivism or imitation from other countries. By allowing one country to place its will and demands over other countries, the existing international legal system faced development dilemma, which departs from justice and morality and the legitimate routine and abandons the international legal concepts of fairness, righteousness, harmony, and peace. The development dilemma of international law also unveils the implicit value orientation of international law that is the foundation of international law still serves the interests of Western countries.

The Western-centered problem runs counter to the new international relations characterized by mutual respect, fairness, justice, and win-win cooperation, with the right of people outside of the Western countries neglected. By placing the self-interest of Western countries at priority, ignoring or even damaging the interests of other countries, interests and resources flow one-way to the West.²⁰ This kind of imbalance in development seriously endangers the stability of the world order.

B. Confucianism as the New Approach to Resolve the Development Dilemma of International Law

The United States has the most profound impact on the international legal system after World War II, but since the establishment of the federal government of the United States in 1789, till now, there was only 16 years in the history of the United States that it was not involved in or launched a war.²¹ The failure of the new natural law school in the resolution of the development dilemma faced by the current international law shows that the international legal system needs new ideas. Unlike the United States, the gene of Chinese culture does not contain elements such as aggression, expansion, or foreign war. This is because, under the influence of Confucianism, China advocates “balance”, emphasizes the cultivation of “benevolence” and always adheres to the concepts of “seeking harmony in diversity”, so as to pursue coexistence with other ethnic groups and nature in peace.²²

Fairness, justice, harmony, and peace is at the core of international law, aiming to protect the common interests of humanity. The core pursuit of international law is in consistency with the core idea of Confucianism including the “unity of nature and humanity”, “self-restraint”, “tolerance” and “moderation”, and the thought of “seeking harmony in diversity”. Those pursuit and thought all require members of the society to assume necessary obligations for the legitimate rights and interests of others, while maintaining their own interests under the premise of legitimacy and rationality, for the purpose of a harmonious world order. In this sense, Confucianism may provide us with a new approach for addressing the

¹⁹ See Xinhua, *Statement by China’s Ministry of Foreign Affairs on Pelosi’s Visit to Taiwan*, CHINA.ORG.CN (2022), http://www.china.org.cn/world/2022-08/02/content_78353809.htm (last visited Sep 21, 2023).

²⁰ See Yongkou Zheng & Lanxin Fang, *Human Destiny Community Concept and Chinese Culture*, 26 HENAN SOCIAL SCIENCES 55 (2018).

²¹ See Ben Norton, *US Launched 251 Military Interventions since 1991, and 469 since 1798*, GEOPOLITICAL ECONOMY REPORT (2022), <https://geopoliticeconomy.com/2022/09/13/us-251-military-interventions-1991/> (last visited Sep 21, 2023).

²² See Michael McShane, *China’s Era Marked by Peace without Hegemony*, MARTIN JACQUES (2010), <http://www.martinjacques.com/when-china-rules-the-world/chinas-era-marked-by-peace-without-hegemony/> (last visited Sep 21, 2023).

development dilemma of Western-centered international law.

II. CORE CONNOTATION OF CONFUCIANISM

A. Unity of Nature and Humanity

The two traditions of Confucianism are the theory of nature and the theory of humanity under the thought of “unity of nature and humanity”. The theory of nature is led by Mencius, with natural human nature as its origin and based on Confucius’ theory that human nature is similar, Mencius proposed that human nature is inherently good while practice made it apart; the theory of humanity is represented by Xunzi, who proposed that human nature is inherently evil, believing that only humanistic education is the foundation for a person to become a man, and thus, emphasizing education and norms.²³ There was once a conflict between the theory of nature and humanity as for the human nature. The metaphysicians in the Wei and Jin dynasties who inherited Mencius’ theory of nature thought that if human nature was not inherently good, it would be useless to learn classics according to Xunzi’s view, meaning that education could not make the wicked good under the theory of humanity.

It was until Neo-Confucianism during the Song and Ming dynasties, the conflict between the two traditions was resolved through the methodology of rational thinking. Neo-Confucianism’s cognition of the idealized and metaphysical world was based on the theory of nature, and their cognition of the real world was based on the theory of humanity. The “nature” in the thought of “unity of nature and humanity” was regarded by the Neo-Confucianism as the operation law of the universe and the highest principle of everything in the world, while the “humanity” as a solution to the current social situation and practical problems from a humanistic perspective by applying the principle of “nature”.²⁴

To understand the thought of “unity of nature and humanity” from the perspective of syllogism, “nature” is the major premise, as the precondition for being legal and reasonable; “rite” and “law” transformed from the principle of “nature”, are the minor prepositions applicable to “human” problems; and the “human” conclusion is the application of the “rite” and “law” to practical social problems.²⁵ It can be seen that the thought of “unity of nature and humanity” in Confucianism is not irrational or illogical as some western scholars have conceived²⁶, but contains logic derived from practical rationality. The thought of “unity of nature and humanity” is thus not empty talk nor transcendental meditation, but it is based on social reality, with the priority to solve practical political and ethical issues.²⁷

B. The Confucian Tradition of Rite and Law and Its Moral Concepts of “Self-Restraint”, “Tolerance” and “Moderation”

The intermingled relationship between the rite and law has always been a prominent feature of Confucianism because the norms in traditional Chinese society are not just laws, but

²³ See Shunfu Shen, *On the Two Traditions of Confucian Philosophy*, 147 STUDIES OF ZHOUI 81 (2018).

²⁴ See Youyun Lv & Minghui Xiong, *The Argumentation Model and Rational Foundation of Confucian Philosophy*, 277 FUJIAN TRIBUNE 85 (2015).

²⁵ See Chenjun You, *The Influence of Confucian Moral Idea on Traditional Chinese Litigation Culture*, 436 LAW SCIENCE 135 (2018).

²⁶ See Carl B. Becker, *Reasons for the Lack of Argumentation and Debate in the Far East*, 10 INTERNATIONAL JOURNAL OF INTERCULTURAL RELATIONS 75 (1986).

²⁷ See Sumin Xu, *A Comparative Study of Chinese Philosophy and Western Philosophy under Divine Light: On Matteo Ricci’s The Truth of God, Nicolas Longobardi’s On the Soul and the Tao and Malebranche’s A Dialogue*, 206 JOURNAL OF SUN YAT-SEN UNIVERSITY (SOCIAL SCIENCE EDITION) 52 (2007).

also rites.²⁸ Rites, as the social values and basic norms that law needs to maintain, is not only about morality and customs, but also about national systems, cultural orders, and social systems. Its purpose is to build an ideal harmonious and orderly society.²⁹ Under the guidance of the thought of “Unity of Nature and Humanity”, the Confucian tradition of rite and law integrates principle of nature, law of nation and relation of human altogether. As from the perspective of syllogism, rite is the result of the projection of the principle of nature to social facts, and the law of nation is derived from the ethical practice of the rite to regulate the relation of human. Human relations then follow the principle of nature, providing legitimacy for various circumstances in life.

Taking rite as the standard, people living in society can only achieve the core idea of “benevolence” by “self-restraint”, “tolerance” and “moderation”. The so-called “self-restraint”, as a performance of “benevolence”, refers to the act of conforming one’s thoughts and actions to the provisions of “rite”; the moral concept of “tolerance” also revolves around “benevolence”, and requires that when dealing with interpersonal relationships, one should be considerate, and should not do to others what one does not want to do to himself; the purpose of “self-restraint” and “tolerance” is to seek “moderation” since moderation means impartiality and neutrality.³⁰ The moral values of “self-restraint”, “tolerance”, and “moderation” constitutes the ethical principles of rite, requiring everyone to assume responsibility for themselves and for others and the society as well. In this way, a balanced state of all parties can be maintained by means of “benevolence” so as to achieve social harmony.

C. To “Seek Harmony in Diversity” in the “Great Harmony Society”

As for the “human” in the “unity of nature and humanity”, Zhu Xi, a Neo-Confucianism scholar in the Song and Ming dynasties, once interpreted Mencius’ claim that “people are the most important, the state is secondary while the monarch is the least”, meaning “the state is based on the people, and the state is also built for the people” since people are the foundation of a nation.³¹ This people-oriented philosophy is more evident in the “Great Harmony Society” ideology. The ideology advocates that “people should not only be close to their own relatives, nor to their only children, and by making the strong useful, having their children to grow into man, support can be provided for the widow, widower, the childless, those who are disabled and who lost their fathers at an early age and every single member of the society who are in old age.”³² This reflects emphasis on the right of every people in the society. The ideology of making the strong useful emphasizes the selection of talents and abilities in politics. It is for the sake of a guarantee of a stable and harmonious society, peaceful coexistence and common progress of humanity has been highlighted in the “Great Harmony Society” ideology since the ideology believes that harmony can be sought through diversity; people should do their best to achieve common interests and common development of all people regardless of the differences.³³ In fact, this is also a reflection of the core of “unity of nature and humanity” that

²⁸ See Victor H. Mair, *ELEVEN. Language and Ideology in the Written Popularizations of the Sacred Edict*, in *ELEVEN. LANGUAGE AND IDEOLOGY IN THE WRITTEN POPULARIZATIONS OF THE SACRED EDICT* 325 (2020).

²⁹ See Zhiping Liang, *Ethics and Law: Cultural Conflict in the Era of Legal Transplantation*, GUANGXI NORMAL UNIVERSITY PRESS 60 (2015).

³⁰ See Lai Chen, *Confucian Culture and National Revival*, ZHONGHUA BOOK COMPANY 84 (2020).

³¹ See Desheng Cao, *President Emphasizes Cultural Confidence*, CHINADAILY (2021), <https://www.chinadaily.com.cn/a/202103/24/WS605a7519a31024ad0bab11d3.html> (last visited Sep 21, 2023).

³² See Juyou Sun, *The Confucian Thought of Great Harmony and the Construction of a Community with a Shared Future for Humanity*, 37 DONGYUE TRIBUNE 63 (2016).

³³ See Siwei Song & Jiancheng Sun, *The Confucian Thought of Great Harmony and the Contemporary Concept of Harmonious Society*, SHANDONG SOCIAL SCIENCES 58 (2009).

is to pursue harmony and peace between man and nature, man and man, and man and society.

III. The Feasibility of Using Confucianism as a Solution to the Development Dilemma of International Law

Confucianism, guided by the thought of “unity of nature and humanity”, gave birth to the ethical principles of rite and the rules of law in ancient China. The ideology of Confucianism, especially people-oriented thought of “Great Harmony Society”, is not, as some scholars believe, irrelevant to international law or even contrary to the idea of international law. As the foundation of the birth and development of international law, the thought of natural law can serve as a bridge to bring Confucianism and the international law together since there has been theoretical connections and historical influence between Confucianism and the international law.³⁴

A. Similarities Between Confucianism and the Thoughts of Natural Law

Since the beginning of international law, natural law has been regarded as the basis of international law. Vitoria believes that the law of nations is the law established among all countries based on natural reason; Grotius also explicitly places natural law as the basis of international law and believes that natural law is the order of legitimacy and reason and with natural law as the standard, any act consistent with reason and nature is morally just, otherwise, it is morally evil; Pufendorf also believes that the law governing the relations between countries is natural law; Wolff deduces from the natural international law that all countries have the same basic rights and obligations, and are naturally equal with no privileges among each other; Vattel believes that there is an internal natural law that constrains national moral consciousness, supplemented by external treaties and customs, both of which constitute international law.³⁵ The thought of natural law, as the foundation of international law, can be summarized as followed that the legitimacy of natural law is generally considered to originate from an absolute and unified existence, serving as the basis and the value criterion for secular law and political system. Natural law is thus the standard to judge whether positive law conforms to justice and morality. The purpose of international law is the same as natural law that is to seek fairness, justice, harmony and peace, since the idea of natural law is indispensable to international law. Lauterpacht regards the general legal principles in the Statute of the Permanent Court of International Justice as the essence of natural law in a modern sense and believes that the general legal principles are the main source of law of international law.³⁶ Therefore, natural law is still playing an important role in the contemporary international law.

The logic of “unity of nature and humanity” is similar to that of natural law. As mentioned above, from the perspective of syllogism, “unity of nature and humanity” can be understood in this way that in order to deal with the practical social problems, the principle of “nature” as the major premise is summarized as “rite”, the ethical principles by people through rational observation, and “rite” is integrated into the rules of “law”, which is then applicable to “man”, human issues, as the conclusion. In this sense, the absolute and unified existence as the source of the legitimacy of natural law can be analogized to the principle of “nature” in “unity of nature and humanity”, and the positive law that conforms to justice and morality under the doctrine of natural law, can be analogized to “rite” and “law”. If one violates rite, they will be

³⁴ See Yang Zewei, *Western International Law and China's Confucianism in the 19th Century - Collision and Integration*, 13 J. HIST. INT'L L. 285 (2011).

³⁵ See BARDO FASSBENDER & ANNE PETERS, *THE HISTORY OF INTERNATIONAL LAW* (2012).

³⁶ See H. Lauterpacht, *The Grotian Tradition in International Law*, 23 BRIT. Y.B. INT'L L. 1 (1946).

despised as immoral by society. If they also violate “law”, they should bear corresponding legal responsibilities. It is the same in the international legal system, which includes both international moral concepts at the level of international communication and legal norms as the embodiment of international moral concepts such as customs and treaties formed in practice. Violations of international morality will be internationally condemned, while violations of international legal norms will result in corresponding legal consequences. Therefore, the natural law ideology of the international law is similar to that of the “unity of nature and humanity” of Confucianism.

B. The Influence of Confucianism on International Law

1. The Influence of Confucianism on the Theoretical Background at the Beginning of International Law

International law emerges during the Renaissance and the Age of Enlightenment. At that time, Europe was undergoing the rise of capitalism and the decline of feudalism. Philosophy at that time also was faced by a dilemma whether the rational trend of thought should replace God’s authority and the concept of nature should take the place of apocalyptic theology. It happened that during the Renaissance and the Age of Enlightenment, Neo-Confucianism was spread to Europe by Jesuits traveling between China and the West.³⁷

The Jesuits went to China to preach Christian culture, hoping to convert non-Christian in Asia to believers. They developed especially high regard for the Chinese civilization and its Confucian philosophy in their reports as having established belief in God by the natural light of reason rendering Chinese easier to convert; for the purpose to support their conclusion in the report, the Jesuits translated classical texts of Confucianism into Latin and published in the seventeenth-century under the title *Confucius Sinarum Philosophus*; these reports and translations were widely read in Europe in the latter part of the seventeenth century, leading to a considerable body of literature and enthusiasm on the great civilization of Asia had built, even foreshadowing the East-West dialogue and finally integrated Confucianism deeply into the ideological debates of the Enlightenment period as the philosophical tools to overthrow the medieval religious theocracy.³⁸ This is because the ideology of Confucianism is people-oriented and rational. To put it in a simple way, the process of “nature” acting on “human” is not theological or apocalyptic, but rather derived from rational observation by human.

After the introduction of Confucianism in Europe, there were two kinds of repercussions. One kind of European philosophers attacked Confucianism for its atheism, such as the opposition of Jesuits to Neo-Confucianism; the other kind supported Confucianism for it was materialistic, atheist and naturalistic, such as Pierre Bayle, Voltaire, Leibniz and Quesnay.³⁹ Pierre Bayle believes that although the Confucianism was atheism, it still forms a school of thoughts that is self-consistent in logic and results in fine social governance, meaning that Christian theology is not the only prerequisite for a good social order; Voltaire also uses Confucianism as a weapon against the Christian Church, and contends that the reason why Confucianism achieves satisfied results in social governance is not because its thought is based on faith, but because its thought is based on reason, which is the core idea revived by the Age of Enlightenment; Leibniz holds the same view, believing that China has formed a natural belief

³⁷ See D. E. MUNGELLO, *THE GREAT ENCOUNTER OF CHINA AND THE WEST, 1500–1800* (4th ed. 2012).

³⁸ See J. J. CLARKE, *ORIENTAL ENLIGHTENMENT: THE ENCOUNTER BETWEEN ASIAN AND WESTERN THOUGHT* (2003).

³⁹ See QIANZHI ZHU, *THE INFLUENCE OF CHINESE PHILOSOPHY ON EUROPE* (1999).

based on rationality rather than revelation; Quesnay believes that only by dispelling all unnatural and artificial restrictions, such as theological restrictions on freethought, economic prosperity, social happiness and harmony can be achieved.⁴⁰ From this, we can tell that the first connection between Confucianism and international law, is the theoretical background at the birth of international law was influenced by Confucianism and its rational thinking. Natural law, as the ideological basis of international law, may thus also be driven by this rational trend to break away from divine law and become a more modern standard to judge whether positive law conforms to justice and morality during the Renaissance and the Age of Enlightenment.

2. The Influence of Confucianism on the Construction of International Organizations

There is also a connection between the “Great Harmony Society” ideology of Confucianism and the establishment of international organizations. Christian Wolff, who once put forward the idea of “world federation”, has a strong interest in Chinese philosophy, and his interest stems from his teacher Leibniz since Leibniz admires Chinese culture and it is believed that Leibniz’s theory is deeply influenced by the thought of “Great Harmony Society”; besides, Wolff also gave a speech on the “Practical Philosophy of the Chinese” in 1721, expressing his worship of Confucianism.⁴¹ The “world federation” constructed by Wolff was based on natural law. He believes that the “world federation” is the basic principle of natural law, which can bring people from all over the world together, from family society to feudal society, collective society to civil society, and finally to the Great Society belonging to all mankind; in this society, individuals have reached an actual contract, so they must abide by the natural law underlined by the society; at the same time, the moral system of the “world federation” should be orderly and meticulous, so all individuals and collectives who pursue perfection and happiness can fulfill their responsibilities in the whole social system to play their due role.⁴² Based on this, Wolff constructed a universal society with the goal of achieving human harmony in his theory of natural law.

It is not difficult to conclude that the construction of the “world federation” is similar to the “Great Harmony Society” of Confucianism and from Wolff’s preference of Chinese philosophy, it can be inferred that the “Great Harmony Society” thought of Confucianism exerts influences on Wolff’s idea of “world federation”. The concept of “world federation” was put into practice to some extent in the form of the League of Nations and the United Nations in the 20th century. Due to the similarity between the “Great Harmony Society” of Confucianism and the concept of the “world federation”, a deep connection between Confucianism and the construction principles and ultimate goals of international organizations has been established that is because of the influence of Confucianism to Wolff and his “world federation”, Confucianism is deeply connected to the construction of international organizations since the “world federation” is the original construction principles of international organizations, and from this perspective, Confucianism can also be considered as the underlying principles of international organizations.

However, as Samuel Huntington has said, what makes the culture, ideology, and other soft power of one country more attractive is the victory of the country’s economic, military, and other material strength.⁴³ During the Renaissance and the Age of Enlightenment, China’s

⁴⁰ See J. J. CLARKE, *supra* note 39.

⁴¹ See J. J. CLARKE, *supra* note 39.

⁴² See FASSBENDER AND PETERS, *supra* note 36.

⁴³ See SAMUEL P. HUNTINGTON, *THE CLASH OF CIVILIZATIONS AND THE REMAKING OF WORLD ORDER* (2011).

prosperity was sought after by Western countries, and it was believed that the traditional Chinese culture and ideological system represented by Confucianism were worth learning from. However, after the primitive accumulation of capital and the plunder of the Age of Great Navigation, the strength of Western countries greatly improved. Therefore, after the 18th century, Western enthusiasm for Confucianism and Chinese ideology gradually cooled down.⁴⁴ However, this does not mean that Confucianism is unrelated to the development of international law. On the contrary, to this day, traditional Chinese ideology represented by Confucianism still can contribute for the improvement of international morality and the development of contemporary international law to be in line with justice and morality.

C. Contributions Confucianism Has Made to the Development of International Law

Confucianism is related to international law in both theoretical and historical dimensions. Furthermore, Confucianism has also made positive contributions to the practice and the development of international law, rendering it feasible to resolve the development dilemma of international law.

1. The Contribution of “Unity of Nature and Humanity” to International Sustainable Development

The thought of “Unity of Nature and Humanity” believes that man and nature are interlinked in essence that everything and every people in the world all follow the principle of nature to achieve the harmonious coexistence of man and nature.⁴⁵ The thought also advocates and attaches importance to tolerate the development of all things in the world which is in accordance with the principle of nature since it is necessary to ride the trend of technological revolution and industrial transformation, seize the enormous opportunity in green transition, and let the power of innovation drive us to upgrade our economic, energy and industrial structures, and make sure that a sound environment is there to buttress sustainable economic and social development worldwide.⁴⁶ To balance economic development and environmental protection is also the requirement of 2030 Agenda for Sustainable Development of United Nations.

Ecological issues are important issues that affect the future and destiny of mankind. Though the idea of “unity of nature and humanity” originated from ancient Chinese civilization, it still has adherence to the modern value of harmonious coexistence of man and nature. Under the guidance of the thought of “unity of nature and humanity”, not only does China contribute to the path of China’s sustainable development, but it also has a positive impact on international biodiversity, prevention of species loss, and reduction of carbon emissions issues.⁴⁷ The thought of “unity of nature and humanity” can help mitigate the sharp confrontation between man and nature and to maintain eco-balance. It should not remain only as the value basis for China but should also be the theory reference for global sustainable development strategy to help coordinate with the international environmental and economic governance and the green and low-carbon transformation of the international community.

⁴⁴ See J. J. CLARKE, *supra* note 39.

⁴⁵ See Shuqiao Li & Zhaoxia Kong, *A Community with a Shared Future for Mankind: The Extension of Wisdom in Chinese ‘Harmony’ Culture*, 29 PACIFIC JOURNAL 49 (2021).

⁴⁶ See Jinping Xi, *For Man and Nature: Building a Community of Life Together*, CHINADAILY (2021), <https://language.chinadaily.com.cn/a/202104/23/WS6082197fa31024ad0bab9c28.html> (last visited Sep 22, 2023).

⁴⁷ See Di Zhou, *China’s New Concept of Development from the Perspective of the Sustainable Development Goals*, 6 BRAZ. J. PUB. POL’Y 236 (2016).

2. The Contribution of Confucian Rites and Laws to World Peace: the Five Principles of Peaceful Coexistence

The Five Principles of Peaceful Coexistence put forward by China share the same connotation with the Confucian concept of “self-restraint”, “tolerance” and “moderation”. The Five Principles of Peaceful Coexistence require that all sovereign states do not infringe upon each other and do not interfere with each other’s internal affairs, which is the embodiment of “self-restraint”; the requirement of mutual respect for sovereignty and territorial integrity, equality and mutual benefit is the reflection of the concept of “tolerance”, and the ultimate goal of peaceful coexistence can be achieved by “moderation”; the Five Principles of Peaceful Coexistence emphasize the unity of rights and obligations of states, and represent the aspirations and propositions of emerging countries to establish a new international order; therefore, the Five Principles of Peaceful Coexistence are consistent with the provisions of the Charter, and also complement and develop the principles of the Charter, serving as significant contributions derived from Confucianism to the development of international law and to the establishment of a new type of fair and reasonable international relations.⁴⁸ Today, the Five Principles of Peaceful Coexistence still serve as the guideline for China in international relations and have been generally accepted by the international community.⁴⁹ In the year 1954, the Five Principles of Peaceful Coexistence were formally proposed as norms of international relations.⁵⁰ Ever since then, the notion has been put into practice constantly. In 1960, China and Myanmar properly resolved the border issue under the guidance of the Five Principles of Peaceful Coexistence, signing the first border treaty of the People's Republic of China and the first peace and friendship treaty between Asian countries.⁵¹ Till today, the Five Principles of Peaceful Coexistence still plays an important role in the establishment of the new international political and economic order, including the promotion of the Paris Agreement on addressing climate change and the global governance in international relations through comprehensive rule of law.⁵²

3. The Contribution of “Benevolence” to The Development of International Human Rights Law

In the development of human rights, especially the contemporary construction of human rights, Chinese culture has its special significance, especially for the Universal Declaration of Human Rights (hereinafter referred to as the “Declaration”), which claims to be a unique product of multicultural integration including Chinese culture. After the establishment of the United Nations, the Commission on Human Rights was designated to draft the Declaration. P. C. Chang, the Chinese representative who was then the vice chairman of the Human Rights Commission, introduced Confucianism to the drafting process of the

⁴⁸ See Liu Zhenmin, *Following the Five Principles of Peaceful Coexistence and Jointly Building a Community of Common Destiny Editorial Comments*, 13 CHINESE J. INT’L L. 477 (2014).

⁴⁹ See Shishi Li, *Continuously Enriching the Contemporary Connotation of the Five Principles of Peaceful Coexistence*, PEOPLE’S DAILY, Jun. 28, 2014.

⁵⁰ See Lin Han & Tao Meng, *70 Years of Diplomacy: The Five Principles of Peaceful Co-Existence*, CGTN (2019), <https://news.cgtn.com/news/2019-09-23/70-years-of-diplomacy-The-Five-Principles-of-Peaceful-Co-Existence-KdktDEM2Q0/index.html> (last visited Sep 28, 2023).

⁵¹ See Guide Jia, *The Practice of International Law and Contributions of Chian in the Seventy Years Since the Founding of the People’s Republic of China*, JOURNAL OF INTERNATIONAL ECONOMIC LAW 1 (2020).

⁵² See Huikang Huang, *From the Five Principles of Peaceful Coexistence to Building a Human Community with a Shared Future, Contributing Chinese Wisdom to the Reform of Global Governance and International Rule of Law - Commemorating the 50th Anniversary of China’s Restoration of Its Legitimate Seat in the United Nations*, JOURNAL OF INTERNATIONAL LAW 1 (2021).

Declaration.⁵³ He contended that the thought of “benevolence” and “seeking harmony in diversity” of Confucianism means fairness between two people, and shows compassion and understanding of another person’s position and viewpoint without giving up one’s own position and viewpoint.⁵⁴ Based on this, P. C. Chang transformed the above ideas into “conscience” and implemented it in the Preamble, Article 1 and Article 18 of the Declaration. The integration of the expression “conscience” into the Declaration is recognized as an example of the most important thought in Confucianism being introduced into the Declaration. The so-called “conscience” is related to the consideration of justice and morality which is the standard for natural law to judge positive law. It is because the connotation of Confucianism and natural law thoughts are interlinked that Confucianism such as “benevolence” and “seeking harmony in diversity” can finally be transformed into international practices such as the Declaration.

IV. CONTRIBUTIONS OF CONFUCIANISM TO THE FUTURE DEVELOPMENT OF INTERNATIONAL LAW

The theoretical connection between Confucianism and international law, the historical influence of Confucianism on international law and the positive contributions Confucianism has made toward international law have been shown above. However, these connections, influences and contributions are not systematic. As a modern interpretation of Confucianism, the idea of building a human community with a shared future can help integrate Confucianism more systematically into international law and ultimately, to resolve the development dilemma of international law, and to turn the direction of the development of international law back to the track of justice and morality.

A. The Idea of Building a Human Community with a Shared Future: a Modern Interpretation of Confucianism

In March 2018, the idea of building a human community with a shared future was enshrined into the Constitution of China. The idea of building a human community with a shared future requires that one country while self-developing should take into account the legitimate concerns of other countries, and calls on people of all countries to work together to maintain durable peace, universal security, common prosperity, and to build an open, inclusive, clean and beautiful world, so as to safeguard the interests of all countries and their people.⁵⁵ These connotations of the idea of building a human community with a shared future are actually modern inheritance, innovation and interpretation of the essence of Confucianism. The idea of building a human community with a shared future emphasizes that each sovereign states is a member of a community with a shared future and thus, should fulfill their obligations according to international law. This is the requirement of “self-restraint”. Besides, in accordance with the idea of building a human community with a shared future, each sovereign states should take into account the reasonable concerns of other countries when pursuing their own interests and should not damage the interests of other countries based on their own interests and preference. This reflects the concept of “tolerance” and the pursuit of “moderation” underlined by the “Great Harmonious Society” as well as the “unity of nature and humanity”. Applying the idea of building a human community with a shared future, as the modern systematic interpretation of Confucianism, to the context of international law means that all participants in international

⁵³ See *FACING HISTORY AND OURSELVES, FUNDAMENTAL FREEDOMS: ELEANOR ROOSEVELT AND THE UNIVERSAL DECLARATION OF HUMAN RIGHTS* (2010).

⁵⁴ See *MARY ANN GLENDON, A WORLD MADE NEW: ELEANOR ROOSEVELT AND THE UNIVERSAL DECLARATION OF HUMAN RIGHTS* (First Edition ed. 2002).

⁵⁵ See *HUIKANG HUANG, CHINA’S DIPLOMACY AND INTERNATIONAL LAW* (2019).

law should abide by the corresponding obligations of international law and restrain their own behavior while enjoying their rights. At the same time, “double standards” will be prevented because “moderation” requires impartiality.

B. The Necessity to Apply the Concept of Building a Human Community with a Shared Future to the Development of Contemporary International Law

Different from the zero-sum game of the Western-centered ideology, which excludes others and promotes hegemony, the idea of building a human community with a shared future takes the conflict of interest between countries with different cultures into consideration. The idea calls for common interests, promoting common and harmonious development to achieve common prosperity regardless of differences, which embodies the idea of inclusiveness and integration and the pursuit of world harmony and equality, which is in line with the demand for the unity of powers and responsibilities of sovereign states in contemporary international law.⁵⁶ From this perspective, the idea of building human a community with a shared future can provide positive theoretical values for maintaining the just and moral development of international law so as to pursue a fair, just, harmonious and peaceful world order.

C. Application of the Concept of Building a Human Community with a Shared Future to the Development of Contemporary International Law

1. Feasibility of the Application

The concept of building a human community with a shared future is not a fresh start. Since ancient Greece, western philosophers, thinkers and jurists have been exploring different forms of human communities. The “human community with a shared future” is not a “world republic” or a “unified” world government that transcends the state, nor is it an abstract surreal utopia. The idea of building a human community with a shared future emphasizes the rights and responsibilities each and every sovereign states hold for each other. It aims for the establishment of a more fair and harmonious international order that corresponds to justice and morality. Plato, Aristotle, Voltaire and Montesquieu all believe that people cannot achieve self-sufficiency by themselves since the natural gregariousness of humanity leads people to social life, which is the essence for people to survive together; Grotius, the father of international law, also stressed that while pursuing self-interests, we must also recognize the common interests of the international community and the human community in order to live together peacefully.⁵⁷ This is consistent with the core idea of Confucianism.

The new natural law school’s moral simplification of natural law does not mean that law, especially international law, is just morality without coercion. It shows that moral legitimacy is an integral part of international law in that the assumption of international legal obligations is not only legal, but also moral, which correspond to the “rite” and “law” of Confucianism. At the same time, the humanization of international law emphasizes the protection of the interests of every individual in the international community, which corresponds to the people-oriented approach of Confucianism.

In conclusion, the idea of building a human community with a shared future is not only consistent with sustainable development, peaceful development, people-oriented approach and

⁵⁶ See GLENDON, *supra* note 56.

⁵⁷ See Zhongfa Ma, *Evolution of Idea of Building a Community of Shared Future for Mankind and Its Implied Thoughts of International Law*, 43 JOURNAL OF LIAONING NORMAL UNIVERSITY (SOCIAL SCIENCE EDITION) 1 (2020).

other international law theories, but also the condensation, generalization and advancement of these international law theories. Therefore, the idea of building a human community with a shared future has the feasibility to turn the development of international law back to the legitimate development of justice and morality and will be conducive to solve the development dilemma of contemporary international law, which is now constrained by the interests of Western countries and deviates from justice and morality.

2. The Application of the Idea of Building a Human Community with a Shared Future to the Development of International Law

When a country joins international organizations or concludes bilateral or multilateral treaties with other countries, it means that the country assumes corresponding obligations in accordance with the articles of association of the organization or the provisions of the concluded treaty, and the country should limit its own rights and freedom in certain aspects. Firstly, in terms of security, all countries should “self-restrain” and attach importance to both of their own security and common security in the development of other countries. To address various security challenges faced by humanity, especially non-traditional security crises, members of the international community should avoid being induced by traditional alliance and Cold War thinking, which goes against the goal of mutual benefit and common security among all parties.

Secondly, in terms of economy and ecology, every country should be tolerate and adhere to the principles of free trade and openness of the international economic system, and prevent deglobalization, which will restrict global trade to countries with similar values and systems, and lead to the “Matthew Effect” that the strong gets stronger and the weak gets weaker, as well as resource monopoly, leading to the impediment of the vitality of global economy and the equal rights to development.

Finally, in terms of ideology, an international morality based on fairness, justice, harmony and peace should be established by means of Confucianism. Communication and cooperation are necessary to prevent “democracy” and “freedom” from becoming tools that only serve the interests of western countries.⁵⁸ As members of the human community with a shared future, all sovereign countries in the world have their own inherent interests such as sovereignty, equality and independence, as well as basic obligations such as mutual respect, cooperation, and good faith performance. To reach the “Great Harmonious Society”, all countries should avoid sacrificing the legitimate concerns of other countries when pursuing their own development. The fairness, justice and peace of the world order can thus be durable.

CONCLUSION

Globalization itself is a complex combination, and to this day, there are still situations where a few countries especially western countries will use their leading position to seek privileges for themselves or ensure the maintenance of their existing privileges. The influence of Western-centered ideology results in colonialism, culture expansionism, military expansionism and competitiveness, the adverse effects of which drag international law into development dilemma. In order to reduce the impact of “privilege” on the legitimate development of contemporary international law, a universal value system based on common human challenges and different cultures, and a new type of international ideology centered on

⁵⁸ See Peigong Liu & Hongze Shan, *The Universal World’ to Ideal of ‘All Things in One’—On Human Destiny Community in Confucianism and Its Contemporary Value*, 27 HENAN SOCIAL SCIENCES 31 (2019).

mutual benefit and reciprocity to address international issues need to be proposed. Unlike the western ideology of privilege derived from religion resulting in the consequence that international law serves for western privileges, the Confucianism has always focused on the moral obligation of each person living in society. The idea of building a human community with a shared future, as a modern interpretation of Confucianism, can more systematically integrate Confucianism into international law and to resolve the current development dilemma.

“The patriotism is not just about the state with no individual living in it and is not just about a country not involved in the world.”⁵⁹ Every country in the international law system has the same legal and moral obligation to itself and to other countries and the international community. In this complex and interdependent era, no country can be independent. Confucianism can enrich the idea of international law, form an innovative international moral concept that protects the interests and concerns of all participants in the international community, and promote the international legal system to be more open, inclusive, fair, just and harmonious in the aspect of security, economy and ecology and ideology, so as to promote the peaceful and legitimate development of contemporary international law.

⁵⁹ See QICHAO LIANG, *A RECORD OF MY TRAVEL IMPRESSIONS IN EUROPE* (2014).