Oleksandra
DANYLCHENKO

The Approached of Chinese Doctrine to the Problems of Modern Development of Areas of Public Internatopnal Law

In the present research the author examines China's approach to the issue of contemporary development of new areas of international law governing the relations of its subjects in outer space, marine space, problems of protection of intellectual property rights, health care, culture, etc. It is concluded that in perspective China will increasingly seek to use international law, especially its new areas as a tool of "soft power" to strengthen and advance its own positions and interests on the international arena and to defend the priority of international law for the sake of ensuring the stability and security of the foreign policy initiatives it proposes.

Keywords: system of international law, traditional and new areas of international law, China's foreign policy strategies, "One Belt, One Road, One Circle" Initiative, the international legal doctrine of China, international legal order.

Modern China is one of the most influential and important players on the international arena. We are in the situation where China's presence is absolutely necessary in addressing significant political, global economic and international humanitarian problems. Xi Jinping's speeches in Davos and Geneva in 2017 indicate that China deserves a stronger and more respected voice in debates about the future of international community and is ready to take on a global responsibility and have an impact on global trends that are relevant to its status and might as the world's second largest economy. Given the fact that this state is able to offer large-scale foreign policy initiatives of global significance that enjoy broad international support and respect, is capable to take into account challenges arising in their implementation, and to reflect on its unique role in existing international legal order, the urgency of studying the issue of interaction between the People's Republic of China and international law becomes quite obvious.

China has long been actively participating in performance of international legal system, but in the West the attention to China's basic concepts of traditional areas of international law, as well as development of its new areas and principles began to increase quite recently. Unfortunately, it should be noted that it does not occur with respect to see a comprehensive view of the Chinese doctrine of international law and understand its special relationship with foreign policy strategies, but with the aim of unreasonable criticism of understanding of certain phenomena in China, which eventually leads to the perception of China as something different, strange and even knowingly alien subject of international relations. The specificity of China's approach to international law is not within Western stereotypes and involves studying, among other things, of the foreign policy, historical and cultural traditions of this country.

Western reaction to China's social credit system is one of the latest examples of such an attitude. Journalists, political analysts, sociologists and lawyers in their numerous publications devoted to this issue use standard and well-established in the West expressions in this case ("digital dragon", "China invented a digital dictatorship", "how China builds a society of total control", "the Chinese system will determine the value of people", etc.), ignoring the specifics of understanding of human rights in China, and also the fact that certain tools that the Chinese now use to implement the social credit system are in the arsenal of means of ensuring information security in many democracies in the world.

In this context it should be noted that the source of significant contradictions between the PRC and the Western world in human rights issues is the lack of understanding by Western countries of the human rights specifics in China related to the development of the entire Chinese civilization, its history, culture, philosophy and other domains of Chinese society. The social credit system is an illustrative example of the

fact that the understanding of the role of a human being in society and his / her rights in China is based on principles formed in Ancient China (a combination of legists' ideas, Confucian values, as well as the state system of observation developed for centuries in the state).

According to many Chinese and foreign experts China did not play a significant role in creation of modern international legal order. The "civilized" states of XIX–XX centuries proclaiming the principle of sovereign equality of states as one of the basic principles of international law did not recognize the sovereignty of China. Invasion into China's territory of foreign armies, unequal treaties, "consular jurisdiction", illegal export of values, Japanese occupation - all these events were and remain "a century of humiliation" for China (1840-1949) that prevented it from defending its own national interests. It was the period when Western powers destroyed the Chinese concept of "international li".

Non-recognition of the People's Republic of China as a subject of international law and as a consequence the absence of China's representation in the UN resulted in the fact that China was excluded from almost all international law-making processes. For example, the People's Republic of China, as well as a number of other socialist states (the German Democratic Republic, the Democratic People's Republic of Korea, the Mongolian People's Republic, the Democratic Republic of Vietnam) were not invited to the 1958 Geneva Conference on the Law of the Sea. Moreover, 4 Conventions on the Law of the Sea included the provision that only Member States of the United Nations and its specialized agencies, as well as States invited by the General Assembly to participate in the Conventions may be parties to these Conventions [1, p. 344].

As a matter of fact this situation directly affected not only the position of the People's Republic of China at the III UN Conference on the Law of the Sea (1973-1982), but also the general attitude towards international law, which is often characterized by Western scholars as China's distrust for international law. In addition to it in the West it is often thought that China is seeking to challenge the existing international legal order. From our point of view it is important to understand that after the end of the Second World War China did not deliberately decide to be outside of international law. Despite the fact that the PRC did not take its place in the UN, it supported the purposes and principles of the UN Charter [2, p. 2], reflecting and perfecting them in the five principles of peaceful coexistence. According to Chinese international lawyers, the historical significance of the emergence of the five principles lies in the fact that they provided strong legal foundation for China's foreign policy (China's policy of "peaceful development", as well as the Silk Road Economic Belt and the XXI Century Maritime Silk Road are realized on the basis of these principles), and also became the first attempt to codify the principles of international law after the UN Charter and the basis of the 1970 Declaration of Principles of International Law [3, p. 12].

It is obvious that the traditional areas of international law from the very beginning were formed according to the rules established mainly by Western powers and functioned in their interests. However, one can not deny the fact that the Chinese civilization created separate a regional subsystem of international law which differs from the Western one.

Thus, China has its own special view on the concept of law, including international law, its legal consciousness reflected in interpretation of international legal norms and law enforcement practice at the global level, its vision of modern problems of mankind and ways to solve them, its understanding of how to conduct a dialogue with the world. China is a determined and self-confident player on the international chessboard. To ignore it and underestimate China's role is at least absurd and short-sighted.

Purposefulness, flexibility, diligence, strategic long-term planning are the very words to characterize the activities of Chinese international lawyers, which surprisingly combine traditional and modern vision of the Chinese leadership of the world, and the place that China persistently gains in it. The most significant thing is that even in difficult times for the PRC, the leaders of the state never officially abandoned the past theoretical developments and conclusions of their experts in the field of international law. It was extremely important for them to create an impression of the continuity of China's policy, their own fidelity to principles and consistency.

After the adoption of UN General Assembly Resolution 2758 "Restoration of the lawful rights of the People's Republic of China in the United Nations" in 1971, the international legal position of the PRC was most clearly expressed in the area of international maritime law. Although international law of the sea as a separate area has been existing for a long time and belongs to the so-called traditional classical branches of international law, given the intensification of China's maritime activities and its profound interest to maritime law we cannot ignore this issue. The concept of the Maritime Silk Road, intensive development of freshwater and marine aquaculture, decisive actions aimed at establishing China's rights in the South China and East China Seas, active participation in international community activities for the development and use of seabed resources – this is hardly a complete list of China's measures, which confirm that the marine sphere occupies a key place in the process of geopolitical transformation of this state.

While politicians, scientists, business circles and media representatives from around the world are trying to work out their position and assess the prospects of cooperation with China in the implementation of "One Belt, One Road" projects, China has long considered it as "One Belt, One Road, One Circle". Thus, China emphasizes that the Arctic and the Northern Sea Route are basic components of this initiative (according to the document published in 2017 by the Commission on National Development and Reforms of China and the State Oceanic Administration of China entitled "Vision for Maritime Cooperation under the Belt and Road Initiative", China officially includes the Arctic to the Initiative). Professor of Tsinghua University Li Shiguan said: "Beijing's strategy is not limited to "Belt" and "Road". The project should be renamed to "One Belt, One Road, One Circle". Undoubtedly, the circle is the Polar circle" [4]. It is envisaged that between the states of the Maritime Silk Road "a comprehensive, multi-level and multi-purpose blue partnership is established". Within the framework of it China's international legal cooperation with the Arctic States is focused on China's participation in the Arctic Council, environmental protection, scientific research and navigation in the Arctic Ocean. It is interesting that China introduced into international practice the status of "near Arctic State", its names in the Arctic and published in 2014 the Guidebook for Chinese Shipping in the Northern Sea Route [5, p. 19-21].

In addition to the above-mentioned, China's interest in the law of the sea is also manifested in its activities in the International Maritime Organization (IMO). In particular, in December 2017 the IMO Assembly elected a new Board for the biennium of 2018-2019 and included the PRC in it. China is energetically preparing proposals for negotiations on the most urgent issues in the maritime sphere (for example, on reduction of greenhouse gas emissions from shipping [7]). China's ratification of the Maritime Labour Convention in 2015 was also a good news. China is often accused of neglecting human rights in the pursuit of industrial development. At the same time, competition in Chinese business is not considered sufficiently transparent. Ratification of this Convention and its implementation is a right way to prove to the world that it is wrong [8].

Today, China is seeking to participate in the development of new areas of international law governing the relations of its subjects in outer space, environment, cyberspace, culture, science, education, health care, intellectual property, human rights, settling international disputes, economic diplomacy, etc. In these areas the rules of the game are still being developed and tested, so China is betting that its voice will be heard, and most importantly, taken into account [9]. In this regard polar explorer from Shanghai Tongji University Wang Chuansin said: "The Arctic region, along with the oceans, the Internet and space have become new strategic spheres in which Beijing sees the country's future" [4].

We believe that in the long run China will increasingly seek to use international law, especially its new areas as a tool of soft power in order to strengthen and advance its own positions and national interests, as well as interests of developing states on the international arena, defending the priority of international law for the sake of ensuring stability and security of foreign policy initiatives proposed by it. Let's consider China's performance in the development of some new fields of international law.

It goes without saying that the Chinese space program is one of the most powerful and large-scale in the world. Scientific and technological achievements of the last decades marked a qualitative breakthrough in this area and put the PRC on the same level with the leading countries. Certain contribution to the development of China's missile program was also made through cooperation with Ukraine. In 2017, the Chinese National Space Administration bought from the "Yuzhnoe" State Design Bureau the technology for creating "Block E" developed as a part of the H1-L3 lunar missile space complex [10]. Ukrainian space developments are of China's great interest and can contribute to the successful implementation of China's Lunar Program.

In general the interaction between China and international space law is expressed in the following aspects. First, international space treaties within the UN and other international organizations directly promote the development and improvement of Chinese space legislation. The Chinese government intensified activities on the development of national regulations to control the increase of space debris and protect the space environment, as well as to protect intellectual property rights in space and commercial space activities [11].

Secondly, China is actively putting forward proposals on future promising areas for states' space activities. For example, according to White Paper "China's Space Activities in 2016", one of the directions of international cooperation will be the construction of the information corridor in space, which would involve countries along the Economic Belt and Maritime Silk Road, including joint development of satellites designed for Earth observation, telecommunications, broadcasting, navigation, etc [12]. Since 2011 the Chinese government has consistently advocated the adoption of international legal instrument to prevent the militarization of outer space during the negotiations on disarmament within the framework of the UN. In 2017 official representative of the Chinese Foreign Ministry Lu Kang commenting on the words of US President Donald Trump about the possibility of using space in the military sphere noted that the Chinese

side hoped that all members of the international community would be able to reach consensus and begin negotiations on the conclusion of the treaty banning the militarization of outer space as soon as possible [13].

Today probably the main project of China's national space program is the establishment of multimodul space station which however can become an international one. This year China's Ambassador to the UN and other international organizations in Vienna Shi Zhongjun said that China invited all UN member States to cooperate on the joint use of the future station. "The China Space Station belongs not only to China, but also to the world. All countries can participate in the cooperation on an equal footing," he emphasized [14]. At the same time it can be assumed that since 2024 only China will be able to ensure a permanent human presence in orbit, as Russia and the US plan to withdraw from the International Space Station project by this period (with a possible extension to 2027).

Another important direction of China's international legal activity is culture, education and science. First and foremost it is necessary to mention the cooperation between China and UNESCO. Being active in this organization China is trying to fulfill its global responsibility and make a significant contribution to the establishment of mutual understanding between countries. This is confirmed by Xi Jinping's considerable interest in the activities of this organization. President Xi repeatedly met with the Director-General of UNESCO at various international venues, the latest of which was a meeting in 2018 with Audrey Azoulay in Beijing. According to her China intends to make a greater contribution to the development of the dialogue of civilizations. At the same time UNESCO being the largest organization of intellectual cooperation of states in the world can play an important role in creating a community of common destiny for humanity which China strives for [15].

In practice such intentions are expressed in the fact that the Chinese are regularly represented in the governing bodies of the organization; China continues its intense work on filing applications to UNESCO to recognize the Chinese heritage to be the world one (in 2016 an application was submitted for recognition of the Maritime Silk Road as a world heritage of mankind); China ranks the first in the world in the number of intangible cultural heritage sites included in the UNESCO list; China gradually ratifies international conventions and improves its own legislation, especially strengthening legal protection of cultural heritage sites.

One can not but mention the latest Chinese trend in the field of art. Today in China we witness a revival of private collectors business and the art auction market. When in the early 1990's Beijing and Shanghai launched the first auctions of Chinese art, there were 50-60% of foreigners and only 40-50% of the Chinese among the buyers. Now the situation has changed dramatically: 70% of buyers are citizens of the People's Republic of China and only about 30% are foreigners [16, p. 174]. In addition, China is actively working towards the return of art objects to homeland. According to the Chinese government, since 1840 more than 10 million works of art and antiques were illegally exported from the country; most of them were stolen during the "century of humiliation" [17]. The return of these values is a matter of national honor and historical memory for China.

Many specialists agree that the "One Belt, One Road" Initiative is not only an economic belt, but also a cultural one. This opinion was clearly confirmed by Xi Jinping in 2017 at a high-level forum to discuss the initiative. He said that since 2013 states have promoted the spirit of the Silk Road, expanded cooperation in science, education, culture, health care, supported exchanges between peoples and created a solid foundation for the initiative in public mind. The development of the humanitarian dimension of the initiative is embodied in the thesis of its transformation into a "path of civilization", for which it is necessary to promote mutual understanding, mutual respect and mutual trust between all countries [18, p. 53].

We would also like to emphasize that today we have nothing to compare with the Silk Road: the initiative of one state rarely covers more than 60 countries, rarely combines the means of economic diplomacy and the global system of values for conducting a successful dialogue with the world. Therefore, the proposed initiative by China will become a platform for improving international law, increasing its credibility, strengthening the rule of law in international relations, and stimulating the reform of national legislation. Vice President of the Shanghai Association of Law Lin Guopin said that the essence of the "One Belt, One Road" is not only a strategy for economic development, but also a strategy for the development of law [5].

International health law issues are also at the center of the Chinese government's attention. WHO Director-General Margaret Chan giving her lecture at the Chinese Academy of Management in Beijing in 2016 emphasized China's growing contribution to international health care (successful activities of the Chinese medical units in Africa, the establishment of the Fund to support the least developed countries in the context of the 2030 Agenda for Sustainable Development). According to her, the "One Belt, One Road" Initiative has significant potential in this area and can be expanded to the issues of a wider cooperation [20].

With the implementation of the Initiative China has created 16 centers for the promotion of traditional Chinese medicine in the countries along the Silk Road which is popular among local residents. Traditional Chinese medicine is an essential component of humanitarian ties between China and other countries and cultural exchanges between East and West [21]. According to WHO, its methods are recognized and used in 103 member states of the organization. In 29 of them there is a special legislative framework for the development of this area, and another 18 countries have included traditional Chinese medicine in the health insurance system. In addition, China signed 86 international cooperation agreements in this regard. Thus, we can say that traditional Chinese medicine is gradually becoming an influential part of the world health system [22].

China has a clear understanding that one of the main indicators of a civilized society is not only the level of development of science, technology, culture and medicine but also the existence of appropriate conditions under which the aforementioned areas can successfully foster, including the need for legal protection of intellectual property. Over the course of the past millennia Chinese prominent scholars, inventors, writers and artists made an invaluable contribution to the development and progress of mankind with their brilliant intellectual achievements. According to the WIPO statistics China is a record holder of patent applications nowadays. That is why China has always dynamically promoted activities on protection of intellectual property rights. Consistently adhering to the relevant international rules China determines the appropriate level of intellectual property protection taking into account its realities [23]. Given this, as well as the cultural and historical context of the country (Confucian values, the philosophy of the Chinese about copying other people's work, etc.), such a great state can not steal intellectual property as it is constantly accused by the US, but only borrow, imitate, copy and upgrade technologies of the leading countries. In addition, WTO rules allow Chinese companies to demand the transfer of technology from their foreign partners on a commercial and voluntary basis. Therefore, the fact remains that foreign enterprises including American ones located in China have benefited enormously from their investments in this country.

Every year China is undertaking more efforts to protect intellectual property rights and has made a significant progress in this field. At the 2018 conference of Boao Asian Forum Xi Jinping said that China would introduce a more stringent protection of intellectual property rights, hoping that the governments of other States would strengthen protection of intellectual property rights of Chinese enterprises [24].

In a relatively short period of time China has come a long way, for which developed countries as a rule needed tens or even hundreds of years. However, the Chinese government is fully aware that in such a huge developing country with its billion population, it is not a matter of one day to create a complete and perfect system of intellectual property rights protection. In this regard it understands that there are still some problems to be resolved. Yet, as Margaret Chan said: "WHO is confident that if China decides to do something, it will do it" [20]. The truth of these words obviously concerns any sphere of China's international legal activity.

The present research allows us to conclude that the issue of interaction between China and international law is perspective enough for further study. The perfection of the system of international law is impossible without the participation of China as a global power, for which it is necessary to understand the basis of its international legal activities. In the article it is hardly possible to fully describe China's approach to all areas of international law, the rules and principles of which are only being formed by international community. However, some aspects of China's activities in the areas of international maritime law, international space law, intellectual property rights law, as well as in the fields of culture, international health care and economic diplomacy outlined in this article can be considered as the most relevant and promising. This analysis will allow us not only to understand the processes and motives of foreign policy decision-making of China, international legal aspects of the "One Belt, One Road, One Circle" Initiative, but also to predict how new areas of international law will develop and how China will forge relations with the rest of the world.

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