



WUHAN UNIVERSITY INSTITUTE OF INTERNATIONAL LAW

Annual Report on China's Practice in Promoting the International Rule of Law (2015)

Edited by
ZENG Lingliang
FENG Jiehan



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Preface

In the report of the 18th National Congress of the Communist Party of China (CPC), the goal of “promot[ing] law-based governance of the country in an all-around way” and the idea that “the rule of law is the basic way for the governance of China” have been clearly put forward. In 2013, XI Jinping, the General Secretary of the Central Committee of the Communist Party of China, emphasized in many occasions the importance of “upholding a holistic approach to strengthening the rule of law in the country, in its government, and in society.” The Decision on Some Major Issues Concerning Comprehensively Deepening the Reform, which was adopted at the 3rd Plenary Session of the 18th CPC Central Committee, has stated China’s commitment to “build a rule of law China” and “promote the modernization of the national governance system and governance capacity”. Furthermore, the 4th Plenary Session of the 18th CPC Central Committee adopted the Decision of the CPC Central Committee on Major Issues Concerning Comprehensively Advancing Rule of Law, which solemnly proclaims that the great “Chinese Dream” of the rejuvenation of the Chinese nation and the great path of China’s peaceful development have ushered in a new era of rule of law. Nowadays, in a world that countries become increasingly interdependent, and challenges of globalization become increasingly conspicuous, a country’s stability and development are closely interwoven with the global peace and development, and the rule of law at the national level is inextricably connected and interacted with the rule of law at the international level. Those all indicate that “building a rule of law China” is an integral part of the international rule of law. Therefore, as a global economic and political power, while promoting law-based governance of the country in an all-around way, China should make its due contributions to the strengthening of the international rule of law, so that China can show the world its good image as a responsible “rule of law nation”, or even a “rule of law power”.

At the end of 2013, Institute of International Law of Wuhan University (“the Institute”) adjusted the research subject selection to this end. Besides fully using its traditional advantages in academic research on theories and practice of international law, we decided to unite all colleagues of the Institute to attach our focus to the core

and necessitous issues of the governance of China. Therefore, in this annual major project of the Institute approved by the Ministry of Education, we planned to write and publish the Report On China's Practice in Promoting the International Rule of Law ("the Report"). The Report of 2014 was written in Chinese in the first year, and from 2015, we will update it annually with new information and leading-edge findings, write it both in English and Chinese, and publish the latest edition at home and abroad in succession.

The Report aims at summarizing comprehensively the latest developments in the international rule of law, especially the new trends in the last two years, and focusing on the ideas that China advocates, the principles that China maintains and the actions that China takes in every specific area of it. The Report will systematically demonstrate significant contributions that China has made to promote the international rule of law, which will eloquently refute the groundless accusations against China's practice in this respect made by some western countries. It will show the international community with ample facts that China has all along not only adhered to the norms of international law in good faith, but also participated actively in international law-making processes, in establishment and operation of various international institutional mechanisms, as well as in other specific actions advancing the international rule of law.

The Report focuses on practice and is published as a pragmatic supplement to the White Paper titled "China's Efforts and Achievements in Promoting the Rule of Law" ("the White Paper"). Two White Papers have been published by the Information Office of the State Council in 2009 and 2011 respectively, based on joint studies organized by the China Law Society and carried out by relevant political science and law institutions. However, it is regretful that the two White Papers are limited to achievements in promoting the rule of law at the national level, without mentioning contributions China has made at the international level since the reform and opening-up over 30 years ago. In fact, the progress of the rule of law in China keeps pace with the whole progress of the reform and opening-up. While China's internal reform has always been in parallel with the improvement of the rule of law at the national level, the reform and openness of China are no doubt inextricably interlinked with its rule of law practice at the international level. Hence, an elaboration on the accomplishments and challenges in respect of the rule of law shall cover China's practice at both the national and international levels. This Report seems to be a good chance to fill in this gap.

The publication of the Report at home and abroad would increase the transparency of China's international rule of law practice. As a research of a folk think tank, it can provide comprehensive, systematic and latest information concerning the international rule of law to heads and officials of state authorities, and offer guidance

for the governance of China. It will facilitate local governments and enterprises to carry out foreign trade, investment, finance cooperations and other forms of civil and commercial exchanges and cooperations. At the same time, the facts contained in the Report will urge other countries, international institutions, non-governmental organizations, international associations, civil societies and transnational corporations to make an objective assessment of China's contributions in promoting the international rule of law.

The practice referred in the Report is of Chinese characteristics. To some extent, it fills in the gap between theory and practice which has baffled international law scholars in China for a long time. It not only provides systematic information in relation to the practice of our nation and government, but also develops a new path for studying and teaching international law. It is beneficial for the development of China's international law studies in Chinese manner around the world, by which will boost China's influence and give China a bigger say in the progress of advancing the international rule of law.

The Report discusses almost every issue on the rule of law connected with global governance from China's perspective. It consists of four parts. The first part describes the practice of China in respect of the rule of law and relations among states in chapters on China and the Fundamental Principles of International Law, Rule of Law in the Maintenance of International Peace and Security, China and International Rule of Law in Development, China and International Rule of Law in Environmental Protection, China and a New International Energy Order, China's Sea and Border and the Rule of Law in Polar Regions, China and International Law of the Sea, China and Rule of Law in Aviation and Outer Space, China and Rule of Law in Cyberspace, China and International Human Rights Law, China and International Humanitarian Law, China and International Criminal Law, and China and International Rule of Law in Other Fields. Part two focuses on the practice of China in respect of the rule of law and international economic relations and includes chapters on China and International Trade Law, China and International Investment Law, China and Rule of Law in International Finance, Development of International Taxation Law in China, China and International Maritime Law, China and International Law on Intellectual Property, and China and Regional Trade Agreements. The third part mainly explores China's engagement in the rule of law in international civil and commercial affairs, with chapters on China and Law of Application of Law; China's Participation in the International Unification of Private International Law; China, Foreign-Related Civil Procedure and International Legal Assistance in Civil and Commercial Matters; Developments of International Commercial Arbitration in China; China and International Law on Cultural Heritage Protection, Consumer Protection and Food Security. The final part systematically

introduces the history and *status quo* of teaching and dissemination of international law in China, in particular the rapid development of cultivation of talents and public dissemination of international law over the 30 years since the economic reform and opening-up.

The Institute was established in 1980 and was one of the earliest research institutions of international law in China. In 1987, the institute was identified as the key research institute by the former State Board of Education. In September 2000, the Institute was authorized by the Ministry of Education as the key research base of humanities and social sciences among China's colleges and universities. In 2014, the Chinese Institute of Territory and Maritime Rights of Wuhan University supported by the Institute was set up and listed into "the 2011 Projects". In 2015, the Institute was selected by the Propaganda Department of the CPC Central Committee as one of the first pilot units of the national top think-tanks. Over 30 years, the Institute has always put emphasis on the interdisciplinary and comprehensive studies of public international law, private international law and international economic law, and has developed distinctive characteristics and advantages on discipline development, talent training, scientific research, information and public service.

The 2015 Report is the continuation of the 2014 edition, and is collectively written by researchers of the Institute. Professor QIN Tianbao, the director of the Wuhan University Research Institute of Environmental Law, has also contributed a chapter. Compiling this report is a new attempt without any prior experience, so unavoidable omissions and deficiencies still exist in both structure and content. We welcome comments from academic peers, which will help us to make further improvements in next edition. Finally, we gratefully acknowledge the Social Sciences Academy Press (China) for publishing the Report both in English and Chinese.

Zeng Lingliang
Feng Jiehan
January 2016

Contents

Part I Rule of Law and Relations Among States

CHAPTER 1 China and the Fundamental Principles of International Law	/ 001
I The History and Present Situation of the Fundamental Principles of International Law	/ 001
II China's Contributions to the Fundamental Principles of International Law	/ 002
III Suggestions for China to Promote the Construction of the Fundamental Principles of International Law	/ 004
CHAPTER 2 China and Rule of Law in the Maintenance of International Peace and Security	/ 010
I Principles and New Characteristics of International Peace and Security	/ 010
II New Concepts and Principles of Security Advocated by China	/ 011
III China Always Emphasizes the Important Roles of the UN Security Council in the Promotion of International Peace and Security	/ 012
IV China Attaches Importance to the Rule of Law in Peaceful Settlement of International Disputes	/ 013

V	China Highlights the Imperativeness of Rule of Law and Justice to Maintain and Build Peace	/ 014
VI	China Actively Participates in the UN Peace-keeping Actions	/ 017
VII	China Actively Promotes the Construction of Peace and Rule of Law in Conflict and Post-Conflict Societies	/ 017
VIII	China Advocates and Promotes Rule of Law for Security of the Asian and Pacific Region	/ 018
IX	Some Constructive Suggestions	/ 024

CHAPTER 3 China and International Rule of Law in Development

		/ 026
I	Fully Implementing the Millennium Development Goals	/ 027
II	Adopting the Post-2015 Development Agenda	/ 029
III	Promoting International Food, Education and Public Health Development Activities	/ 030
IV	China's Commitments and Recommendations for the Post-2015 Development Agenda	/ 033

CHAPTER 4 China and International Rule of Law in Environmental Protection

		/ 039
I	Brief History of China's Participation in the International Rule of Law in Environmental Protection	/ 039
II	China's Contribution to the Development of International Rule of Law in Environmental Protection	/ 041
III	Suggestions to China on Its Participation in the International Rule of Law in Environmental Protection	/ 048

CHAPTER 5 China and a New International Energy Order

		/ 051
I	Introduction	/ 051
II	New Changes in the International Energy Order	/ 051

III	Developing Trends of the International Energy Order	/ 055
IV	China's Role in the Transition to a New International Energy Order	/ 060
CHAPTER 6 China's Sea and Border and the Rule of Law in Polar Regions		
		/ 064
I	Overview of State Territory and the Rule of Law in Border Areas	/ 064
II	Current Situation of Chinese Territory and the Rule of Law in Border Areas	/ 067
III	The Development Direction of China's Rule of Law in Territory and Border Areas	/ 068
IV	China and the Rule of Law in Antarctic Region	/ 074
V	China and the Rule of Law in the Arctic Region	/ 075
CHAPTER 7 China and International Law of the Sea		
		/ 078
I	Historic Development of the International Law of the Sea	/ 078
II	The Current Situation of China's Law of the Sea	/ 081
III	Prospects of China's Law of the Sea	/ 084
CHAPTER 8 China and Rule of Law in Aviation and Outer Space		
		/ 088
I	History and Present Status of Rule of Law in Aviation and Outer Space	/ 088
II	Contributions that China Has Made to the Rule of Law in Aviation and Outer Space	/ 090
III	Suggestions on Promoting the Rule of Law in Aviation and Outer Space to China	/ 094
CHAPTER 9 China and Rule of Law in Cyberspace		
		/ 097
I	Development and Status Quo of Rule of Law in Cyberspace	/ 097
II	China's Participation, Viewpoints and Contributions	/ 099
III	Problems and Suggestions	/ 105

CHAPTER 10	China and International Human Rights Law	/ 108
I	The Basic Principles China Advocated	/ 108
II	The Rule-Making Processes China Engaged in	/ 111
III	The Views of China on Various Human Rights Issues	/ 113
IV	Implementation at the National Level	/ 117
V	Implementation Reports China Submitted	/ 118
VI	Reform of the Treaty Body System and the Reporting Mechanisms	/ 120
VII	Constructive Dialogue and Cooperation	/ 121
CHAPTER 11	China and International Humanitarian Law	/ 124
I	History and Present Status of International Humanitarian Law	/ 124
II	The Rule-Making Processes China Engaged in	/ 126
III	Compliance and Implementation	/ 135
CHAPTER 12	China and International Criminal Law	/ 141
I	Law-Making Processes China Engaged in	/ 142
II	Practice of China in Implementation	/ 149
III	International Cooperation in Criminal Justice and Law Enforcement	/ 154
CHAPTER 13	China and International Rule of Law in Other Fields	/ 155
I	China and Rule of Law in State Immunity	/ 155
II	China and Rule of Law in International Legal Responsibility	/ 157
III	China and Rule of Law in Nationality, Aliens' Treatment and Refugee	/ 160
IV	China and Rule of Law in Extradition and Asylum	/ 164
V	China and Rule of Law in Diplomatic and Consular Relations	/ 166

Part II Rule of Law and International Economic Relations

CHAPTER 14 China and International Trade Law	/ 169
I Introduction	/ 169
II Legislative Activities	/ 170
III Administrative Enforcement of Foreign Trade Laws and Regulations	/ 174
IV Judicial Performance in the Field of Foreign Trade	/ 178
CHAPTER 15 China and International Investment Law	/ 183
I Introduction	/ 183
II New Development and Influence of China's Investment Agreement	/ 184
III Investment Arbitration Cases Related to China	/ 189
IV New Development of China's Foreign Investment Law	/ 191
CHAPTER 16 China and Rule of Law in International Finance	/ 196
I China Systematically Puts Forward the Proposals of the International Financial System Reform	/ 196
II China Actively Promotes the Construction of the G20 Summit and Its Mechanism	/ 198
III China Forcefully Promotes the Establishment of the Financial Stability Board and Its Mechanism	/ 201
IV China Effectively Promotes the Reform of the International Financial Regulatory System	/ 204
V China Actively Promotes the Reform of the International Monetary Fund	/ 207
VI China Vigorously Promotes the Establishment of Emerging Multilateral Financial Institutions	/ 210
VII China Steadily Promotes the International Monetary System Reform and Internationalization of the RMB	/ 214

CHAPTER 17	Development of International Taxation Law in China	/ 220
I	Construction of China's Tax-Treaty Network and Tax Information Exchange System	/ 220
II	China's Accession to the Convention on Mutual Administrative Assistance in Tax Matters: Challenges and Responses	/ 222
III	The Establishment of the International Standard of Automatic Exchange of Information	/ 226
IV	The Cooperation in Global Anti-Tax Avoidance	/ 230
CHAPTER 18	China and International Maritime Law	/ 236
I	A Summary on China's Participation in Construction of International Maritime Law	/ 236
II	China and Multilateral Maritime Legislation	/ 239
III	China and Bilateral Maritime Agreements	/ 241
IV	The Domestic Practice of China's Participation in International Maritime Law	/ 242
CHAPTER 19	China and International Law on Intellectual Property	/ 245
I	Introduction	/ 245
II	China's Participation in International IP Cooperation and Exchange Activities	/ 246
III	China's Role and Contribution to International Rule of Law in Intellectual Property	/ 249
IV	Challenges and Suggestions	/ 257
CHAPTER 20	China and Regional Trade Agreements	/ 260
I	Introduction	/ 260
II	RTAs Signed by China	/ 261
III	Concluding Remarks	/ 273

Part III Rule of Law and International Civil and Commercial Affairs

CHAPTER 21 China and Law of Application of Law	/ 275
I The History, Evolution and Present Situation of China's Private International Law Legislation	/ 275
II The Achievements in China's Private International Law Legislation	/ 277
III Problems and Suggestions	/ 281
 CHAPTER 22 China's Participation in the International Unification of Private International Law	 / 283
I New Developments of Hague Conference on Private International Law in 2015	/ 283
II China's Participation in UNCITRAL	/ 291
III China's Participation in UNIDROIT	/ 294
IV Problems and Suggestions	/ 298
 CHAPTER 23 China, Foreign-Related Civil Procedure and International Legal Assistance in Civil and Commercial Matters	 / 299
I China and Foreign-Related Civil Procedure	/ 299
II China and International Legal Assistance in Civil and Commercial Matters	/ 316
 CHAPTER 24 Developments of International Commercial Arbitration in China	 / 323
I Overview	/ 323
II New Legal System of Arbitration	/ 324
III Developments of Arbitration Institutions	/ 325
IV Classification of Foreign Elements in Arbitration	/ 332
V Conclusion	/ 336

CHAPTER 25	China and International Law on Cultural Heritage Protection, Consumer Protection and Food Security	/ 338
I	China and International Law on Cultural Heritage Protection	/ 338
II	China and Rule of Law in International Consumer Protection	/ 346
III	China and International Law on Food Security	/ 352

Part IV Teaching and Dissemination of International Law

CHAPTER 26	Teaching and Dissemination of International Law in China	/ 358
I	History and Present Situation of Teaching and Dissemination of International Law in China	/ 359
II	Understanding and Application of Teaching and Dissemination of International Law in China	/ 364
III	China's Contribution to Teaching and Dissemination of International Law	/ 369
IV	Problems and Suggestions	/ 371