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The Rule of Law in Foreign-Related Affairs in Building China into a Great Modern Country*

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Abstract The call to advance the rule of law in foreign-related affairs is an important component of China's strategic move to a great modern country. In modern times, Western countries have applied rule of law practices in their modernization, demonstrating the values of a sound rule of law system for national strength. In particular, the rule of law, extended beyond national borders, provides a crucial guarantee for a great modern country's sustained, stable, and healthy path, and is also a clear symbol of a country's soft power. As China is progressing to become a great modern country, there is a need to pay a particularly close attention to the rule of law, actively promoting the legalization of foreign-related work. China's stance on the rule of law in foreign-related affairs should include both a principle of defending its core interests and a principle of advocating shared values and of promoting mutually beneficial cooperation. In the context of this era, China's international law professional community should delve into appropriate models that can facilitate smooth progress on the path to modernization, further enhancing the rule of law in China and the successful emergence of a great modern country.

Keywords rule of law in foreign-related affairs, a great modern country, rule of law in China, international law

Now, China is marching on a new journey of building a modern socialist country in all respects.[1] Advancing the rule of law in domestic and foreign-related affairs in a coordinated manner is an important area of advancing law-based governance in China. It has extensive practical outreach and profound theoretical implications, which deserve in-depth deliberations and careful examination from various aspects, including legal analysis and the operability design and implementation.[2] Historically, China had a considerable period of closure

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1 See XI Jinping, 坚定信心勇敢前行共创后疫情时代美好世界——在2022年世界经济论坛视频会议的演讲 (2022年1月17日) (Speech at the World Economic Forum Virtual Meeting: Forge Ahead with Confidence and Fortitude to Jointly Create a Better Post-COVID World) (Jan. 17, 2022), 人民日报 (*People's Daily*), p. 2, Jan. 18, 2022.

2 For discussions on this direction, please refer to WANG Yi, 坚持统筹推进国内法治和涉外法治 (Advancing the Rule of Law in Domestic and Foreign-Related Affairs in a Coordinated Manner), 人民日报 (*People's Daily*), p. 11, Mar. 19, 2021; YE Qing, 统筹国内法治和涉外法治, 坚持全要素法治人才培养 (Advancing the Rule of Law in Domestic and Foreign-Related Affairs in a Coordinated Manner and Cultivating Legal Talent of All Elements), 1 新文科教育研究 (*New Liberal Arts Education Research*), (2021); HAN Yonghong, 中国对外关系法论纲——以统筹推进国内法治和涉外法治为视角 (The General Discussion on the Laws of China on Foreign Relations: From the Perspective of Promoting Domestic Rule of Law and Foreign-Related Rule of Law in a Coordinated Manner), 10 政治与法律 (*Political Science and Law*), (2021).

and semi-closure. In the late 1970s, China introduced the policy of reform and opening up, and embraced the basic approach of open development. In the 2020s, China adopted the concept of the rule of law in foreign-related affairs. As such, the international law professional community in China has shouldered diverse and specific responsibilities.[3] Thus, the community has conducted valuable discussions,[4] recognizing that a country pursuing open development requires the rule of law, and that the rule of law in foreign-related affairs can provide an effective mechanism to safeguard open development. Reform and opening up have provided an accumulation of valuable experience in the rule of law in foreign-related affairs, not only deepening opening up but also in participating in global governance. "It is necessary to establish and improve China's system of the rule of law in foreign-related affairs, and accelerate the strategic layout of rule of law in foreign-related affairs."[5] However, these interpretations and analyses of the rule of law, being only preliminary elaboration of, and echoing, national documents, are still in the stage of partial and fragmented exploration and have not yet formed a comprehensive and macro strategic judgment.

A series of critical issues cannot be ignored in China's development process. These include, firstly, viewing the logical premise and practical foundation presented by the proposition of the rule of law in foreign-related affairs. Secondly, it is essential to recognize the status and significance of the rule of law in foreign-related affairs on the pathway to becoming a socialist modern country. Thirdly, the expected goals of the rule of law in foreign-related affairs must be established. Fourthly, a work mode for promoting the rule of law in foreign-related affairs based on the premise and goals should be established. It is necessary to observe, think, judge, and expound on these issues within a broader temporal and spatial context. This is "helpful for the international community to better understand the rule of law with Chinese characteristics."[6] In light of this legal framework, several key questions deserve profound consideration. For what pre-existing goal has China developed the concept of the rule of law in foreign-related affairs? What benefits can the rule of law in foreign-related affairs provide to China? How can the rule of law in foreign-

3 For relevant discussions, please refer to YANG Zewei, 服务高水平对外开放为涉外法治工作提供学理支撑 (Providing Theoretical Support for the Rule of Law in Foreign-Related Affairs to Serve High-Level Opening-Up), 人民日报 (*People's Daily*), p. 9, Oct. 20, 2021.

4 For example, HUANG Huikang, 统筹推进国内法治和涉外法治 (Advancing the Rule of Law in Domestic and Foreign-Related Affairs in a Coordinated Manner), 学习时报 (*Study Times*), p. 2, Jan. 27, 2021; MA Kang, 如何充分认识 "坚持统筹推进国内法治和涉外法治" (How to Fully Understand "Advancing the Rule of Law in Domestic and Foreign-Related Affairs in a Coordinated Manner"), 1 党课参考 (*Party Class Reference*), (2021); ZHANG Xiaojun, 坚持统筹推进国内法治和涉外法治 (Advancing the Rule of Law in Domestic and Foreign-Related Affairs in a Coordinated Manner), 重庆日报 (*Chongqing Daily*), p. 14, Dec. 8, 2020.

5 See XIE Yu, 习近平法治思想中的涉外法治理念——时代背景、实践需求与具体路径 (The Concept of XI Jinping Thought on the Rule of Law in Foreign-Related Affairs: Underlying Background, Practical Needs, and Specific Path), 5 云南社会科学 (*Social Sciences in Yunnan*), (2021).

6 See WEN Lei, 学习贯彻习近平法治思想，加强涉外法治建设 (Advancing the Rule of Law in Foreign-Related Affairs Through Learning and Implementing XI Jinping Thought on the Rule of Law), 民主与法制时报 (*Democratic and Legal Times*), p. 6, Jul. 29, 2021.

related affairs be effectively promoted, and how can a favorable situation be formed for advancing the rule of law in domestic and foreign-related affairs in a coordinated manner? These questions not only constitute key dimensions for understanding contemporary China's rule of law, but also represent important perspectives for comprehending China's recent development direction. This article intends to delve more deeply and comprehensively into the experience of foreign countries in the field of rule of law in foreign-related affairs, and into China's own exploration, logical prerequisite, strategic objectives, and advancement methods.

I The Historical Experience of Some Great Countries Advancing the Rule of Law in Foreign-Related Affairs

To understand the logical prerequisite for China to promote the rule of law in foreign-related affairs, it is necessary to examine the historical relationship between national development and the attitude and actions concerning the rule of law. The experience of strong countries in advancing the rule of law in foreign-related affairs over the past centuries not only contribute to a deeper and comprehensive understanding of the national path and legal history,[7] but also enable us to explore whether there are common patterns behind the rise or fall of nations in matters of rule of law.

A | Historical Experience of Great Countries in Advancing the Rule of Law in Foreign-Related Affairs

In the history of human social development, ancient Egypt, Greece, Rome, China, and India were all far-reaching countries. However, they did not form a global development concept, but rather grew naturally based on historical opportunities and objective endowments. In modern times, Western countries grew into global powers through the cultivation of global markets and the dominance or participation in international economic circulation. The paths to prosperity and strength of these powers vary in length, but they can all be reviewed and reflected upon from the perspective of the rule of law.

1. The Rise of Spain and Portugal and the Pros and Cons of the Rule of Law. By the end of the Middle Ages, Portugal, Spain, the Netherlands, and Britain had successively positioned their development coordinates in the global market through maritime trade.[8] While engaging in global planning in the business realm, Spain and Portugal also worked to enhance their legitimacy in the legal arena. As early rising global powers, Spain and Portugal attempted to achieve their demands and monopolize maritime trade rights through international treaties. In 1493–1494, under

7 For the discussion on the development of modern nations and international law, please see Craven, M., Fitzmaurice M., Vogiatzi M., eds., *Time, History and International Law*, Martinus Nijhoff Publishers, at 1 (2006).

8 Regarding Portugal's maritime piracy, see Birmingham D., 转动罗盘：葡萄牙史 (*A Concise History of Portugal*), translated by ZHOU Gonggu & ZHOU Yangqing et al., 东方出版中心 (The Oriental Publishing Center), at 19–21 (2020).

the arbitration of the Pope, Portugal and the Kingdom of Castile (Spain) signed the Treaty of Tordesillas, which divided their spheres of influence in the Atlantic Ocean.[9] In 1529, the Treaty of Saragossa was executed, extending the agreement to the other side of the Earth[10] and delineating their spheres of influence in the Pacific Ocean. From the perspective of the rule of law, Spain and Portugal's early developments in maritime trade are noteworthy for their active efforts to define their rights and protect their interests through legal means. However, there were also numerous negative aspects. They not only formed an unjustifiable monopoly in maritime trade but also were brutal towards Aboriginal Indians that even Spanish humanist scholar Francisco de Vitoria then found it difficult to accept. The enforcement of legal claims of monopolizing maritime trade not only exceeded the capabilities of these countries themselves but also went against the prevailing practices of the era, in which various countries were attempting to participate in maritime trade. It was precisely this monopolistic attitude that provoked opposition from other countries, leading to a series of wars that weakened the two countries, ultimately resulting in their abrupt fall.

2. The Rise of the Netherlands and the Innovation of the Rule of Law. Following the footsteps of Spain and Portugal, the Netherlands also valued the rule of law. They actively introduced a series of treaties and domestic regulations to ensure that the interests they acquired would be recognized more securely in the international community. In 1575, representatives from Spain and the southern and northern provinces of the Netherlands negotiated in Ghent and entered into the Peace of Ghent Treaty.[11] This treaty demonstrated the harmonious consensus and rational compromise of the Low Countries. The Act of Abjuration, declared by the Netherlands on July 26, 1581, not only reflected the idea of national sovereignty but also emphasized that the legitimacy of the state lay in governing and protecting its people, ensuring they are free from oppression and violence.[12] On April 9, 1609, the Netherlands and Spain signed the Twelve Years' Truce[13] in Antwerp. According to the treaty, Spain agreed to treat the Republic of the Seven United Netherlands as an independent country. The treaty also ensured the protection of Dutch merchants and sailors in the Spanish-controlled Netherlands. This agreement granted the Netherlands international recognition and status.[14] The renowned Dutch jurist Hugo Grotius used natural law

9 See GU Weimin, 葡萄牙海洋帝国史 (1415–1825) (*The Portuguese Seaborne Empire from 1415 to 1825*), 上海社会科学院出版社 (Shanghai Academy of Social Sciences Press), at 89–92 (2018).

10 Disney A. R., *A History of Portugal and the Portuguese Empire: From Beginnings to 1807*, Vol. 1, Cambridge University Press, at 152 (2009).

11 See Paul A., 低地国家史 (*A History of Low Countries*), translated by HE Bowen & DU Zuhe, 上海社会科学院出版社 (Shanghai Academy of Social Sciences Press), at 167 (2020).

12 For relevant analysis, please refer to Gu Weimin, 荷兰海洋帝国史 1581–1800 (*The Dutch Seaborne Empire from 1581 to 1800*), 上海社会科学院出版社 (Shanghai Academy of Social Sciences Press), at 108 (2020).

13 For information about the "Twelve Years' Truce" between England and the Netherlands, please refer to Anton van der Lem's *Revolt in the Netherlands: The Eighty Years War (1568–1648)*, translated by DU Yuan, 天地出版社 (Tiandi Press), at 191–202 (2021).

14 See GU, fn. 12 at 118.

to argue for international law, overturning the monopoly claims of maritime trade previously advocated by Spain and Portugal. The legitimacy of the state defined by this law had a strong impact both domestically and internationally. The Dutch pursuit of independence and innovation in the field of the rule of law shaped a positive image of the country as a proactive and constructive merchant nation.

3. The Rise of Britain and the Promotion of the Rule of Law. While engaging in colonial activities and maritime trade, Britain had numerous naval wars fighting for its position against pre-existing maritime powers. Thus, initially England, but later Britain (after 1707), entered into one international treaty after another to safeguard the interests it sought to protect. On April 15, 1654, England and the Netherlands executed the Treaty of Westminster, which ensured peace between the two nations and set up a series of norms. The most significant aspect of the treaty was that the Netherlands accepted England's Navigation Act, thereby losing its commercial hegemony, while England significantly strengthened its maritime and trade advantages.[15] It is precisely because countries like England and the Netherlands fully utilized international law that they fostered a solid legal framework for open development, ensuring relatively stable progress and growth in the international community since the 17th century.

In the 1830s, Britain moved into a period of transformation and rule of law, and actively pursued overseas expansion based on this fundamental concept, competing with France for colonies. However, it must be mentioned that in the 19th century, while advocating humanitarianism and the abolition of slavery in Europe, Britain imposed gunboat diplomacy and power politics in North Africa, Central Asia, and East Asia, especially in China.[16] Of particular note to the Chinese people is that Britain launched the Opium Wars against China,[17] forced China to sign the Treaty of Nanjing, and began encroaching upon the interests of the Chinese people.[18] Meanwhile, they attempted to legitimize their colonial actions and garner international support for their actions by propagating their ideologies in colonies and signing treaties with colonized countries. The establishment of post-conflict order and the maintenance of new peace through peace conferences and peace treaties became a tradition in European international law.[19] For example, after the wars between France and various European countries, the Treaty of Lunéville was signed in February 1801,

15 See QIAN Chengdan, ed., 英国通史第3卷：铸造国家16—17世纪英国 (*The History of Britain, Part III: The Making of a Nation 16th and 17th Century England*), 江苏人民出版社 (Jiangsu People's Publishing Press), at 263 (2016).

16 See QIAN Chengdan, ed., 英国通史第5卷：光辉岁月19世纪英国 (*The History of Britain, Part V*: *Glorious Years 19th Century England*), 江苏人民出版社 (Jiangsu People's Publishing Ltd.), at 324–327 (2016).

17 "However, the conflict-triggering legal issue is not China's banning of trade rights. This point has always been acknowledged, whether before or after hostile actions." Neff S C, *Justice Among Nations: A History of International Law*, Harvard University Press, at 313 (2014).

18 For relevant analysis, please refer to Nice O. Morgan, 牛津英国史 (*The Oxford History of Britain*), translated by FANG Guangrong, 人民日报出版社 (People's Daily Press), at 386–430 (2021).

19 See Lesaffer R., *Peace Treaties and International Law in European History: From the Late Middle Ages to World War One*, Cambridge University Press, at 45–58 (2004).

which defined territorial boundaries and imposed constraints on the behavior of those affected countries.[20] Europeans also extended this tradition to other continents where they were involved.[21]

4. The Rise of France and the United States and the Accumulation of the Rule of Law. Subsequently, France and the United States, through a series of legal documents such as the Declaration of the Rights of Man and the Declaration of Independence, climbed to a new high regarding the rule of law. By challenging the old system and introducing advanced concepts in the rule of law through the formation of a series of new milestones, they gained more international support, enabling their countries to have a greater advantage in international struggles. By that time, Peter the Great had made Russia a member of the European family as a great country and a strong nation.[22] In the 18th century, Russia had close relations with countries such as Britain, Sweden, Austria, Poland, Germany, and France, and became a major power.[23] Afterwards, Russia participated in a series of wars, aiming to demonstrate its position in Europe on one hand, and to pursue national interests on the other hand. It is worth noting that during this period, the principle of free trade for non-belligerent countries was promoted at sea.[24] In the 18th century, the rising United States recognized the importance of external development and the need for recognition and support from the international community. Therefore, it explicitly stated the status of international law in its Constitution. After gaining independence, the United States expressed a positive attitude towards international law.[25] However, during the constitutional process, there was no clear stance on the issue of slavery.[26] The Monroe Doctrine, proposed in the 1830s, not only shaped a positive image of the United States in terms of ethics and morality but also clearly demonstrated America's concerns about affairs in the Americas and even international affairs. The Monroe Doctrine continued to evolve and became the legal foundation for American hegemony, providing specific American propositions with ethical-political justifications.[27] In the 1860s, the "Alabama Claims" arbitration case between the United States and Britain not only created a positive image of the United States in resolving disputes through legal means but also provided the country with preliminary experience in applying

20 Please refer to William Doyle, 牛津法国大革命史 (*Oxford History of the French Revolution*), translated by ZHANG Chi, HUANG Yanhong & LIU Jingdi, 人民日报出版社 (People's Daily Press), at 412–413 (2021).

21 Please refer to Robert B. Mowat, 欧洲外交史 (1815–1914) (*A History of European Diplomacy from 1815 to 1914*), translated by MAO Hongmei, 华文出版社 (Sino-Culture Press), at 12 (2020).

22 See Nikolai Leontievich Liangzanovsky & Mark Steinberg, 俄罗斯史 (*The History of Russia*) (8th edition), translated by YANG Ye, QING Wenhui & WANG Yi, 上海人民出版社 (Shanghai People's Publishing House), at 244 (2014).

23 See LIU Daren & YUAN Guoqin, 国际法发达史 (*A History of the Development of International Law*), 商务印书馆 (The Commercial Press), at 107 (1936).

24 See Liangzanovsky & Steinberg, fn. 22 at 256.

25 See Scarfi J P, *The Hidden History of International Law in the Americas: Empire and Legal Networks*, Oxford University Press, pp. xxvi–xxxiv (2017).

26 See William J. Bennett, 美国通史 (*America: The Last Best Hope*), Vol. I, translated by LIU Jun et al., 江西人民出版社 (Jiangxi People's Publishing House), at 101–104 (2009).

27 See LIU & YUAN, fn. 23 at 109.

international law.

In the early 20th century, the study of international law made substantial strides in the United States.[28] These strides somewhat shaped President Wilson's position at the Paris Peace. Despite facing criticism domestically for his performance at the conference,[29] Wilson's "Fourteen Points" attracted widespread attention. During the 20th century, the United States actively shaped its foreign policy through a series of international activities, positioning the US as an advocate for many multilateral international treaties and an architect of multilateral international mechanisms. This activity includes President Wilson's active promotion of the League of Nations[30] and Presidents Roosevelt and Truman's efforts to advance the United Nations. The creation of international organizations and the negotiation of international conventions were the main models of international law development in the 20th century, with the United States being an advocate and major promoter of this approach. The Nuremberg Trials and Tokyo Trials, which were spearheaded by the United States after World War II, also provided crucial templates for the functioning and application of international law. These international institutional efforts played a prominent role in maintaining the status of major powers.

5. The Rise of Germany, Japan, and Italy and Their Alienation from the Rule of Law in the First Half of the 20th Century. On September 27, 1940, the three countries formed the Axis powers and claimed leadership in constructing a new world order. This significantly contradicted the fundamental principle of sovereign states' independence and autonomy that had been adopted in the international community, and brought enormous disasters to the world, as well as prolonged difficulties to these three countries themselves.[31] The Holocaust perpetrated by Germany inflicted severe damage to the moral bottom line of the international community. At the Yalta Conference shortly before the end of World War II, the Soviet Union, the United States, and Britain adopted their positions on the division of Germany and implemented the agreement for the four-country occupation by the Soviet Union, the United States, Britain, and France after the surrender of the German military. This had a substantial impact on Germany's sovereignty and served as a punishment for Germany's abandonment of globally recognized moral principles.[32]

28 This is an era that requires professionals to develop professional understanding as well. Coates B A, *Legalist Empire: International Law and American Foreign Relations in the Early Twentieth Century*, Oxford University Press, at 59–85 (2016).

29 See Bennett, fn. 26 at 38–39.

30 After the First World War, the participating parties convened the Paris Peace Conference, during which President Woodrow Wilson of the US proposed the formulation of the League of Nations. Through negotiations, representatives from various countries put together the Covenant of the League of Nations, establishing a collective security system. Hew Strachan, 牛津第一次世界大战史 (*The Oxford Illustrated History of the First World War*), translated by WANG Wei, 北京日报出版社 (Beijing Daily Press), at 306–307 (2021).

31 See XING Laishun & WU Youfa, eds., 德国通史第5卷: 危机时代 (1918—1945) (*A History of Germany, Part Ⅴ: Crisis Era from 1918 to 1945*), 江苏人民出版社 (Jiangsu People's Publishing Press), at 504–505 (2019).

32 See XING Laishun & WU Youfa, eds., 德国通史第6卷: 重新崛起时代 (1945–2010) (*A History of Germany, Part Ⅵ: Crisis Era from 1945 to 2010*), 江苏人民出版社 (Jiangsu People's Publishing Press), at 16–17 (2019).

B | Preliminary Assessment of the Relationship Between the Path of Great Powers and the Advancement of Rule of Law

Exploring the position of rule of law in the modernization of countries in modern history helps to summarize the fundamental relationship between a country and the rule of law, and also helps to understand contemporary China's attitude towards the rule of law.

Modern world history, especially the growth path of Western powers, has shown that the rule of law is a crucial guarantee for a country's healthy and sustainable development. Various lessons can be drawn from observing international relations, including their historical and ethical dimensions as well as the main directions and strategies for national development.[33] However, summarizing and generalizing the modernization process of countries from the perspective of the rule of law, especially the rule of law in international affairs, is an important aspect that cannot be ignored. A preliminary conclusion that can be drawn in this regard is that countries that follow the principles of the rule of law are more likely to be understood and accepted by the international community. They can create a positive national image and a favorable international development environment.[34] The path of a great country is more stable, and even in times of decline, the decline curve is relatively gentle. Being adept at utilizing international law, actively adopting a rule of law stance in national actions, and using the rule of law as a means to safeguard national interests and shape the world order, leads to a smoother growth path, a more stable trajectory, and a healthier growth momentum. On the contrary, if a country fails to comply with the basic requirements of international law and does not reflect the fundamental values of the international community through legal means, this country is likely to have limited opportunities for development, and to have an extremely tortuous development path.[35] Countries that deviate from the principles of the rule of law and do not resolve issues through legal means find it difficult to gain trust from the international community, to earn a good national reputation, and are more likely to worsen the development environment, thus facing numerous obstacles to their own development.

A series of historical events in modern times have confirmed a fundamental law: For a country's development from a global perspective, advocating and improving the rule of law not only create a modern governance model in terms of ideological concepts but also foster a series of ethical standards and moral norms in the context of development. The rise of great countries cannot be separated from the application of the concept and framework of the rule of

33 For in-depth discussions, please refer to CHEN Fenglin, 近代大国的崛起及其历史启示 (Modern Powers' Rising and Its Historic Enlightenment), 5 外交评论 (*Foreign Affairs Review*), (2006); CHEN Fenglin, 对近代大国崛起的再思考 (Reconsidering the Rise of Modern Great Powers), 2 外国问题研究 (*Journal of Foreign Studies*), (2011).

34 For in-depth discussions, see Rech W., *International Law, Empire, and the Relative Indeterminacy of Narrative*, in Koskenniemi M. et al.. *International Law and Empire: Historical Explorations*, Oxford University Press, at 57–80 (2017).

35 See HE Zhipeng, 走向国际法的强国 (Getting Closer to Be a Strong Country in International Law), 1 当代法学 (*Contemporary Legal Studies*), (2015).

law, as well as international legal norms and systems.[36] What is more worthy of attention is that by formulating and participating in international standards, a country can enhance its influence in the international community, reduce roadblocks to its development on a global scale, improve its reputation and image both domestically and internationally, and provide better institutional guarantees, ideological influence, conceptual support, and cultural accumulation for international support of its actions. From 1804 to 1810, Napoléon Bonaparte was at the peak of his power, and the Napoleonic Code became a milestone in the history of the rule of law.[37] However, at that time, France's major international achievements were primarily reflected in the military field,[38] and a stable and proper international legal system had not been cultivated. This resulted in France, after being swiftly defeated militarily, failing to leave a profound mark as a major power in the international community. Nor did it automatically restore France to its position as a strong European or global power.

The meticulous planning and active implementation of the rule of law in foreign-related affairs, as well as the advancement of the rule of law in domestic and foreign-related affairs in a coordinated manner, provide a particularly important foundation and prerequisite in terms of basic conditions. Modern world history has repeatedly proven that a great country with extensive influence in the international community and sustainable development capabilities certainly fully applies and develops international law. The application, interpretation, and promotion of international law by each country from its own standpoint are all part of the rule of law in foreign-related affairs. The foundation of their problem-solving capability lies in how a country expresses its views, asserts its rights, and fulfills obligations and responsibilities to the international community. A country should strive to achieve its development goals in a manner consistent with legal norms. This includes not only the country's own economic, social, and political development but also its relations with other countries. Therefore, any emerging great country that aims to rise effectively must invariably demonstrate the need for and efforts towards creating norms and order in foreign-related affairs.

II China's Path to Becoming a Great Country and China's Choice of the Rule of Law in Foreign-Related Affairs

For a country that aspires to take center stage in the world, it becomes increasingly important to consider the principles of

36 For related discussions, see CAI Gaoqiang, 大国崛起与国际法的发展——兼谈中国和平崛起的国际法环境 (The Development of International Law and the Rise of Big Country: Also on the International Law Environment of China's Peaceful Rise), 4 湘潭大学学报（哲学社会科学版） (*Journal of Xiangtan University* [*Philosophy and Social Sciences Edition*]), (2009); HE Zhipeng, 国际法与大国崛起 (International Law and the Rise of Major Country), 1 吉林大学社会科学学报 (*Jilin University Journal Social Sciences Edition*), (2017).

37 See YE Qiuhua, 西方民法史上的"骄子"——论法国民法典承上启下的历史地位 (The French Civil Code: A Landmark in the Western Legal History), 2 法学家 (*The Jurist*), (2004).

38 See XU Lingyun, 近世西洋外交史 (*Western Diplomatic History in Modern Times*), 正中书局 (Zhengzhong Bookstore), (1937).

the rule of law, foster a legal system, and implement mechanisms to consolidate its social order, develop its own model, strengthen its development path, and build a robust framework for its progress. As a nation grows and prospers, it is crucial to prioritize the rule of law in political, economic, and cultural dimensions, and to address domestic and international issues through legal means.[39] By examining China's historical position in the world order and its development process, as well as the challenges it faces at the intersection of modernization and globalization, the principle of the rule of law in international affairs becomes clearly vital. This understanding enables a deep appreciation of the various policy guidelines related to the rule of law in foreign-related affairs. In summary, as China expands its global presence and engages in international affairs as a responsible major country, it must effectively apply international legal norms.[40]

A | China's Path to Modernization

In the 5,000 plus years of Chinese civilization, China has long existed as a strong and influential world-class country. Despite its highly developed political and economic systems,[41] China culturally loves peace and harmony and has always been a moderate, generous, and philanthropic member in the international community. China emphasizes building a country based on culture, establishing a center of civilization, and refraining from engaging in any acts of aggression.[42] In modern times, China suffered from various forms of bullying and oppression, and the once strong China came to be seen as a large but weak country. In this context, individuals with lofty ideals have striven to build a prosperous and strong China.[43] Especially after the founding of the People's Republic of China in 1949, generations of leaders in China have assessed the situation, followed one after another, and led the Chinese people to strive for prosperity and strength. The goal of building China into a great modern socialist country has become increasingly clear, and China is getting closer to achieving this magnificent goal.[44] The Chinese nation is once again getting closer to be a world-class great country in

39 See MA Huaide, 法治是塑造全球性大国的重要支点 (The Rule of Law Is an Important Pivot in Shaping a Great Country with Global Influence), 34 人民论坛 (*People's Forum*), (2015); FENG Lixia, 大国变革时代的法治共识——在规则约束与实用导向之间 (The Rule of Law Consensus in the Era of Big Transformation: Between Rule Constraint and Practical Orientation), 2 环球法律评论 (*Global Legal Review*), (2019).

40 XI Jinping, 论坚持全面依法治国 (Advancing Law-Lased Governance on All Fronts), 中央文献出版社 (Central Party Literature Press), at 225 (2020).

41 See LI Jiagui, 中国古代文明在世界上长期处于领先地位 (Chinese Ancient Civilization Long Led the World), 6 理论探索 (*Theoretical Exploration*), (1986).

42 See ZHU Zhongbo, 中国古代强盛时期的大战略 (Grand Strategy of China's Ancient Period of Prosperity), 4 国际政治科学 (*Quarterly Journal of International Politics*), (2011).

43 See DING Shouhe, 实业救国、教育救国、科学救国思潮的再认识 (Re-Understanding of the Ideological Trend of Saving the Country Through Industry, Education and Science), 5 文史哲 (*Journal of Literature, History, and Philosophy*), (1993).

44 See the Contemporary China Research Institute, 为全面建成社会主义现代化强国而奋斗 (Striving to Build a Great Modern Socialist Country in All Respects), 人民日报 (*People's Daily*), p. 9, Sep. 30, 2021; 为全面建成社会主义现代化强国而不懈奋斗 (Striving Tirelessly to Build a Great Modern Socialist Country in All Respects), 人民日报 (*People's Daily*), p. 3, Oct. 1, 2021; DING Wei & XIE An, 习近平社会主义现代化强国目标体系研究 (Research on the XI Jinping Goal System of Building a Great Socialist Modern Country), 12 学术界 (*Academics*), (2017).

history.[45]

In terms of philosophy of policy, the government and leaders of the People's Republic of China have long been committed to the magnificent goal of building China into a strong country. In 1954, ZHOU Enlai, in the government work report delivered at the first session of the 1st National People's Congress, proposed the objective of building China into "a powerful socialist modern industrialized country."[46] In 1964, MAO Zedong put forward the vision of "building our country into a socialist modern strong nation within a relatively short historical period."[47] On December 21, 1964, in the Government Work Report delivered at the first session of the 3rd National People's Congress, ZHOU Enlai further specified, "We must, within a relatively short historical period, build our country into a socialist strong nation with modern agriculture, modern industry, modern national defense, and modern science and technology."[48] After the end of the Cultural Revolution in 1976, the Chinese government and people profoundly realized that they needed to unite as one to fundamentally transform China's backwardness, and firmly moved forward to build China into a great socialist strong nation of modernization.[49] The Third Plenary Session of the 11th CPC Central Committee stressed in its communiqué that it "calls for the entire Party, the whole army, and people of all ethnic groups in the country to unite as one, to further develop a stable and united political situation, and immediately take action, boost morale, pool wisdom and efforts, and embark on a long march to build our country into a socialist modernized strong nation within this century."[50] In his speech in 1981 at the celebration of the 60th anniversary of the CPC, then the CPC general secretary HU Yaobang stated that "we have always devoted ourselves to the struggle for the national liberation and people's wellbeing of China, and for the unity and prosperity of our motherland."[51] In his speech at the celebration of the 50th anniversary of People's Republic of China, JIANG Zemin noted that "The Chinese nation will become a proud and active

45 "The Chinese nation has achieved a tremendous transformation, from standing up and growing prosperous to becoming strong, and its national rejuvenation has become a historical inevitability." XI Jinping, 在纪念辛亥革命110周年大会上的讲话 (Speech at a Meeting Marking the 110th Anniversary of the Revolution of 1911), 人民日报 (*People's Daily*), p. 2, Oct. 10, 2021; "Today, we are closer, more confident, and more capable than ever of reaching the goal of rejuvenating the Chinese nation." XI Jinping, 在庆祝中国共产党成立100周年大会上的讲话 (Speech at a Ceremony Marking the 100th Anniversary of the Communist Party of China), 人民日报 (*People's Daily*), p. 2, Jul. 2, 2021; "We are now closer to this goal, and we are more confident and capable of achieving it than at any other time in history." XI Jinping, 在纪念孙中山先生诞辰150周年大会上的讲话 (Speech at the Commemoration of the 150th Anniversary of the Birth of Mr. SUN Yat-sen), 人民日报 (*People's Daily*), p. 2, Nov. 12, 2016.

46 See ZHOU Enlai, 周恩来选集下卷 (*Selected Works of ZHOU Enlai*), Vol. 2, 人民出版社 (People's Publishing House), at 136 (1984).

47 See MAO Zedong, 毛泽东著作选读 (*Selected Works of MAO Zedong*), 人民出版社 (People's Publishing House), at 849 (1986).

48 See ZHOU, fn. 46 at 439.

49 See DENG Xiaoping, 邓小平文选第2卷 (*Selected Works of DENG Xiaoping*), Vol. 2, 人民出版社 (People's Publishing House), at 153 (1994).

50 中国共产党第十一届中央委员会第三次全体会议公报 (*The Report of the Third Plenary Session of the 11th Central Committee of the CPC*), 三中全会以来重要文献选编 (*Selected Works of Important Documents Since the Third Plenary Session of the 11th Central Committee of CPC*), 中央文献出版社 (Central Party Literature Press), at 13 (2011).

51 See HU Yaobang, 胡耀邦文选 (*Selected Works of HU Yaobang*), 人民出版社 (The People's Publishing House), at 284 (2015).

member of the community of nations, and a strong, prosperous, democratic and culturally advanced socialist country will surely emerge in the East."[52] In his speech at the celebration of the 90th anniversary of the CPC, HU Jintao pointed out that "The CPC was founded 90 years ago today. From then on, the Chinese people embarked on the bright road of striving for independence and liberation and began the glorious pursuit of prosperity and strength for the country and themselves."[53] In his speech at the celebration of the 100th anniversary of the CPC on July 1, 2021, XI Jinping declared on behalf of the Party and the people that "China has realized the First Centenary Goal of building a moderately prosperous society in all respects. This means that we have brought about a historic resolution to the problem of absolute poverty in China, and we are now marching in confident strides toward the second centenary goal of building China into a great modern socialist country in all respects."[54] For hundreds of years, the Chinese people's expectations for national strength and social prosperity have been filled with their aspirations for great rejuvenation, reflecting their desire for a better life and also embodying the responsibility of the Chinese nation for the future of the world.

In its practical work, the CPC has forged ahead against all odds and has led the way in turning people's longing for a better life into reality and in promoting national prosperity and strength. At the beginning of the founding of the People's Republic of China, the CPC focused on economic recovery, transformation, and the initial stage of national economic development, as well as the commencement of industrialization. These efforts effectively propelled the cause of national development. Subsequently, lessons were learned from the Great Leap Forward (1958–1961), and the national economy was adjusted to ensure sustained and stable development. The rectification in 1975 was effective, allowing the smooth completion of the "Fourth-Five-Year" Plan (1971–1975) for National Economic and Social Development. After 1976, China further accelerated the adjustment of the national economy and the reform of the economic system, creating a favorable environment for reform and opening up. After the 1990s, China embarked on a comprehensive path towards a market economy. Through prudent design, China achieved the goal of securing a soft landing in economic development. Through years of economic and social development, the overall living standards of the people in China have entered a moderately prosperous level. However, the Chinese government is clear that this level of prosperity is still preliminary, insufficient, and not comprehensive enough. Development is still unbalanced, so efforts are still needed in various aspects such as the economy, politics, education, culture, health, and

52 See JIANG Zemin, 江泽民文选 (*Selected Works of JIANG Zemin*), Vol. 2, 人民出版社 (The People's Publishing House), at 419–420 (2006).

53 See Hu Jintao, 胡锦涛文选 (*Selected Works of HU Jintao*), Vol. 3, 人民出版社 (The People's Publishing House), at 521 (2016).

54 See XI Jinping, 在庆祝中国共产党成立100周年大会上的讲话（2021年7月1日） (Speech at a Ceremony Marking the Centenary of the Communist Party of China) (Jul. 1, 2021), 人民日报 (*People's Daily*), p. 2, Jul. 2, 2021.

environmental protection to achieve moderate prosperity in all respects.[55] After unwavering efforts by the Chinese people, China scored remarkable success in the battle against poverty by the 2020s. Efforts have been made to tackle the negative impact of the COVID-19 pandemic on the economy and society, and the goal of building a moderately prosperous society in all respects has been achieved.[56] China has also elevated its protection of human rights to a new level,[57] laying the foundation for the development of a great socialist modern country.[58]

B | The Starting Point of China's Path to a Great Modern Rule-of-Law Country

As mentioned above, national prosperity and strength are part of a long-standing dream of the Chinese people. Achieving the goal of building China into a great modern country requires solid efforts in various fields such as economy, politics, culture, education, science, technology, and environmental protection. Institutional development is an important factor for a country to become and maintain its status as a great country. Historical experience has shown that China's step-by-step development from standing up, getting rich, to becoming strong, is inseparable from the protection and support of its institutions. It is precisely because of the recognition of the importance of legal system development, the development of the rule of law concept, the cultivation of the rule of law mentality, and the building of the rule of law awareness for social development, that China has been able to overcome one obstacle after another and put forward new requirements and approaches for comprehensive law-based governance.[59] This has led China to a new realm and new height in social development. For contemporary China, advocacy of the rule of law in foreign-related affairs and actively participating in rule of law in international fields, include the following four areas particularly worthy of attention.

First, China's positioning in the global changes. Global changes of a magnitude not seen in a century are taking place in the world today.[60] These global changes include factors beyond human society such as the global environment, climate change, and disaster threats, as well as internal factors of human society such as national governance and international

55 See Contemporary China Research Institute, 新中国70年 (*70 Years of New China*), 当代中国出版社 (Contemporary China Publishing House), at 286 (2019).

56 See the State Council Information Office of the People's Republic of China, 中国的全面小康 (2021年9月) (All-Round Moderate Prosperity in China) (Sep. 2021), 人民日报 (*People's Daily*), pp. 10–12, Sep. 29, 2021.

57 See the State Council Information Office of the People's Republic of China, 全面建成小康社会: 中国人权事业发展的光辉篇章 (2021年8月) (Moderate Prosperity in All Respects: Another Milestone Achieved in China's Human Rights) (Aug. 2021), 人民日报 (*People's Daily*), pp. 10–11, Aug. 13, 2021.

58 The staff commentator, 开辟人权事业新境界 (Opening up a New Horizon for Human Rights Development), 人民日报 (*People's Daily*), p. 1, Aug. 13, 2021; 迈向中华民族伟大复兴的关键一步 (Taking a Crucial Step Towards the Great Rejuvenation of the Chinese Nation), 人民日报 (*People's Daily*), p. 3, Sep. 29, 2021.

59 See ZHANG Wenxian, 中国法治40年：历程、轨迹和经验 (40 Years of the Rule of Law in China: Process, Trajectory, and Experience), 5 吉林大学社会科学学报 (*Jilin University Journal Social Sciences Edition*), (2018).

60 See ZHANG Yuyan, 理解百年未有之大变局 (Understanding the Global Changes of a Magnitude Not Seen in a Century), 5 国际经济评论 (*International Economic Review*), (2019).

coordination.[61] It must be clarified that these unprecedented changes are not only influenced and driven by the participation of countries and their people themselves but also to a large extent by China's participation and leadership.[62] For example, economic globalization and deglobalization are trends formed through the collective interplay of various countries, businesses, governments, and people. Meanwhile, world networking is a condition that arises from the development of global science and technology. However, the changes in the global political landscape and military power balance are largely due to China's reform and opening up in the late 1970s. The smooth operation of China's market plays a significant role in the global market.[63] It is difficult to imagine a globalization without China's participation, and it is also difficult to imagine a global market that operates effectively without China's active promotion and operation. Furthermore, China's rise in economic strength has led to the continuous expansion of its political influence and cultural dissemination. In terms of the global landscape, these changes in power dynamics are unprecedented in the past century. It can be said that without the unprecedented changes brought about by China's development over the past century, the dominant theme would be significantly different. Therefore, it can be understood that since the development of socialism with Chinese characteristics in a new era, the Party Central Committee with Comrade XI Jinping at its core has further emphasized China's open development.[64] Matching this, increasing attention is given to the rule of law in the field of foreign-related affairs amid the advancement of the overall rule of law in China. In 2014, the CPC proposed to "adapt to the continuous opening up, improve the legal and regulatory system for foreign-related affairs, and promote a new open economic system."[65] The Central Conference on the Rule of Law in 2020 stressed the requirement to "advance the rule of law in domestic and foreign-related affairs in a coordinated manner" when

61 For example, economic globalization is facing headwinds, and the world economy is facing insufficient driver for growth. Unilateralism, protectionism, and hegemonism are threatening the world peace. Please refer to the book written by the Editorial Group, 改革开放简史 (*A Concise History of Reform and Opening Up*), 人民出版社 (People's Publishing House), 中国社会科学出版社 (China Social Sciences Press), at 336–337 (2021).

62 Many scholars mechanically interpret the global changes as external factors to China, with China merely responding passively. This actually overlooks China's level of participation and proactivity in the global landscape. ZHAO Kejin, 如何在"百年未有之大变局"中理解中国角色 (How to Understand China's Role in "the Global Changes of a Magnitude Not Seen in a Century"), 1 探索与争鸣 (*Exploration and Free Views*), (2019); QUAN Heng, "百年未有之大变局"：表现、机理与中国之战略应对 ("The Global Changes of a Magnitude Not Seen in a Century": Manifestations, Mechanisms, and China's Strategic Responses), 11 现代国际关系 (*Contemporary International Relations*), (2018).

63 See DU Yunquan, "百年未有之大变局"：重识中国与世界的关键 ("The Global Changes of a Magnitude Not Seen in a Century": The Key Point of Reconsideration of China and the World), 1 探索与争鸣 (*Exploration and Free Views*), (2019).

64 See WANG Shuiping, 以开放发展新理念引领开放发展新时代 (Leading the New Era of Opening Up and Development with a New Concept of Open Development), 6 理论视野 (*Theoretical Horizon*), (2016); YANG Liu, 习近平开放发展理念与中国开放道路的总结展望 (Summary and Outlook on XI Jinping's Concept of Open Development and China's Path of Opening up), 5 探索 (*Probe*), (2016); DAI Xiang & ZHANG Erzhen, 逆全球化与中国开放发展道路再思考 (Rethinking the Deglobalization and China's Path of Open Development), 1 理论视野 (*Theoretical Horizon*), (2018).

65 《中共中央关于全面推进依法治国若干重大问题的决定》辅导读本 (*Guidance Textbook for the Resolution on Certain Major Issues Concerning Comprehensively Advancing the Law-Based Governance of China*), 人民出版社 (People's Publishing House), at 40 (2014).

summarizing the core concepts of XI Jinping Thought on the Rule of Law. In 2021, this requirement was upgraded to "adapt to the needs of high-level opening-up, improve the legal and regulatory system for foreign-related affairs, address the shortcomings and shore up the points of weakness, and enhance the level of rule of law in foreign-related affairs."[66] This wording is more accurate, covers more issues, and presents clearer requirements. This represents a new development following the 2019 work program by the Central Committee, which emphasized strengthening the rule of law in foreign-related affairs, introducing a legal system for foreign-related affairs, enhancing the study and application of international law, and improving the level of rule of law in foreign-related affairs.[67] China's position in international affairs helps to understand the broader context of this historical development.

Second, China's reliance on global resources for development. China's economic, social, and cultural development has reached a new era that requires more global resource mobilization and global impact. From a global perspective, China's enormous potential, active participation, and excellent contributions have led to the continuous development of the world market, increased dependence on China by countries around the world, and the interdependence of the international community. China's dependence on the world market is also deepening.[68] The trend of interdependence implies that China's globalization is an important subject. Without global support, China cannot expand its political influence, economic growth, or cultural dissemination. Building China into a strong cultural nation, education nation, talent nation, sports nation, science and technology nation, manufacturing nation, quality nation, digital nation (or "Digital China"), transportation nation, trade nation, and maritime nation[69] are all goals that have prominent international implications. Therefore, the current development of China's undertakings requires strategic observation, strategic thinking, and strategic planning on a global scale.[70] Without such global awareness, it would be impossible for China to progress effectively in all respects.[71] Currently, China has embarked on a journey

66 法治中国建设规划 (2020—2025年) (The Plan on Developing the Rule of Law in China from 2020 to 2025), 人民日报 (*People's Daily*), p. 2, Jan. 11, 2021.

67 中共中央关于坚持和完善中国特色社会主义制度、推进国家治理体系和治理能力现代化若干重大问题的决定（2019年10月31日中国共产党第十九届中央委员会第四次全体会议通过）(*The CPC Central Committee's Decision Concerning How to Uphold and Improve the System of Socialism with Chinese Characteristics and Modernize China's System and Capacity for Governance*) (Adopted by the Fourth Plenary Session of the 19th Central Committee of the CPC on Oct. 31, 2019), 党的十九届四中全会《决定》学习辅导百问 (*Study Guide on the Decision of the Fourth Plenary Session of the 19th Central Committee of the CPC: One Hundred Questions*), 学习出版社 (Xue Xi Chu Ban She), and 党建读物出版社 (Party Building Literature Press), at 29 (2019).

68 See LI Xing, 在"相互依存式主导权"和世界秩序重塑下解读中国梦 (Interpreting the Chinese Dream in the Context of the "Interdependency Hegemony" and the Remaking of International Order), 1 国际展望 (*International Outlook*), (2015).

69 中共中央关于制定国民经济和社会发展第十四个五年规划和二〇三五年远景目标的建议 (The Proposal of the CPC Central Committee on Formulating the 14th Five-Year Plan for Economic and Social Development and the Long-Range Objectives Through the Year 2035), 人民日报 (*People's Daily*), p. 1, 3, 4, Nov. 4, 2020.

70 See ZHENG Yongnian, 相互依存状态下的中国国际环境 (China's International Environment in a State of Interdependence), 11 科学决策 (*Scientific Decision-Making*), (2007).

71 See GUO Shuyong, 论100年来中国共产党全球观念变迁的主要规律 (Main Patterns of the CPC's Global Perspective Transformation over the Past 100 Years), 1 国际观察 (*International Review*), (2021).

of comprehensive development towards becoming a socialist modern country and towards the realization of the Second Centenary Goal. We are closer than ever to achieving the goal of rejuvenating the Chinese nation.[72] Advancing the rule of law in domestic and foreign-related affairs in a coordinated manner is a guiding principle for China's rule of law development in the future, providing the fundamental essence and development framework of the rule of law. The theoretical logic behind this coordination is China's reliance on various countries and international organizations worldwide, while the practical logic lies in China's own development, which has enabled this coordination to have the status and ability to promote and participate in the rule of law in international affairs. China adapts to the continuous opening up, improves the legal and regulatory framework for international affairs, and promotes the development of a new open economic system.

Third, Chinese experience on the path to the rule of law. For an economically open country, the rule of law in domestic affairs and the rule of law in foreign-related affairs are like two wings of a bird or two wheels of a cart for building China into a law based country.[73] The path for China's own rule of law development and the clear role that the rule of law plays in social development have made the Chinese government realize that the rule of law should be effectively utilized in handling international affairs. From the perspective of historical development, China had a period when legal principles were not emphasized, the legal system was not established, laws were not recognized, and the rule of law was not respected. During that period, China was socially chaotic, culturally increasingly impoverished, and economically had little growth.[74] This means that the legal system and social development are positively correlated, and promoting the rule of law means promoting the overall cause of a country.[75] It is precisely because of this consciousness that China has paid particular attention to the social role of law since 1978

72 In the "July 1st Speech," XI Jinping states that after the Opium War of 1840, however, China found itself plunged into a semi-feudal and semi-colonial society. It endured intense humiliation, its people were pushed into darkness, and the ancient Chinese civilization lost its way. The CPC led the Chinese people in fighting with unyielding determination. Fighting as armed revolutionaries through the Northern Expedition, the Agrarian Revolutionary War, the War of Resistance against Japanese Aggression, and the War of Liberation, they defeated the counterrevolutionaries, shattered the three mountains of imperialism, feudalism, and bureaucrat-capitalism, and founded the People's Republic of China in 1949. They secured the independence of the nation, liberated the Chinese people. All the unequal treaties imposed on China by imperialist powers and all the privileges they had accorded themselves were abolished. This created the fundamental conditions for realizing national rejuvenation. In the course of building socialism, they overcame subversion, sabotage, and armed provocation by imperialist and hegemonic powers, and brought about the most extensive and profound social changes in the history of the Chinese nation. The policy of reform and opening up introduced in 1978 enabled China to transform itself from a highly centralized planned economy into a socialist market economy full of vitality, and from a largely closed country to one that is open to the world on all fronts. It also enabled China to achieve a historic leap from a country constrained by backward productive forces to the world's second largest economy.

73 Publicity Department of the CPC Central Committee, 中华人民共和国简史 (*A Brief History of the People's Republic of China*), 人民出版社 (People's Publishing House), and 当代中国出版社 (Contemporary China Publishing House), at 161–165 (2021).

74 See WU Guoyou, 中华人民共和国通史（1976—1992）(*The History of the People's Republic of China from 1976 to 1992*), Vol. 4, 广东人民出版社 (Guangdong People's Publishing House), at 44 (2020).

75 See LIU Yongyan, 法治是一个社会发展过程 (The Rule of Law Is the Process of Social Development), 5 法学论坛 (*Legal Forum*), (2007).

by actively fostering and improving the legal system, enhancing the training of legal professionals, and promoting legal research. As a result, China has rapidly grown from a country with relatively limited legal theoretical foundations to a legal country with a large-scale legal research taskforce, a comprehensive legal education system, and effective legal practice mechanisms.[76] It is precisely because of the sound legal system that social democracy, market economy, and cultural values, especially cultural confidence, have been effectively improved in China. The government's attention to the law and to the rule of law has been increasing.[77] The CPC and the Chinese government have put forward not only the concept of rule of law China, but also set a series of indicators and timetables for building a country, government, and society based on the rule of law.[78] It is against this macro background that the rule of law in foreign-related affairs emerges, and the philosophy of active participation in the rule of law in international affairs is progressively recognized.

Fourth, the Rule of Law Position in the Global Order. Among the many experience and lessons learned from China's 180 years of international legal practice, the most important involve the knowledge and skills of law, especially the ability to build international legal projects, which are irreplaceable for national development and rejuvenation. However, relative to China's vision in foreign relations, both China's theoretical and practical abilities in international legal practices badly need to improve. Therefore, we need to define our own position to uphold the image of China,[79] rather than allowing other countries to abuse various legal terms, wield the "rule of law" stick with false claims, exclude, threaten, and intimidate other countries, and use methods such as decoupling, cutting off supplies, and sanctions, to create confrontation[80] in order to force China to respond passively.

76 See GONG Pixiang, 当代中国法治发展道路的内在逻辑 (The Inherent Logic of the Development Path of the Rule of Law in Contemporary China), 5 江海学刊 (*Jianghai Academic Journal*), (2015).

77 See ZHANG Xianwen, 论中国特色社会主义法治道路 (Upholding the Socialist Rule of Law with Chinese Characteristics), 6 中国法学 (*China Legal Science*), (2009); GONG Pixiang, 中国特色社会主义法治道路的时代进程 (The Historical Process of the Socialist Rule of Law with Chinese Characteristics), 5 中国法学 (*China Legal Science*), (2015); JIANG Lishan, 中国法治道路初探（上、下）(Preliminary Study of the Ruel of Law Road in China) (Vol. 1 and Vol. 2), 3, 4 中外法学 (*Peking University Law Journal*), (1998).

78 Please specifically see 法治中国建设规划（2020—2025年）(2021年1月) (*The Plan on Developing the Rule of Law in China 2020–2025*) (Jan. 2021); 法治政府建设实施纲要（2015—2020年）(2015年12月) (*The Implementation Outline for Building a Law-Based Government 2015–2020*) (Dec. 2015); 法治政府建设实施纲要（2021—2025年）(2021年8月) (*The Implementation Outline for Building a Law-Based Government 2021–2025*) (Aug. 2021); 法治社会建设实施纲要（2020—2025年）(2020年12月) (*The Implementation Outline for Building a Law-Based Society 2020–2025*) (Dec. 2020).

79 See HAN Yuan, 全球化背景下的中国国家形象战略框架 (Strategic Framework for Building China's National Image in the Context of Globalization), 1 当代世界与社会主义 (*Contemporary World and Socialism*), (2006).

80 See XI Jinping, 让多边主义的火炬照亮人类前行之路——在世界经济论坛"达沃斯议程"对话会上的特别致辞（2021年1月25日，北京）(*Let the Torch of Multilateralism Light Up Humanity's Way Forward: Special Address at the World Economic Forum's "Davos Agenda" Dialogue*) (Jan. 25, 2021, Beijing), 人民日报 (*People's Daily*), p. 2, Jan. 26, 2021. See XI Jinping, 不忘初心，砥砺前行，开启上海合作组织发展新征程——在上海合作组织成员国元首理事会第二十一次会议上的讲话 (Staying True to Our Founding Mission and Forging Ahead on a New Journey of SCO Cooperation: Statement by XI Jinping at the 21st Meeting of the Council of Heads of State of the Shanghai Cooperation Organization) (Sep. 17, 2021), 人民日报 (*People's Daily*), p. 2, Sep. 18, 2021.

Since it has been fully demonstrated internationally that the effective use of international law is crucial for a country to run an open economy, China has every reason to foster a clear philosophy and build a solid and refined project in the field of international law, and has every reason to make its own contribution to the system and process of international law. However, although the numbers of international conventions and organizations we participate in are increasing, we have very few dominant international legal norms and mechanisms.[81] Professionals who can thoroughly understand and skillfully apply international law are still not meeting the needs of foreign relations development in our country.[82] Whether it is to safeguard national sovereignty, security, and development interests, or to promote the internationalization of enterprises and citizens and protect their overseas interests, China needs to develop a sound talent pool, organizational structure, and institutional system to effectively provide legal services for foreign-related activities of enterprises and citizens. In terms of institutions, knowledge, talent, or organization in China, we still fall far short of the required standards.[83] Westerners often say, "International law is at the vanishing point of law."[84] This situation is equally applicable in China. In many cases, the law community in China tends to automatically ignore the relevant issues of international law when discussing legal problems. Even when discussing the concepts, attributes, and functional values of law, the focus is often solely on domestic law, without considering international law. This often leads to a situation where the legal theories and rule of law framework in China are primarily based on domestic law.[85] This clearly hinders the open development of China and its ability to protect its interests in the international community through legal means. In recent years, China has become increasingly aware of the need for the rule of law in foreign-related affairs and the importance of this field. Therefore, it has specified that China should take active actions to form an effective work

81 See LIU Nanlai, 大力加强国际法人才培养 (Promote the Training of International law Talents), 中国社会科学报 (*Chinese Social Sciences Today*), p. 2, Aug. 7, 2008.

82 See XI Jinping, 为做好党和国家各项工作营造良好法治环境——在中央全面依法治国委员会第二次会议上的讲话（2019年2月25日，北京） (Creating a Favorable Legal Environment for the Work of the Party and the State: Speech at the Second Meeting of the Central Committee for Comprehensive Law-Based Governance) (Feb. 25, 2019, Beijing), in 论坚持全面依法治国 (*Advancing the Law-Based Governance*), 中央文献出版社 (Central Party Literature Press), at 257 (2020).

83 Regarding the discussion on the cultivation of legal professionals in the field of foreign-related rule of law, please refer to the following articles. DU Chengming & KE Jingjia, 论涉外法治人才国际化培养模式之创新 (On the Innovation of Internationalized Cultivation Model of Legal Professionals in the Field of Foreign-Related Rule of Law), 1 现代大学教育 (*Modern University Education*), (2017); QU Wensheng, 建设涉外法治工作队伍需要法律外语人才 (The Construction of Workforce for Foreign-Related Rule of Law Requires Legal Language Professionals), 7 中国高等教育 (*China Higher Education*), (2017).

84 Lauterpaht H., The Problem of the Revision of the Law of the War, 29 *British Year Book of International Law*, 360–382 (1952).

85 Some scholars, when discussing the construction of a rule of law in China and the comprehensive implementation of the rule of law, have not given sufficient attention to the international dimension of the rule of law and lack a clear understanding of it. For example, LI Lin & MO Jihong, 全面依法治国　建设法治中国 (*Exercising Law-Based Governance on All Fronts and Advancing the Rule of Law in China*), 中国社会科学出版社 (China Social Sciences Press), (2019). There is no discussion on international law.

system.[86] This is a critical reason why China actively promotes the rule of law in foreign-related affairs and strives to create a legal environment and atmosphere in the international community.

History has proven that the more developed a country is, the more it values international collaborative development. Countries that can fully utilize both domestic and international resources, as well as domestic and international markets, have a stronger foundation for development and have more sustainable development capabilities. In China's path of economic, social, cultural, and technological development, its dependence on the international community has been increasing, and its contribution to the international community has also been growing. It is precisely based on this historical context that China has put forward the work orientation of advancing the rule of law in domestic and foreign-related affairs in a coordinated manner. This is a strategic choice full of wisdom and in tune with the needs of the times. In the process of building a great modern country, China has increasingly realized that a rising country can only create a just image of itself if it aligns with international law. Only by using the rule of law to express its own position and protect its own interests can China gain recognition and respect from the international community. Therefore, China's international status and its own experience in the rule of law constitute the logical starting point for actively promoting the rule of law in foreign-related affairs.

C | The Concept of the "Rule of Law in Foreign-Related Affairs" Requires an Invention of Terminology

The introduction of the concept of the "rule of law in foreign-related affairs" largely reflects the inevitable institutional requirements of China's practice and development towards an outward-driven approach. It also signifies the importance of further achievements in China's modernization of the rule of law. Unlike the United States or European countries, which choose "foreign relations law" or "the rule of law in foreign relations," China uses the terminology of "the rule of law in foreign-related affairs."[87] From the perspective of external effects, China's terminology can be considered a new concept. With adoption of a pre-established concept in this regard, China might be subjected to various judgments by some governments or scholars for citing the terminologies established by the United States or Europe,[88] such that China could be seen to imitate and follow. China's open development has its own laws and problems. When learning from and drawing on external experience, it is important not to simply duplicate or be

86 See XI Jinping, 以科学理论指导全面依法治国各项工作——在中央全面依法治国工作会议上讲话 (2020年11月16日, 北京) (Guiding the Law-Based Governance with Well-Conceived Theory: Speech at the Central Conference on the Rule of Law) (Nov. 16, 2020, Beijing), in 论坚持全面依法治国 *(Advancing Law-Based Governance on All Fronts*), 中央文献出版社 (Central Party Literature Press), at 5 (2020).

87 Elaboration on relevant practices outside the field, see Young, E. A., "Foreign Affairs Federalism in the United States," in Bradley C A, ed., *The Oxford Handbook of Comparative Foreign Relations Law*, Oxford University Press, at 259–275 (2019); Cremona M, & de Witte B, eds., *EU Foreign Relations Law: Constitutional Fundamentals*, Hart Publishing, p. xi (2008) .

88 The comparative practices of states in the field of international relations law, please refer to Bradley CA, ed., *Comparative Foreign Relations Law*, Oxford University Press, (2019) .

constrained by specific concepts. Therefore, China uses the terms "legal work in foreign-related affairs" and "rule of law in foreign-related affairs" to effectively avoid conceptual confusion and unnecessary comparisons and constraints imposed by terminology. This enables China's rule of law in foreign-related relations to proceed towards its goals without burdens and with greater flexibility.

From the perspective of the subject and field of work, there are differences between the rule of law in foreign-related affairs and the rule of law in international affairs.[89] Any legal rule construction and implementation with international characteristics carried out by any country can be regarded as part of the rule of law in international affairs. However, from a national perspective, the formulation and operation of these laws are not all related to the country itself. The rule of law system and process in international affairs that are unrelated to the country itself are not considered as rule of law in foreign-related affairs from the national perspective. In short, the rule of law in foreign-related affairs focuses on a single country's perspective, based on whether or not it is related to a country. The rule of law in international affairs, on the other hand, focuses more on a cross-border perspective, in which any legal rule construction and implementation with international characteristics, regardless of whether or not it is related to a specific country, should be the rule of law in international affairs. As such, three conclusions can be drawn, as follows. First, a country can participate in the process of the rule of law in international affairs, but it cannot completely dominate and coordinate the process of the rule of law in international affairs. China's terminology of advancing the rule of law in domestic and foreign-related affairs is appropriate. Second, the rule of law in international affairs can be regarded as the sum of all countries' rule of law in foreign-related affairs in the world. This inevitably means that whether it is unilateral, bilateral, or multilateral, the rule of law in international affairs can always be attributed to the rule of law in foreign-related affairs of one or several countries. No issues of rule of law in international affairs is unrelated to any country's concerns about external exchange, and no norm or action of the rule of law in international affairs can be attributed to the rule of law in foreign-related affairs of any country. Third, the rhythm and progress of the rule of law in international affairs largely depend on the participating attitudes and dominant approaches of countries towards the rule of law in foreign-related affairs. Without a country taking the initiative to actively participate and make contributions in the field of rule of law in foreign-related affairs, the rule of law in international affairs simply cannot exist. The stance that a country adopts in the rule of law in foreign-related affairs, such as a unilateral interest stance or a global interest stance, determines the fundamental principles and values demonstrated in the rule of law in international affairs.

89 See HE Zhipeng, 涉外法治：开放发展的规范导向 (The Rule of Law in Foreign-Related Affairs: Normative Orientation of Open Development), 5 政法论坛 (*Tribune of Political Science and Law*), (2021).

III The Goal Setting and Mode Selection of China's Building of the Rule of Law in Foreign-Related Affairs

Through exploration and analysis of international relations history and China's modern and contemporary history, we understand that the macro philosophy of China's promotion of the rule of law in foreign-related affairs involves drawing on the experience of countries evolving into global powers and meeting the needs of China's growth in becoming a global major country. To this end, China must have explicit working methods and specific measures to deliver the specific goals in the rule of law in foreign-related affairs.

A | The Dual Goals of China's Advancing the Rule of Law in Foreign-Related Affairs

The pre-existing series of government documents indicate that China is pursuing two specific but interrelated goals in advancing the rule of law in domestic and foreign-related affairs in a coordinated manner.

1. Safeguarding National Sovereignty, Security, and Development Interests. Advancing the rule of law in foreign-related affairs primarily aims to resolutely uphold China's national sovereignty, security, and development interests, and "to enhance the military's strategic capacity to protect the sovereignty, security, and development interests of our country."[90] This is critical to China's survival and development, and it is also a red line in China's external exchanges. Any country attempting to challenge China's red line relating to sovereignty, security, or development, in any way, will undoubtedly be met with strong opposition from the Chinese government and Chinese people. In the path to a great modern nation, China is committed to resolutely upholding national interests, seeing them as the basis for external policy formulation, and safeguarding China's national security.[91] Recently, a clear example in this regard is that the attempt by Chinese Taiwan to join certain economic cooperation mechanisms has been fended off with China's strong opposition. While focusing on national interests, the Chinese government also cares about the overseas interests of Chinese citizens. In the course of integrating with the world, China sees significant presence of Chinese companies and citizens engaging in activities overseas, and numerous legal issues have emerged in various part of the world. These issues include regular legal questions as well as irregular events, such as certain countries unjustifiably restrict and punish Chinese citizens and enterprises. In this context, China, as a developing country and a nation that prioritizes its people and serves them, cannot disregard these issues. Therefore, China works to provide legal support and services by advancing the rule of law in domestic and foreign-related affairs in a coordinated manner for more effectively safeguarding the overseas interests of Chinese enterprises and citizens.

2. Providing the Chinese Approach to the World Order. Assuming that national interests and security are ensured, China then

90 See fn. 69.

91 See ZHANG Yuyan, 习近平新时代中国特色社会主义外交思想研究 (*XI Jinping Thought on Diplomacy with Chinese Characteristics for a New Era*), 中国社会科学出版社 (China Social Sciences Press), at 40–48, 63–68 (2019).

needs to seek the alignment of its national interests with the common interests of all countries, and coordinate its own security with common security.[92] International law is the culmination of human civilization.[93] To assume its responsibilities, China must make good use of international law to express its expectations and concerns about the world order in accordance with international law. "Dedicated to peace, development, cooperation, and mutual benefit, China will remain committed to an independent foreign policy of peace, promoting diplomatic exchanges at all levels and in various fields. We will work to build a new type of international relations and a human community with a shared future. We will work to develop relations with other major countries, to deepen relations with neighboring countries, to strengthen unity and cooperation with developing countries, to actively develop global partnerships. We will uphold the principles of multilateralism and consultation, make joint contributions and share benefits. China will actively participate in the reform and construction of the global governance system, strengthen the development of its foreign-related legal system, enhance the application of international law, safeguard the international system centered around the United Nations and the international order based on international law, and jointly address global challenges. We will actively participate in international cooperation to prevent and control major infectious disease, and promote the construction of a global community of health for all people."[94] The core principle and leading goal of advancing the rule of law in domestic and foreign-related affairs in a coordinated manner is to ensure the healthy, stable, and sustainable development of China. Following this principle and goal, China, as a responsible major country, undertakes the responsibility to participate in global governance and lead the international order, which also creates a favorable external environment for China's development. Therefore, in the early 21st century, since 2012, China has put forward the concept of a harmonious world and has begun to promote the philosophy of a human community with a shared future in the international community.[95] This is evidence of China's increasingly explicit expression of its own position and aspirations in the international community.

This goal of building a human community with a shared future represents China's position and approach in response to the global changes of a magnitude not seen in a century. It combines China's own development, especially China's construction of a strong, prosperous, democratic, culturally advance socialist country, and the active promotion of national rejuvenation, with the overall framework and macro-order of the international community.

B | The Two Modes of China's Promoting the Rule of Law in Foreign-Related Affairs

Based on the specific goals of the rule of law

92 Id. at 48–52, 69–71.
93 See LIU & YUAN, fn. 23 at 2.
94 See fn. 69.
95 See FENG Yujun, 构建以人类命运共同体为导向的涉外法治体系 (Building a Human Community with a Shared Future and Focusing on the Rule of Law System in Foreign-Related Affairs), 学习时报 (*Study Times*), p. 2, Apr. 16, 2021.

in foreign-related affairs, we can effectively explore the basic approaches to advancing the rule of law in domestic and foreign-related affairs in a coordinated manner. This essentially involves analyzing the relevant practical logic. The two modes in advancing this are that of struggle and that of cooperation.

1. The Mode of Struggle. In numerous important speeches, XI Jinping has called for the demonstration of stronger vigilance and for always being prepared for potential danger, even in times of calm. "We must adopt a holistic approach to national security that balances development and security imperatives, and we must implement the national rejuvenation strategy within a wider context of the once-in-a-century changes taking place in the world. We need to acquire a full understanding of the new features and requirements arising from the change to the principal contradiction in Chinese society and the new issues and challenges stemming from a complicated international environment. We must be both brave and adept in carrying out our struggle."[96] "Through courage and skill, we will overcome all major risks and challenges that may impede our path to national rejuvenation and resolutely safeguard our national sovereignty, security, and development interests."[97] The mode of struggle in the rule of law in foreign affairs can be understood from three aspects. First, the struggle between humanity and natural risks and technological risks in the field of rule of law in foreign-related affairs, especially in the areas of environment, resources, climate, and diseases, requires proactive responses and active struggle. Second, reflecting international political, economic, and cultural struggles in the rule of law, at the level of safeguarding national sovereignty, security, and development interests, China should adopt a cooperative approach to problem-solving where relevant countries are willing to actively cooperate. However, if any countries persist in suppressing, restraining, or encircling China, China may resort to a struggle approach. In particular, if certain countries harm the interests of Chinese enterprises and citizens through their "long-arm jurisdiction" and impose sanctions on Chinese industries, China shall resolutely impose counter-sanctions and countermeasures.[98] Meanwhile, China will firmly adopt a struggle approach to counteract negative trends and unhealthy practices in the international community, especially false multilateralism and the exercise of hegemony in the name of "rule of law" and other similar behaviors.[99] China shall retaliate against these behaviors with

96 See XI, fn. 54.

97 XI Jinping, 在纪念辛亥革命110周年大会上的讲话（2021年10月9日）(Speech at a Meeting Marking the 110th Anniversary of the Revolution of 1911) (Oct. 9, 2021), 人民日报 (*People's Daily*), p. 2, Oct. 10, 2021.

98 See HU Jingjing, 积极构建我国涉外法治禁诉令制度 (Building an Anti-Suit Injunction System in China's Rule of Law in Foreign-Related Affairs), 中国社会科学报 (*Chinese Social Sciences Today*), p. 4, Aug. 11, 2021.

99 XI Jinping proposed that we oppose distorting international law and using the name of the "rule of law" to infringe upon the legitimate rights and interests of other countries and disrupt peace and stability. XI Jinping，弘扬和平共处五项原则，建设合作共赢美好世界（2014年6月28日）(Promoting the Five Principles of Peaceful Coexistence and Building a Beautiful World of Cooperation and Win-Win) (Jun. 28, 2014), in 论坚持推动构建人类命运共同体 (*Building a Human Community with a Shared Future*), 中央文献出版社 (Central Party Literature Press), at 134 (2018).

determination.[100] Third, the extension of domestic legal struggles to the international arena, particularly in the areas of anti-corruption, anti-graft, and international fugitive repatriation, is essentially the geographical expansion and institutional linkage of China's domestic anti-corruption campaign and fugitive repatriation efforts. China strives to achieve this struggle through coordination and cooperation with other countries, aiming to build a sound social governance environment. All these aspects require the establishment of a sense of struggle, the enhancement of the mentality of struggle, and the improvement of the level of struggle within the framework of the rule of law. In the specific working process, cooperation is promoted through struggle, and victory in the struggle is ensured through cooperation.[101]

2. The Mode of Cooperation. The Chinese government has issued numerous documents expressing its stance and delivered speeches at international conferences on advancing the rule of law through cooperation. In 2017, XI Jinping proposed that an enduring peace should be achieved through dialogue and consultation, universal security should be built through joint construction and shared development, a win-win legal system should be established to foster common prosperity in the global economy, an open and inclusive international environment should be formed through cultural exchanges and mutual learning, and a clean and beautiful world should be constructed through green, low-carbon, circular, and sustainable production and lifestyles.[102] The concepts and models of cooperation exist in various fields of international relations, and are particularly prominent in various aspects of China's development. The following are the most noteworthy manifestations.

Firstly, in the setting of the concept of rule of law in foreign-related affairs, China advocates cultural diversity and diverse civilizations. The international community has long believed in the conflict among civilizations and confrontations among ideologies, which in some cases have played a significant role in international relations. As a nation that has experienced humiliation from imperial powers, the Chinese people strongly advocate respecting different cultures and enabling mutual respect and equal treatment of different ideological traditions and regional customs. We should appreciate the strength of each culture, seek common ground while respecting differences, avoid cultural chauvinism, and guard against discriminatory practices based on ideology that suppress and discriminate against other countries in international relations. Through these efforts, an open and cooperative environment based on the concept of rule of law can be constructed, promoting the healthy development of the

100 "We must practice true multilateralism, effectively abide by and implement international rules, and not use them when they suit us and discard them when they do not." XI Jinping, 共同构建地球生命共同体——在《生物多样性公约》第十五次缔约方大会领导人峰会上的主旨讲话 (2021年10月12日) (Building a Shared Future for All Life on Earth: Keynote Speech at the Leaders' Summit of the 15th Conference of the Parties to the Convention on Biological Diversity) (Oct. 12, 2021), 人民日报 (*People's Daily*), p. 2, Oct. 13, 2021.

101 See WANG Haijun, 追逃追赃的中国策略与国际合作 (China's Strategy and International Cooperation in Repatriating Fugitives and Recovering Stolen Assets), 1 社会观察 (*Observation of Society*), (2015).

102 See XI Jinping, 论推动构建人类命运共同体 (*Building a Human Community with a Shared Future*), 中央文献出版社 (Central Party Literature Press), at 418 (2018).

rule of law. This largely requires international law to go beyond the previous "European law"[103] and to continue the characteristics of cultural integration,[104] further expressing China's advocacy for global order. The Chinese nation inherits and pursues the concept of peace, harmony and stability. We have not and will not invade or bully others, nor will we seek hegemony. Since Mao Zedong, successive leaders of China in the People's Republic of China have clearly stated that China will not become a hegemonic power.[105] XI Jinping also emphasizes that "The Chinese nation does not carry aggressive or hegemonic traits in its genes."[106] "We should keep moving toward a humane community with a shared future, and jointly create a better future. To build a humane community with a shared future is not to replace one system or civilization with another. Instead, it is about countries with different social systems, ideologies, histories, cultures and levels of development coming together for shared interests, shared rights and shared responsibilities in global affairs, and creating the greatest synergy for building a better world."[107]

Secondly, in the overall structure of the rule of law in foreign-related affairs, China advocates a pattern of multilateral collaboration and solidarity. Currently, many armed conflicts in the international community, such as the Iraq War and the Afghanistan War, to some extent, reflect the power of capital.[108] This makes it difficult to foster a united and development-oriented order in the international community. Although in certain situations, certain major countries may provide public goods for the international community, these public goods come with their own costs and are also severely inadequate.[109] The international order advocated by China

103 Regarding the study on International Law as European Law, please refer to Gozzi G., *Rights and Civilizations: A History and Philosophy of International Law*, Cambridge University Press, at 111–112 (2019).

104 See Becker Lorca A, *Mestizo International Law: A Global Intellectual History 1842–1933*, Cambridge University Press, at 13–37 (2016).

105 Historical experience has shown that the Soviet Union, by neglecting the specific national conditions of other countries and adopting an "us versus them" mentality, damaged both international relations and its own development. The author of this book, 社会主义发展简史 (*A Brief History of Socialist Development*), 人民出版社 (People's Publishing House), 学习出版社 (Xue Xi Chu Ban She), at 128 (2021).

106 See XI Jinping, 弘扬和平共处五项原则，建设合作共赢美好世界 (2014年6月28日) (Champion the Spirit of the Five Principles of Peaceful Coexistence and Building a Beautiful World of Win-Win Cooperation) (Jun. 28, 2014), in 论坚持推动构建人类命运共同体 (*Advancing the Building of a Human Community with a Shared Future*), 中央文献出版社 (Central Party Literature Press), at 134 (2018). Also see, "The Chinese nation does not have the genes of aggression and hegemony in its blood. The Chinese people not only hope for their own development, but also for the people of all countries to have a happy and peaceful life." XI Jinping, 在纪念辛亥革命110周年大会上的讲话（2021年10月9日）(Speech at a Meeting Marking the 110th Anniversary of the Revolution of 1911) (Oct. 9, 2021), 人民日报 (*People's Daily*), p. 2, Oct. 10, 2021. "Peace, harmony, and mutual understanding have been the ideals pursued and inherited by the Chinese nation for over 5,000 years. The Chinese nation does not have the genes of aggression and hegemony in its blood." XI Jinping, 在庆祝中国共产党成立100周年大会上的讲话 (2021年7月1日) (Speech at a Ceremony Marking the Centenary of the Communist Party of China) (Jul. 1, 2021), 人民日报 (*People's Daily*), p. 2, Jul. 2, 2021.

107 XI Jinping, 在中华人民共和国恢复联合国合法席位50周年纪念会议上的讲话（2021年10月25日）(Speech at the Conference Marking the 50th Anniversary of the Restoration of the Lawful Seat of the People's Republic of China in the United Nations) (Oct. 25, 2021), 人民日报 (*People's Daily*), p. 2, Oct. 26, 2021.

108 See Tzouvala, N., *Capitalism As Civilization: A History of International Law*, Cambridge University Press, at 167–211 (2020).

109 See ZHANG Jianxin, 霸权、全球主义和地区主义——全球化背景下国际公共物品供给的多元化 (Hegemony, Globalism, and Regionalism: The Diversification of Supplies of International Public Goods in the Context of Globalization), 8 世界经济与政治 (*World Economics and Politics*), (2005).

tends to prioritize rules and organizations that are recognized by the international community, while opposing actions by certain countries or groups of countries dominated by their own political positions and cultural biases.[110] The organizational and regulatory systems of the international community should not be a one-man show by certain countries, but collaboration and participation must be on the basis of mutual benefit and win-win cooperation, with contributions made in a united manner towards a common goal. Regardless of size, strength, or wealth, all countries are equal members of the international community and have the right to equal participation in international affairs.[111] China positions itself as a proactive promoter of the international order; therefore, it pays attention to the future and destiny of humanity, and works hand in hand with all progressive forces in the world. China will remain a champion of world peace, a contributor to global development, and a defender of international order.[112] On the precondition that its own existence is not threatened, China actively advocates respecting sovereignty and promoting traditional international law values such as independence and equality.[113] Furthermore, China advocates the establishment of a human community with a shared future, contributing to the common values of peace, development, fairness, justice, democracy, freedom, and other human values.[114] To build peace in military matters, to advance improved political governance, to foster sound economic cooperation, to promote cultural integration, and to actively restore and develop the environment, particularly in non-traditional security areas, the international community needs to work together to address a series of issues including food security, energy security, cyber security, and the collective response to pandemics. This proposition requires all actors in the world to strive towards a common goal, rather than pursuing self-interest, causing trouble for other countries, or beggaring their neighbors. Only a legal and organizational system that is designed for the common interests of humanity can lead to a favorable pattern for a sustainable future.

Thirdly, on the matter of the rule of law in foreign-related affairs, China strives to promote a legal order based on consultative democracy and mutual benefit. For a considerable period of time, there has been a deficit of democracy[115] in the international

110 See CAI Tuo & YANG Hao, 国际公共物品的供给：中国的选择与实践 (Providing International Public Goods: A Case Study of China's Contribution to the UN Regular Budget), 10 世界经济与政治 (*World Economics and Politics*), (2010); CAI Tuo, 中国提供国际公共物品的理论思考 (Theoretical Reflection on China's Provision of International Public Goods), 4 国际政治研究 (*The Journal of International Studies*), (2012).

111 See XI Jinping, 积极树立亚洲安全观，共创安全合作新局面——亚洲相互协作与信任措施会议第四次峰会上的讲话 (2014年5月21日, 上海) (New Approach for Asian Security Cooperation: Speech at the Fourth Summit of the Conference on Interaction and Confidence Building Measures in Asia) (May 21, 2014, Shanghai), in 论推动构建人类命运共同体 (*Building of a Humane Community with a Shared Future*), 中央文献出版社 (Central Party Literature Press), at 112 (2018).

112 See XI, fn. 54.

113 See Pitts J., *Boundaries of The International: Law and Empire*, Harvard University Press, at 148 (2018).

114 See ZHANG, fn. 91 at 106–135, 214–244.

115 See LIU Zhiyun, 论全球化进程中“民主赤字”的消除 (Eliminating "Democratic Deficit" During the Globalization Process), 1 社会科学 (*Journal of Social Sciences*), (2006); TAO Wenzhao, 全球民主赤字的成因及治理 (Causes and Governance of Global Democratic Deficit), 4 理论与改革 (*Theory and Reform*), (2005).

community, manifested prominently by certain major powers dominating the legal norms, values, and operations of the international community. These powers manipulate international legal mechanisms without considering the common will and interests of humanity, nor the positions of relevant countries, denying the opportunity for countries, especially smaller ones, to express their own opinions. This has resulted in a significant political decision-making gap in the international community. As a country that has long been a small player in the international community, China has a deeper understanding of the feeling of marginalization. Based on such experience, China proposes that in the process of establishing norms and forming organizations, particular attention should be given to providing small countries with opportunities to express their opinions and participate in decision-making. This approach will contribute to a better-planned legal system and increase the likelihood of constructing good governance in the international community. In terms of the economy, China advocates the integration of Chinese market into the global market and the advancement of globalization. China once had concerns about economic globalization and felt uncertain about joining the World Trade Organization. However, integration into the world economy is the historical trend. If China wants to develop its economy, China must have the courage to face the challenges and must swim in the vast ocean of the global market.[116] Through the operation of globalization, it is necessary to come to fruition that benefit all participants. We should build an open world economy, uphold the multilateral trading regime, discard discriminatory and exclusionary standards, rules and systems, and take down roadblocks to trade, investment and technological exchanges.[117] We need to engage in cooperation for win-win results, stay committed to openness, connectivity and mutual benefits, build an open global economy, and reinforce cooperation within the G20, APEC and other multilateral frameworks. We should promote trade and investment liberalization and facilitation, uphold the multilateral trading system, and jointly foster new technologies, new industries and new forms and models of business. This way, we will make economic globalization more open, inclusive, balanced and beneficial to all.[118]

Fourthly, in terms of the substantive standards of the rule of law in foreign-related affairs, China advocates the establishment of a normative system that embodies fairness, justice, and equal development. "The UN must stand firm for justice. Mutual respect and equality among all countries, big or small, represents the progress of our times and is the foremost principle of

116 See XI Jinping, 共担时代责任共促全球发展——在世界经济论坛2017年年会开幕式上的主旨演讲 (2017年1月17日，达沃斯) (Shoulder the Responsibilities of Our Time and Promote Global Growth Together: Keynote Speech at the Opening Ceremony of the World Economic Forum 2017 in Davos, Switzerland) (Jan. 17, 2017, Davos), in 论推动构建人类命运共同体 (*Promoting the Development of a Human Community with a Shared Future*), 中央文献出版社 (Central Party Literature Press), at 402 (2018).

117 See XI, fn. 80.

118 See XI Jinping, 在博鳌亚洲论坛2018年年会开幕式发表主旨演讲（2018年4月10日）(Keynote Speech at the Opening Plenary of the Boao Forum for Asia Annual Conference 2018) (Apr. 10, 2018), 中央文献出版社 (Central Party Literature Press), at 523 (2018).

the UN Charter. It is imperative that the representation and voice of developing countries be increased so that the UN could be more balanced in reflecting the interests and wishes of the majority of countries in the world."[119] The development gap in international relations and international law, particularly the digital divide that has emerged in the era of the digital economy, is a serious issue that the international community must address. As a major developing country and an emerging market economy, China has a deep understanding and clear value orientation towards creating an environment of common prosperity on the international level. China hopes that the future international legal framework will contribute to the substantial progress of developing countries, and actively promote and achieve the principles of the New International Economic Order proposed in the 1960s, through sound legal norms in the 21st century. In terms of environmental protection, China is promoting eco-civilization construction, advocating green development, and addressing environmental challenges. "We need to uphold the principle of common but differentiated responsibilities, ensure fair and equitable sharing of benefits, and accommodate developing countries' concerns over funding, technology and capacity building.[120] In the fight against COVID-19 pandemic, China also advocates solidarity and cooperation to create a future of health and security, scaling up information sharing and collective efforts, enhancing public health and medical cooperation, and giving full play to the key role of the World Health Organization. It is important that China bolster international cooperation on the R&D, production and distribution of vaccines and increase their accessibility and affordability in developing countries so that everyone in the world can access and afford the vaccines they need.[121]

Fifthly, in terms of the operational mechanisms of the rule of law in foreign-related affairs, China actively advocates action-oriented approaches rather than empty talk. Historically, discussions within the international community on the formulation, improvement, or planning of legal norms or international organizational structures often get stuck in lengthy debates and repeated consultations, making it difficult to generate effective measures at the operational level. In such circumstances, the public may lose confidence and trust in international legal mechanisms, while participants in these legal mechanisms may lack a clear sense of direction for future development. The relevance of law lies in its enforcement. The relevance of law also lies in fairness and justice.[122] As a country that has

119 XI Jinping, 在联合国成立75周年纪念峰会上的讲话（2020年9月21日，北京）(Speech at the United Nations 75th Anniversary Commemoration Summit) (Sep. 21, 2020, Beijing), 人民日报 (*People's Daily*), p. 2, Sep. 22, 2020.

120 See XI Jinping, 在联合国生物多样性峰会上的讲话 (2020年9月30日, 北京) (Statement at the United Nations Summit on Biodiversity) (Sep. 30, 2020, Beijing), 人民日报 (*People's Daily*), p. 2, Oct. 1, 2020.

121 See XI Jinping, 同舟共济克时艰，命运与共创未来——在博鳌亚洲论坛2021年年会开幕式上的视频主旨演讲（2021年4月20日，北京）(Pulling Together Through Adversity and Toward a Shared Future for All: keynote Speech Delivered via Video Link at the Opening Plenary of the Boao Forum for Asia Annual Conference 2021) (Apr. 20, 2021, Beijing), 人民日报 (*People's Daily*), p. 2, Apr. 21, 2021.

122 See XI Jinping, 坚持推进构建人类命运共同体 (*Building of a Human Community with a Shared Future*), 中央文献出版社 (Central Party Literature Press), at 417 (2018).

long advocated that "actions speak louder than words," China particularly opposes turning international organizations into mere talk shops and turning international legal mechanisms into nominal rulebook without substance. China emphasizes the importance of solid and effective actions that contribute to economic development, ensuring that relevant plans can truly bring tangible benefits to people. Therefore, China makes distinct and effective commitments at many international conferences, promoting the robust operation of international mechanisms. This serves as a leading and exemplary role for many countries, and this strengthens the cooperative foundation of the rule of law in international affairs, instilling confidence in global cooperation on the rule of law among people worldwide. In practice, we see that the Chinese government adopts a proactive approach to issues such as fugitive repatriation and asset recovery, ensuring full communication with various countries. The Shanghai Cooperation Organization[123] and the Lancang-Mekong Cooperation[124] are both successful examples in the rule of law in regional affairs. China's Belt and Road Initiative is also a good attempt at developing economic cooperation among developing countries. China advocates establishment of a new development philosophy of innovation, coordination, environment-friendliness, openness, and sharing, to form a green development mode and lifestyle, and to build an eco-civilization and a beautiful earth. To effectively respond to climate change and align with the global green and low-carbon transformation represented by the Paris Agreement, China is actively working towards the rule of law in fighting climate change,[125] pledging to strive to peak carbon dioxide emissions before 2030 and achieve carbon neutrality before 2060.[126]

IV The Operating Model and Mode Chosen by China's International Law Professional Community

To effectively achieve the goal of rule of law in foreign-related affairs and to support the building of a great modern country, it is necessary for the Chinese international law professional community to deeply integrate and organically advance the rule of law in domestic and foreign-related affairs in a coordinated manner. This can be achieved through the development and enhancement of the community's concepts, capabilities, and actions.

123 See WANG Jincun, 具有历史意义的跨越——从"上海五国"到"上海合作组织" (A Historical Leap with Significance: From "Shanghai Five" to "Shanghai Cooperation Organization"), 9 世界经济与政治 (*World Economics and Politics*), (2001); XU Tao, 论上海合作组织的机制化 (The Institutionalization of the Shanghai Cooperation Organization), 6 现代国际关系 (*Contemporary International Relations*), (2003).

124 See LI Chenyang, 澜沧江－湄公河合作：机遇、挑战与对策 (Lancang–Mekong Cooperation: Opportunities, Challenges and Countermeasures), 1 学术探索 (*Academic Exploration*), (2016).

125 See XU Chongli, 《巴黎协定》制度变迁的性质与中国的推动作用 (China's Role in Promoting the Institutional Changes of the Paris Agreement), 6 法制与社会发展 (*Law and Social Development*), (2018).

126 See XI Jinping, 在第七十五届联合国大会一般性辩论上的讲话 (2020年9月22日, 北京) (Speech at the 75th General Debate of the United Nations General Assembly) (Sep. 22, 2020, Beijing), 人民日报 (*People's Daily*), p. 2, Sep. 23, 2021. XI Jinping reintegrated this pledge at the 15th Meeting of the Conference of the Parties to the Convention of Biological Diversity (Oct. 12, 2021), and at the World Economic Forum 2022.

Firstly, the Chinese international law professional community should consolidate tactical thinking and enhance strategic thinking.[127] Many scholars who closely follow the development of China's international affairs and carefully observe the situation of China's international law have clearly felt that there are strategic weaknesses in China's international legal affairs, namely, a tendency for passive responses rather than proactive planning. The core issue here is that the Chinese international law professional community has accumulated certain experience at the tactical level of international law, or more precisely, has had to deal with a series of pressures and challenges, thereby continuously improving its own capabilities. However, in terms of assessing the overall direction of international law and analyzing the future trends of international law, Chinese international law scholars often show less depth of thinking, thereby failing to make more distinct contributions. This to some extent restricts the cultural confidence and international professional influence of Chinese international legal practitioners. To effectively advance the rule of law in domestic and foreign-related affairs in a coordinated manner, the international law professional community in China must improve its strategic control over Chinese international law, especially in terms of understanding the current state and structure of international law in the context of international relations and China's development. It should be more possible to predict the trends and opportunities for changes in international law.

Secondly, the Chinese international law professional community should enhance theoretical research and deepen empirical techniques. Within the overall framework of law, legal studies, and the rule of law, China began to focus on international law research in the late 1970s and has since continuously combined it with the opening-up to the outside world. Efforts have been made to promote the building of legal systems, cultivate the mentality of the rule of law, enhance the concept of the rule of law, and build the capacity for the rule of law. Over the past 20 years, Chinese international law scholars have repeatedly emphasized the need to enhance the theoretical level of Chinese international law, particularly through solid research on fundamental issues.[128] In recent years, the UN International Law Commission has conducted discussions on a series of fundamental theoretical issues related to the origins of international law, particularly on the determination of customary international law, general principles of law, and jus cogens. The Chinese international law community has effectively kept up with these discussions. In the field of the development direction and value pursuit

127 See ZHAO Sanle, 中国具有国际战略思维 (China Has International Strategic Thinking), 中国社会科学报 (*Chinese Social Sciences Today*), p. 3, Apr. 17, 2019.

128 See HE Zhipeng, 中国特色国际法理论：问题与改进 (China's Theory of International Law with Chinese Characteristics: Issues and Improvements), 1 华东政法大学学报 (*ECUPL Journal*), (2013); TANG Yan, 建构国际法学“中国学派”：国际法理论研究的新路径 (Constructing a "Chinese School" of International Law: A New Path for International Law Theory Research), 南开法律评论 (*Nankai Law Review*), (2015); QIU Huafei & KONG Weiyi, 国际法的中国理论：现状与构建 (The Theory of International Law in China: Current Situation and Construction), 4 甘肃社会科学 (*Gansu Social Sciences*), (2021).

of international law, the community has also proposed many constructive concepts, such as humanism and co-building of international law, which represent welcome progress in the field of Chinese international law theory. Additionally, there is still room for improvement in the empirical research by the community. Although many academic achievements demonstrate solid empirical research skills and rigorous academic training, it is necessary to recognize that in many areas of international law, the empirical research conducted by Chinese scholars is still not deep nor detailed enough. This requires us to invest human resources and other resources in relevant fields, enabling the community to comprehensively grasp all aspects of the development of international law and avoid blind spots.

Furthermore, the community should not only be proficient in applying international law but should also be adept at creating international law. When examining the 180-year history of China's engagement with international law, both Chinese theorists and practitioners have made solid efforts in understanding and accepting international law. They have attempted to interpret concepts, analyze rules, and clarify principles.[129] However, China's contribution to the creation of new concepts, norms, principles, and ideas in international law has been limited.[130] The main contributors to China's major international order concepts have been politicians, and existing information does not provide evidence that politicians' new judgments, propositions, and ideas in international politics and international law are based on the arguments or suggestions of international law experts.[131] This implies that the Chinese international law professional community has not made sufficient contributions to advancing the development of international law domestically nor to leading in innovation of international law in the international community. If we aim to effectively advance the rule of law in domestic and foreign-related affairs, to safeguard the fundamental interests of China and its citizens, and to lead the healthy development of the international order, the Chinese international law professional community must not confine itself to interpreting pre-existing international law. Instead, China must be adept at observing and examining the current trends in international relations, and at proposing a series of new concepts, principles, norms, and judgments. By doing so, not only will the influence of the Chinese international law profession be enhanced, but also a milestone contribution will be reached on the path to the healthy development of the rule of law in international affairs.

Finally, the Chinese international law professional community should be able to respond to issues and challenges raised by other countries in the field of

129 See ZENG Lingliang, 论中国和平发展与国际法的交互影响和作用 (The Interaction Between China's Peaceful Development and International Law), 4 中国法学 (*China Legal Science*), (2006).

130 See YANG Zewei, 加强中国国际法理论与制度创新 (Enhancing China's International Law Theory and Institutional Innovation), 中国社会科学报 (*Chinese Social Sciences Today*), p. 5, Sep. 9, 2015.

131 See XU Chongli, "体系外国家"心态与中国国际法理论的贫困 (The Mentality of "Countries Outside the International Law System" and the Poverty of China's International Law Theory), 5 政法论坛 (*Tribune of Political Science and Law*), (2006).

international law and be able to raise its own issues and to exert pressure on relevant countries when appropriate.[132] This ability is directly related to the strategic planning capability and macro foresight mentioned above. Related to the above-mentioned strategic planning capability and macro foresight capability, China is generally in a passive state in international legal affairs. There are few opportunities China takes the initiative to raise issues and to question and investigate the positions and actions of relevant countries in international law. Some Chinese scholars argue that as a nation advocating peace, harmony, and stability, China should not advocate using international law as a leverage to swing the attitudes, positions, and actions of relevant countries, as it may constitute interference in their domestic affairs. This is clearly a misunderstanding. In international politics and international law, negative interference is more appropriately understood as using coercive tools to blackmail or restrain relevant countries from taking or not taking certain actions, with military intervention being the most obvious and most common form of interference.[133] In addition, economic interference, such as trade blockade, is also a very common means of interference. Using law as a tool to question the actions of other countries or to make a series of demands is not a coercive approach or an arbitrary interference in their domestic affairs. Particularly when law has become a recognized tool for good governance in the international community, China should actively apply legal means in both domestic and international orders.[134] Therefore, raising issues within the framework of the law, commenting on the situations of other countries, the words and actions of relevant individuals, using international channels to express opinions, and even demanding accountability through legal means when circumstances permit, are manifestations of China's enhanced legal capacity and important signs of advancing the rule of law, rather than a display of hegemony.

V Conclusion

China's call to step up the rule of law in foreign-related affairs and to advance the rule of law in domestic and foreign-related affairs in a coordinated manner are important steps along China's path towards becoming a great modern country in the context of the global landscape and China's development. The call is also essential so that China can build a civilization of institutions and contribute to the culture of

132 See CHEN Zhengliang et al., 国际话语权视阈下的中国国际议程设置能力提升研究 (Research on Enhancing China's Capacity to Set International Agenda from the Perspective of International Discourse Power), 3 中国矿业大学学报（社会科学版）(*Journal of China University of Mining & Technology* [*Social Sciences*]), (2014); REN Mengshan, 议程设置理论视域下的中国国家形象构建 (Building China's National Image from the Perspective of Agenda-Setting Theory), 11 东南传播 (*Southeast Communication*), (2008).

133 See CHENG Xiaoxia, 干涉与"国际干预"国际法的变与不变 (Interference and "International Intervention" in the Evolution and Non-Evolution of International Law), 5 法学家 (*The Jurist*), (2002).

134 In his speech at the second meeting of the Committee for Law-Based Governance on All Fronts, XI Jinping also explicitly mentioned this concept: "We need to highlight the rule of law, speak and act by the book, safeguard our country's political and economic security, and maintain the legitimate rights and interests of our country's entities and citizens." XI Jinping, 论坚持全面依法治国 (*Advancing Law-Based Governance on All Fronts*), 中央文献出版社 (Central Party Literature Press), at 256–257 (2020).

the rule of law worldwide. The recognition of the rule of law in foreign-related affairs should not be understood solely from the perspective of foreign-related work or the structure of the rule of law. Instead, it must be comprehensively understood and positioned within the overall development pattern of the world and the temporal and spatial framework of China's peaceful development and the great rejuvenation of the Chinese nation.[135] Therefore, the rule of law in foreign-related affairs is not only an important part of a rule of law China, but also an important part of China's development. It is not only part of the world's multi-polarization, but also China's response to the changes in the global system structure. It is a safeguard for China's institutional approach to the world.

Understanding and participating in China's advocacy and promotion of the rule of law in foreign-related affairs requires a comprehensive perspective. On the one hand, it is important to profoundly understand the framework of law-based governance. On the other hand, it is necessary to carefully observe China's overall position in the international community and the historical position of the Chinese nation and the Chinese people in today's international society. Through this positioning, we can have a macroscopic and holistic understanding of the essence and temporal significance of the rule of law in foreign-related affairs, as well as of the requirements for advancing the rule of law in domestic and in foreign-related affairs in a coordinated manner. Such positioning also enables us to make clear judgments on the effective ways and pace for advancement of the rule of law in foreign-related affairs.

The goal of advancing the rule of law in foreign-related affairs in China is twofold. On the one hand, it aims to effectively safeguard the country's sovereignty, security, and development interests. On the other hand, it seeks to build a fair and just international order. To achieve these objectives, both struggle and cooperation are needed to promote the rule of law in society. To enhance the quality and level of the rule of law in foreign-related affairs, and to advance the rule of law in domestic and foreign-related affairs in a coordinated manner, it is necessary to have a clear understanding. Only by prioritizing the concept of the rule of law can we ensure that the awareness of the rule of law in foreign-related affairs permeates all aspects, stages, and fields of legal work. This will also ensure that there is room for foreign-related affairs in institutional design, work deployment, and strategic planning, and will prevent issues such as narrow vision, rigid mindset, and outdated and conservative working methods. If central and local government agencies, educational institutions, research organizations, and local work departments, as well as overseas branches, embassies and consulates, and representative offices, can maintain a clear understanding of the global situation and international environment, the rule of law in China can be effectively safeguarded. The Chinese international law professional community needs to consolidate tactical

135 See the Editorial Group, 改革开放简史 (*A Concise History of Reform and Opening-Up*), 人民出版社 (People's Publishing House), and 中国社会科学出版社 (China Social Sciences Press), at 336–337 (2021).

thinking and enhance strategic thinking, strengthen theoretical research, and delve into empirical techniques. The community must be proficient in the application and creation of international law, and have the capability to respond to challenges and to initiate issues. Through a series of institutional design and norms, the international extension of China's legal work can be effectively promoted, and the level of the rule of law in foreign-related affairs can be enhanced. Only in this way can China truly construct a positive rule of law in foreign-related affairs, so as to better serve China's open development, and better contribute to the great project of national rejuvenation, becoming a world power with a leading cultural status.

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