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**Theory and Practice in China's
Approaches to Multilateralism
and Critical Reflections on
the Western 'Rules-Based
International Order'**

Volume 2021 Number 85

Anthony Carty and Jing Gu

October 2021

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Summary

China is the subject of Western criticism for its supposed disregard of the rules-based international order. Such a charge implies that China is unilateralist. The aim in this study is to explain how China does in fact have a multilateral approach to international relations. China's core idea of a community of shared future of humanity shows that it is aware of the need for a universal foundation for world order. The Research Report focuses on explaining the Chinese approach to multilateralism from its own internal perspective, with Chinese philosophy and history shaping its view of the nature of rules, rights, law, and of institutions which should shape relationships.

A number of case studies show how the Chinese perspectives are implemented, such as with regards to development finance, infrastructure projects (especially the Belt and Road Initiative), shaping new international organisations (such as the Asian Infrastructure Investment Bank), climate change, cyber-regulation and Chinese participation in the United Nations in the field of human rights and peacekeeping.

Looking at critical Western opinion of this activity, we find speculation around Chinese motives. This is why a major emphasis is placed on a hermeneutic approach to China which explains how it sees its intentions. The heart of the Research Report is an exploration of the underlying Chinese philosophy of rulemaking, undertaken in a comparative perspective to show how far it resembles or differs from the Western philosophy of rulemaking.

Keywords

multilateralism versus unilateralism; rules-based international order; community of shared future of humanity; Confucian philosophy of rulemaking and right/law; international law; Belt and Road Initiative; Asian Infrastructure Investment Bank; development finance; climate change; human rights; peacekeeping; global cyber-regulation.

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Executive Summary

The central issue addressed in this Research Report is to develop an internal perspective on China's approaches to multilateralism: a 'hermeneutic' of Chinese intentions. The Western perspective is an external one, based on observations of Chinese conduct and practice from which China's intentions in international relations are extrapolated. Problematically, the West also approaches China primarily from a realist paradigm and a self-understanding of being a community of values (values of democracy, human rights, and the rule of law) that form the indicators by which to judge China.

Getting closer to Chinese intentions through an alternative, internal perspective involves extensive reflections on Chinese theories of international law and international relations, Chinese views of the nature of rules and social organisation, and the place of the individual in the community as well as nations in world society. The question of how far theory informs Chinese institutional practice is explored through the Chinese perspective on a range of issues such as international law, human rights, climate change, cybersecurity, and international development finance. This is contrasted with Western critical reflections on Chinese practices and conduct, mainly from an external perspective. It is hoped that this exercise will highlight possible reasons for mutual misunderstandings and encourage constructive dialogue among Chinese and Western thinkers.

Four key aspects underline the theoretical foundations of China's approaches to multilateralism, spanning its engagement with international law and the rules-based international order in terms of its own renewed Confucian engagement with modernity.

1. On international law, China says it adheres to the United Nations (UN) Charter, its central principle of the sovereign equality of states and the principle of non-intervention. However, it sees that historically, and up to China's readmission to the UN in 1971, the West has not applied international law equally and fairly to China. Further, China does not believe that international law provides all the answers to the future development of world society. Instead, the way forward is to seek consensus while reserving differences, following the view of Zhou en Lai.
2. Liberal democracy and the rule of law is the standard that the West wants to see universally applied by all nations. In recognition of this, China offers its own vision of world society, namely adhering to the path of peaceful development and constructing a 'community of common destiny'. The report examines critical Chinese reflections on these Western standards in terms of an alternative Confucian philosophy

which China considers to be more appropriate to modern world society. This includes the idea of a hybrid democracy mainly managed by experts, education in a virtue ethics learned from the family and community, and a long-term global future shaped by compassion.

3. Within the general perspective of traditional Confucianism, Chinese anthropology reflects on differences in Chinese and Western concepts of the ethical individual. The absolute, transcendent and innate rights of the individual, as evolved through Western theology and philosophy, are contrasted with the Chinese vision of organic self-development of societies and of persons within societies. Rules and practices, known as rites, are a product of slow accumulation of habits that develop through interlocking networks of human relations.
4. The final issue is the relationship between the rule of law and the rule of virtue in Chinese public life or, in other words, official and representative views. Both are regarded as essential and need to work together in parallel. This means understanding the relation of state to civil society. While there is a place for civil society and non-governmental organisation in China, the state remains the primary voice. However, official Chinese thinking draws attention not only to the nation state but to the construction of a community of a shared future of humanity. As previously described, this is achieved organically through interlocking networks of relationships at a global level.

The international human rights order is the central area of contestation between China and the West. This report recognises that the Western view that human rights in China are limited is linked to the one-party-dominated Chinese communist state, and the Chinese system of government will always be regarded with a lack of trust by the West. It also accepts that, while civil society and non-governmental activity are encouraged in China, the state always remains in the driving seat. Opinions considered here recognize that democratisation in China has been very slow. Nonetheless, there is place to understand that there are Chinese approaches to human rights, just as there are different approaches to human rights in Western and other countries. This is seen in the areas of state sovereignty and intervention, the issue of cyber-sovereignty versus freedom of the web, the concept of developmental peace in the global South and, relatedly, the struggle over the meaning of human rights in the UN Human Rights Council.

With respect to sovereignty and foreign intervention, these appear completely prohibited in UN resolutions. However, there is ambiguity around the term 'intervention'. For the West, it means armed intervention and material assistance to armed subversion – but that is all. For China (and others), intervention also covers propaganda against a state with a view to undermining its authority and social stability. This tension

points to cultural differences in the nature of discourse. Fact-based criticism following the logic of rationalism is always justified in the West while China and other Eastern cultures principally uphold respect for the other person with communication as subjective and personal. Debates about intervention and other topics are all affected by this issue.

Concerning cyber-sovereignty and the freedom of the World Wide Web, China accepts in principle the place of civil society and the private sector but expresses concern about the global media power of the internet and Western technology companies which are difficult to control publicly. In this area, China favours very precise regulation at the inter-state level through international treaties. The West continues to believe in the self-regulatory role for the private sector and, although aware of the possibility of private abuse of power, has a much narrower concept of how much that power requires regulation.

The Human Rights Council is a forum where debate and controversy on human rights have raged since the beginning of this century. Both sides see that there is no theoretical dispute about the catalogue of human rights and even their content. The fierce disagreement lies in the questions of interpretation and implementation. China insists that this is a domestic matter for the state to determine – a view that the West believes effectively robs the concept of human rights of any meaning. This debate is not helped by the fact that Chinese legal specialists admit they are not yet adept at the conceptual development of cultural artifacts alien to their history. Some very astute Western specialists are aware of this feature of Chinese human rights discourse. In any case, as has just been mentioned, Chinese (and other Far Eastern) methods of discourse are not yet accustomed to the abrasive character of what, for the Western mind, is simply a logical, factual argument of an impersonal nature.

Developmental peace is another concrete area of disagreement which concerns whether, in the context of the global South, economic rights have priority over political rights. It is recognised that the Chinese do not formally prioritise economic rights, but in practice they consider peace and stability in the global South to be also a matter of sound economic infrastructure and stable social development. China is very active in UN peacekeeping, to which it commits its military, but it still does not prioritise the development of political institutions, considering this exclusively a matter of domestic concern. This issue plays out in the work of the Human Rights Council, and is also relevant to the topic of development finance.

The nature of rulemaking is a central question that Xiaotong Fei, the founder of modern Chinese sociology, helps us to understand beyond the parameters of Chinese compliance with a rules-based international

order. He shows how a Western concept of the individual with innate rights shaped ideas of rule, law, and political organisation. As the individual is created by God and not a product of society, law is therefore impersonal and adjudicated by impartial tribunals. The existence, and membership, of political organisation rests upon consent of members who satisfy the conditions laid down by agreed legal terms.

Fei contrasts this with the traditional Chinese approach which assumes the individual is born into and shaped by the community. Rules, or rites, express the habits and practices of the community. They can be extremely detailed and numerous, appropriate to the Chinese context and not to be formulated as abstract, universal rules. Most of all, the continued existence of the rites depends on the continued cooperation of participants in the practices or activities.

Various aspects of the Belt and Road Initiative (BRI) demonstrate the probable continued presence of Chinese social organisation according to Fei's explanations. The BRI is taken as characteristic of how China is developing multilateral institutionalism now and likely in the future. To Western eyes its practices must appear amorphous. The terms of cooperation agreements are left very general, depending upon continued collaboration between the relevant parties and without independent adjudication of clear norms. These hives of activity are expected to generate stable networks of large numbers of participants creating reliable and effective progress. There is also a lack of institutional hierarchy that might be expected in a Western international organisation. Instead, this may represent a hub and spoke relationship with China at the centre, reproducing the classical imperial Chinese Tributary System. While the initiative always comes from China, evidence from the participants is that mutuality remains critical. The goal is a networking, a building up of webs of continuing relationships which Fei would consider an essential feature of Chinese social organisation. This of course draws criticism from Western observers.

Tensions between the West and China concerning Chinese multilateralism can be seen in the specific case of development finance. Chinese innovation in multilateralism is a complex picture. The Asian International Investment Bank (AIIB) clearly represents a Chinese wish to move within the existing system of international development banking but, at the same time, achieve incremental changes. It closely follows the Western concept of organisation and rules and has achieved a great deal of Western participation. The AIIB quota system for voting is based upon gross national product (GNP) and has a special quota balance for Asian members intended to assure more democratic decision-making in banking policy. This is therefore intended to give borrowers a larger role in the actual granting of loans.

At the same time, the AIIB relies upon its credibility in world financial markets and adheres to usual standards of financial soundness. It does not provoke much hostile criticism even though it departs from the institutional model of the World Bank and other regional development banks.

The BRI and China's general development financing policies do, on the other hand, receive much Western criticism. The concept of debt diplomacy signifies that China uses development financing to garner diplomatic support. Evidence shows that voting on China's proposed resolutions in the Human Rights Council corresponds to financial dependency on China. These resolutions concern prioritising economic and social aspects of development over the civil and political.

More fundamentally, the aim of this report is to contribute an internal Chinese perspective on Chinese activity. In this context of development finance, external Western criticism equates the amorphous character of Chinese policy with a lack of transparency. It is seen as typically opaque and heightens suspicions of a hegemonic strategy. Other lesser criticisms maintain that China enters debt diplomacy either to keep its options open or because it is not certain of its goals. Nevertheless, finance serves China's productive surplus and its need for infrastructure and natural resources. These Western perspectives are all forms of realism as they assume all states, including China, act only to advance their own interests. These arguments evidence profound philosophical disagreement which it is difficult to resolve in the short term.

Climate change is an area where China's cooperation with the international community is essential to successful policy and regulation. It is clear there are very serious problems of accentuating global warming to which China is contributing significantly. A particular problem for China is that its economy is still expanding, and it argues that it is a developing country. Regardless, China is still party to the 2015 Paris Agreement on climate change and has committed itself to net zero carbon emissions by 2060 and to peak its emissions by 2030. In the lead-up to the COP26 climate conference in autumn 2021, it is overshadowed by wider geopolitical tensions, particularly in China–US climate negotiations.

This report intends to contribute to reflections on China's approaches to multilateralism by adding an internal dimension to the already well-known criticisms of China's contemporary practice of international relations. This is not a matter of simply reiterating self-serving Chinese official declarations as to the merits of its policies. Instead, this study probes deeper into intellectual, academic explorations of possible long-term, civilisational foundations for Chinese behaviour. It is hoped that this can add to the debate about China's role in the world. There is an urgent need to deepen and enhance knowledge

about China. In an increasingly divided and uncertain world, it is more important than ever to encourage more informal dialogue among Chinese and Western academics and other thinkers across the civilizational divide.

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Acronyms

AIB	Asian Infrastructure Investment Bank
ASEAN	Association of Southeast Asian Nations
BRI	Belt and Road Initiative
CIA	Comprehensive Investment Agreement
CPC	Communist Party of China
EU	European Union
FOCAC	Forum on China–Africa Cooperation
GDP	gross domestic product
GGE	Group of Government Experts (UN)
MOFA	Ministry of Foreign Affairs
MoU	Memorandum of Understanding
NATO	North Atlantic Treaty Organization
OECD	Organisation for Economic Co-operation and Development
OEWG	Open-Ended Working Group
SCO	Shanghai Cooperation Organisation
UK	United Kingdom
UN	United Nations
UNGA	United Nations General Assembly
UNHRC	United Nations Human Rights Council
US	United States
WTO	World Trade Organization

1. Introduction

1.1 Chinese multilateralism today

Multilateralism is the practice of states working together with two or more countries to achieve common goals in international relations. For its part, China has been an active member of international organisations and multilateral institutions in recent years. China is currently deeply engaged with the universal international organisation of the United Nations (UN) and other regional groups including the Association of Southeast Asian Nations (ASEAN), the Shanghai Cooperation Organisation (SCO), Forum on China–Africa Cooperation (FOCAC), Latin America, East Central Europe (16+1), the East Asian Regional Trade Partnership, the Asian Infrastructure Investment Bank (AIIB), the Comprehensive Investment Agreement (CIA) with the European Union (EU), and the Belt and Road Initiative (BRI). This is not an exhaustive list of China's multilateral engagements.

Multilateral activity would normally be considered a marker of a collaborative, as opposed to a confrontational, approach to international relations. However, China is currently confronted with a diplomatic crisis following repeated calls by the United States (US) Biden Administration, the North Atlantic Treaty Organization (NATO) Secretary-General, and figures within the EU (the Commission President and parts of the European Parliament) for a league of countries including India, South Korea, Japan, and Australia to come together to uphold the values of liberal democracies against China. This is a clear indication that the world community is divided on ideological grounds of differing political values.

Additionally, the self-designated liberal democracies talk of holding China to a rules-based international order, a concept they have themselves introduced. This charge covers a wide range of issues including trade, human rights, finance, development, and (military) security. Given the ideological self-identification of Western countries (a classification which also includes East Asia and Australasia), a contextually useful description of Chinese multilateralism must offer insights into how it is shaped by its understanding of, and place in, a world society that sharply distinguishes itself from China.

This necessitates a meta-institutional theoretical review of how China approaches various aspects of world society. How does China understand the nature of the international legal order at a time when there are suggestions that it may be a revisionist power contesting that order? Due to China's international stature, President Xi Jinping believes the nation is rightfully entitled to play a part in the future shaping of

this order. An explanation of what this means can be found in China's understanding of the historical development of international law up to the present time, including an understanding of how complete, as well as how satisfactory, China considers this order to be.

Indeed, it is evident that China regards the international legal order to be a very incomplete and contested order. In this way, its multilateralism, far from being an attempt to overturn this order, is in fact one possible way to aim, collaboratively, towards the completion of this order. This is a primary context in which China's multilateralism must be seen. It must also be made clear that China's view of the incomplete nature of this legal order is widely shared in expert and authoritative Western circles in both international law and international relations.

1.2 Key issues and ideological differences

Within the controversies surrounding the nature of international law, there are at least two further issues which are central to providing an analytical framework within which to understand China's approaches to multilateralism. The first concerns the relationship between the ideology of liberal democracy and the international order, of which international law is a part. The West believes this ideology should play a determining role in the substance of its relations with China, while China's starting point is that classical international law does not have an explicitly ideological context: it is value-neutral.

The Chinese view of international law, with its primary stress upon state sovereignty and territorial integrity, is to be seen in a historical perspective. It is tied to the adoption of the Western concept of the nation state, now understood as a defensive bulwark against foreign interference. However, at the same time, China (whether reactively or proactively) does in fact infuse its approach to multilateralism with a response to liberal democracy, reflecting on its identity as a developing state propounding socialism with Chinese characteristics. This may be characterised as a kind of neo-Marxism which sees China, along with most of the global South, as exploited by world capitalism and excluded from a fair share of global governance. The Chinese state therefore sees that the only way for a developing country to cope with the intrusive power of the West is to build a strong state apparatus which can control and direct economic and social forces. It may not have a definite strategy to export this model, but China will feel a natural affinity with countries with a similar institutional ethos. This is hugely important for issues of governance concerning the rule of law and human rights.

This leads on to a more fundamental, civilisational aspect to understanding China's approach to multilateralism. We enter the realm of comparative

political thought, contrasting liberal individualism and Confucianism through a historical perspective. This is probably the most important dimension if a Westerner is to understand the specifics of China's multilateralist activities. It can only be speculative the extent to which either culture of thought in fact determines any state's policies and actions. However, it is certain that the debate about international rules and order, of which multilateralism is a part, has itself become ideologised. Any analysis must therefore offer guidelines to navigate what might otherwise appear to be confusing arguments about the relative merits of contested ideas on either side.

Essentially, a Confucian view of a rules-based order will not be the same as a liberal one. This is not to say that China is strictly a Confucian state or that the US is in turn a liberal state. But aspects of the critical discourse of these states and their institutional practices make more sense if interpreted through these paradigms. Broadly speaking, the liberal perspective sees rules as an outcome of **deliberate negotiation and conclusion of contract or treaty between separated autonomous individuals**. For a Confucian, rules are practices which evolve mutually through an evolving history of working relationships in particular contexts **among a group of persons or partners who are all the time developing a common life-world which they all come to inhabit**. This distinction does not represent an unbridgeable civilisational divide. It can be understood as a distinction between treaty or contract law and customary law. However, in the present context of international relations, when seen in historical perspective, the difference is arguably huge. It is within this difference that there comes the crucial source of contestation between China and the West: that the former is an authoritarian state while the latter are liberal states; the former ruled by personalities, the latter by law and not men. These dichotomies are rooted in cultural misunderstanding, if not ignorance.

1.3 Constructing the Chinese perspective

The starting point of the following analysis is the Chinese perspective. It intends to construct this perspective from leading texts and official speeches in an internal, intentionalist, phenomenological or hermeneutical sense, rather than extrapolate from external observation of Chinese institutional practice to see how far it corresponds to Western theories of international relations such as realism, constructivism, or neo-institutionalism.

Of course, it is not possible to directly access the day-to-day internal processes of decision-making by the top Chinese leadership, but it is possible to select certain texts that have authority on this matter due to the context in which they are published and the extensive quality of the analysis which they offer. These will be used here to illustrate the several distinctive

Chinese approaches already mentioned. The aim is to look critically at Chinese intentions by contextualising them as the products of historical experience. While some perspectives and practices may be becoming redundant in the modern world, we can also see that history may in some ways be repeating itself in Chinese–Western relations. The hermeneutical perspective allows the reader to understand the presuppositions (or anxieties) underlying certain policies, thereby opening possibilities to adjust them in new situations. By contrast, the external approach has built into it a tendency to take as a starting point the extent to which China is diverging from what the West considers to be appropriate standards.

More needs to be said about the ontology of intentionality. It is usually not possible to know the exact intentions of individuals. But a contextual understanding of the increasingly hostile perceptions of Chinese intentions in the West is possible and is offered here. We have distinguished the internal perspective from the external and shown how the latter is primarily employed by Western scholars and is almost inevitably hostile towards China because it requires China to meet indicators that the West has itself devised (Carty 2019; Wendt 1999). This report will give space to outlining the intentions of the Chinese, then critically assessing typical Western external assessment of Chinese behaviour in the light of Western-chosen indicators. It is intended here to contribute a social theory which offers an intentionalist analysis of precisely this Western external assessment. In other words, this report treats or reduces the Western external assessments of Chinese intentions to being themselves expressions of Western 'intentionalities'.

The West is explicit about regarding China as a competitor and a rival. At the recent G7 Conference in June 2021, the US National Security Adviser categorically stated that the West had to offer an alternative global infrastructure to the Chinese BRI (Wintour 2021), while the EU Commission has already referred to China as a rival and competitor (European Commission 2019). Theories of rivalry developed by Girard and Mishra (Carty 2021) stress that a fundamental feature of the social psychology of interaction among nations, as among individuals, is that they seek to overcome the void in their own societies by seizing, through imitation, what their rivals seem to have. This is precisely what we see in the new global infrastructure plan of the US.

An essential aspect of this rivalry is scapegoating the rival by denigrating their motives and intentions in seeking influence abroad. For example, the Western slur that China is a new imperial hegemon stands in stark contrast to the Chinese neo-Marxist self-image as a vanguard and progressive developing country. This negative interpretation is also projected onto the domestic affairs of China, which are automatically found to be wanting by virtue of the application of Western standards.

A crucial example is that China does not satisfy the 'one man, one vote' principle of liberal democracy. Here is where Chinese arguments for Confucian-style governance and a Confucian style of developing relationships nationally and internationally will be explained through an 'intentionalist' method. External Western assessments of China's intentions as self-serving for the nation's elites will also be reviewed. Given the absence of a neutral third-party mediator, there cannot be a conclusive outcome to this analysis. It can, however, set out new perspectives and suggest how they can be helpfully employed in this context.

2. Theoretical foundations of China's approaches to multilateralism

This section offers an insight into Chinese thinking about rules, norms, law, and international law as it affects the formulation of Chinese approaches to multilateralism. It will also outline the continuing influence of Confucianism on Chinese public policy, indicating how this runs parallel to the role of law. These two issues are not completely separable. A third, related study observes how Chinese approaches to institutional practice are embedded in traditional Chinese family and social practices. These provide three frames within which to identify possible factors that are likely to shape decisions. They have a different kind of authority from the external observation found in Western journals because they carry detailed and classical interpretations of Chinese people and society in general.

It must be said that the official Chinese Communist Party position is that rule of law and rule of man – in the sense of a virtuous man (Confucian) – must go together in the Chinese approach to governance. This leads to quite a complex picture. One theoretical view emphasises that there are no universal values and that it is not the official Chinese view to impose Confucianism as a universal system. At the same time, it is a deeply ingrained Chinese conviction that law without 'the virtuous man' is powerless to defend itself against human manipulation. Insistence upon this very traditional Confucian reservation about the value of law does not mean the Chinese state wishes to impose this model on other countries, but anxiety does exist among Western scholars that the language of Confucianism is an instrument of a Chinese attempt at hegemony (Xu 2013).

The Chinese scholar Yu Keping places the official position from the National Congresses of the Chinese Communist Party in the following framework:

a) 'Rule of law and rule of virtue coexist. In the process of governing the country according to law, running the country by virtue governance is also important. These are different from the West. That is, the Confucian approach not only rests on the impersonal observance of abstract legal rules, but also the security of the good moral character, trust, and beneficence of the participants' (Yu 2021).

b) 'There are two basic factors that affect the governance level and efficiency of the state, that is, the quality of the governors and the system of governance. But, comparatively speaking, the system is more fundamental, because the system can transform the quality of people, restrict the abuse of power and dereliction of duty' (Yu 2018).

c) 'As the cooperative management of public affairs between the government and citizens, good governance needs the joint efforts of the government and citizens; moreover, with the development of society and the progress of politics, the role of citizens in the management of public affairs will become increasingly important' (*ibid.*).

2.1 The rule of law vs the rule of man

Looking at the characteristics of China's governance model the rule of law and the rule of man both play important roles at the same time. For the maintenance of social public order, moral norms and legal norms are complementary and indispensable to regulate human behaviour. After the reform and opening up, China has paid more and more attention to the rule of law. In the 1990s, it formally put forward the goal of building a socialist country under the rule of law and has since made great progress in its construction. However, as a country with more than 2,000 years of tradition of rule of man, this will understandably be a long process.

The rule of man will still play an important role. In many public governance activities, the role of the rule of man will even continue to be more important than the rule of law. This is also why there is a unique phenomenon of 'top leaders' (The Politburo Standing Committee) in Chinese politics, which is particularly important to the nation's political life. On one hand, if China wants to truly move towards democratic governance, it must unswervingly carry out the rule of law. On the other hand, in order to achieve effective public governance in real life, the important role played by the rule of man must be acknowledged.

The Communist Party of China (CPC) Central Committee decided to comprehensively promote the rule of law across seven major issues, clearly stating that China should 'proceed from [its] reality' and 'adhere to the combination of rule of law and rule of virtue' (Central Committee of the Communist Party of China 2014, cited in Yu 2018). This was reiterated once again five years later: 'we should adhere to the combination of rule of law and rule of virtue' (Central Committee of the Communist Party of China 2019, cited in Yu 2019, 2021). In this way, getting the balance right in the relationship between the stated rule of law and rule of virtue (or virtuous man) is vital for China's public governance.

Within this official context we will juxtapose the distinct approaches of the international lawyer Zhipeng He and the Confucian philosopher Bai Tongdong. The former tends to treat Confucianism as a Chinese traditional culture which does not enjoy universal adherence and therefore is not an authoritative standard for resolving international conflict (any more than

the Western pretensions to represent liberal democracy, the rule of law and human rights as such). In this view, both are ideological tools used to assert national interests. By contrast, Bai Tongdong, a professional philosopher trained in the Western hermeneutic tradition by the American philosopher Stanley Rosen, presents Confucianism not as an aspect of Chinese culture or official ideology, but as a universally valid philosophical system that can be used to challenge Western political philosophy.

The concept of a parallel, mutually supporting role of rule of law and rule of the virtuous man, alongside and complementing the role of government and governance, will be seen later to play a major role in Chinese official and academic/intellectual self-understanding in the context of the further dichotomy of state and civil society. Contrary to general Western perceptions, the Chinese do believe they make such a distinction and that this is essential for understanding how the harmony of a successful social polity is achieved. This plays a large role in how the Chinese understand human rights law and its implications for global regulation of cybersecurity, peacekeeping (including development-based peace), and development assistance provided to developing countries. All of this is relevant to the Western anxiety about an unrestrained authoritarian state unprepared to submit to the rule of law and human rights, especially freedom of speech and of political activity.

2.2 China's perspective on the international legal order

The Chinese Foreign Ministry commissioned an academic study of China's approach to international law (originally published in Chinese in 2016 and translated into English in 2019): *A Chinese Theory of International Law*, by Zhipeng He and Lu Sun. The book was written not as an apology to the West of Chinese international law literature, but as an internal critique of the deficiencies of Chinese scholarship on the topic and an attempt to provide guidelines as to how it could be improved. A large part of the work comprises exhaustive reviews of Chinese language literature which are critically assessed.

He and Sun, pointing to the dynamics of an international order comprised of nation states, say that China will of course defend its national interest in multilateral relations because that is what all nation states do. There is no overarching international common good – other than that which is worked out in the dialectic of conflicting interest and negotiation. What is most clearly called for is that each actor forms a clear, mature concept of its own interests before entering negotiations (He and Sun 2019). In the case of

China, it is almost certainly possible to make a substantial list of advantages that China stands to gain from its development finance strategies, for instance. Writing for a national audience, their study expresses a concern that China may not, in the general field of law and international relations, prepare itself adequately to know exactly what it is doing. Going further, they warn against the idea that any country, through its foreign policy, is implementing the highest ideals of its own classical political philosophers. While these are worthy traditions which may – and should – be aspired to, it is wise to recognise that no such traditions are shared globally.

It will be seen that the Chinese concept of international law is fundamentally Western and makes no attempt to construct an alternative international law with Chinese characteristics. This is because it avoids attachment to ideas which its proponents could claim had universal significance apart from the value that individual states would try to attach to them.

2.2.1 Conflicts of national interest

As He and Sun say, there is no objective concept of natural justice, only conflicts of the national interests of states, and international law must develop dialectically from the positions of all nation states. The current international system is an anarchy in which there is no supranational authority (He and Sun 2019: 9). Hence there is need for a mutual understanding between different regional systems of knowledge as well as between national cultures (*ibid.*: 10). Here is a clear indication in favour of a multilateralism which necessarily reflects regional clusters of states. Universal impartiality can only be based upon the balance of claims from different regions, and international law is always a manifestation of the wills of only some states and not all of them. There comes a warning, which runs through the whole study, that this approach places a huge obligation on each state to have a very clear concept of its own position if it is to contribute to the development of rules that reflect true fairness.

At the same time, rules can never simply be purely the result of national interest. The absence of coercive supranational authority means that processes of interactions, negotiation and compromise lead to rules which are, in effect 'gentlemen's agreements', in the sense that they lack any external coercion (*ibid.*: 11–13). Here again there is a difference in emphasis to the Western perspective. While the legal character of agreements is not denied, there is a recognition that, in practical terms, they rest on continuing consent. As will be seen, this feature is reflected in the structure of both bilateral and regional agreements made by China, where reliance upon the independent supposed force of the international legal order is often explicitly excluded (such as in the BRI's Memorandums of Understanding – MoUs).

2.2.2 The historical perspective

The authors He and Sun rely on the French postmodern thinker François Lyotard for their claim that international law has a deeply regional character and cultural heritage which affects the definition and understanding of its basic concepts, such as territorial integrity and self-determination (He and Sun 2019: 16–18). This leads the authors to a redefinition of national interests whereby they are not seen as in conflict, but in a dialectic: 'International Law is the unity of opposites, between national interests and global interests... between cultural characteristics and universal ethics' (*ibid.*: 19). Again, following Western legal culture, the authors align their perspective with the German historical school of law of Frederich von Savigny. That is to say, law arises out of the distinctive national experiences of peoples interacting with one another (*ibid.*: 39).

The authors' view of the relationship between international law and international history is based on arguments with a deep underlying structural foundation (*ibid.*: 242). They say that countries' rights and capabilities are, in a sense, 'pre-born' to them and are naturally recognised by the traditions within each country. That is to say, the national identity and experience of China, Russia, the United Kingdom (UK), and France, to name just a few, are grounded in their own endogenous experience and are not constituted for them by an overarching, all-powerful and transcendent international community. Beyond this pre-community reality, nation states are then simply sustained by customs of the international community, i.e. the interactions of nation states with one another. Western international lawyers, however, have lost sight of this fact and treat the origin of states no longer as a historical act, but imagine them as constituted by the international order. In this, the authors correctly align themselves with the American school of realism of Hans Morgenthau, who objects to how proponents of the precedence of the international legal order, such as Hans Kelsen, produce no empirical, historical evidence of how this – for him – fantastical order actually produces or otherwise creates nation states (Carty 2019: 1–28).

2.2.3 Normative struggles

Countries such as India and China face a dilemma, according to He and Sun. International law is a product of Western culture, but they have not developed a system of norms of their own. To simply adopt the Western system is to deny their own experience and paralyse their will. Yet it is impracticable to abandon the system entirely as it is widely regarded the standard of fairness and equity. The solution is to accept it critically while working for cultural balance (He and Sun 2019: 58–59). In the authors' view it is national culture which predetermines political

discourse (*ibid.*: 139). Given this context and China's historical experience of the Western practice of international law, it is inevitable that China simply recognises the objective existence of international law, which it does not like and therefore does not subjectively internalise (*ibid.*: 95).

China's history of Confucianism and Taoism (as will be seen later with Bai Tongdong) leads it to favour self-cultivation rather than law as the normative basis of society (*ibid.*: 107–8), but it is important to understand that the authors do not put forward these traditions as standards of international conduct, precisely because they share the Western 'realist' conviction of Hans Morgenthau in international relations, that ideal standards do not govern international society – rather it is the clash and resolution of economic and security interests (*ibid.*: 140–1, 147). They conclude this review on the pessimistic note that China distrusts international law, is unable to utilise it, and is unable to shape it effectively (*ibid.*: 142). They give many historical examples, beginning with the Opium Wars, the Treaties of Nanjing (1842) and Tientsin and Peking (1858–60), but also including the failure of the League of Nations over Manchuria and China's long exclusion from the international community, such as from the 1951 San Francisco Peace Conference and, for many years, from the UN.

The well-known doctrine of peaceful coexistence exists within this realist paradigm, of which the authors consider Morgenthau (interpreted also by Lyotard) to be the authoritative exponent. International law has a place within this paradigm, neither at the top nor the bottom. The value hierarchy for states is that security comes first, followed by the economy, then social development, then friendship and esteem. It is only at this fourth level that the rule of law is present to a significant degree, beyond which, at a fifth level, there is international constitutionalism. Peaceful coexistence and mutual respect must account for the primary importance of tolerance (*ibid.*: 152–55).

There follows a recommended pathway of legal diplomatic communication (*ibid.*: 160–245) which takes Zhou en Lai's philosophy at Bandung (1955) as a model, i.e. seeking consensus while reserving differences. There is little advantage in arguing fine differences as academic points because international law does not have a macro-system or even a hierarchy of norms. Even basic concepts such as self-defence and humanitarianism are contested. A tactful search for possibilities of common ground should be pursued in a spirit of balance which avoids both idealism and nihilism. Western concepts of natural law and justice are not universally believed and shared, just as Confucianism and other value systems are not. International anarchy requires rules, but in this environment they are doomed to not function well. The dilemma is that the world needs constitutionalism but does not have it. It needs a compassionate humanity but cannot abandon

the nation state for a world civil society. Achieving the latter is not realistic as we have not yet transcended struggles of conflicting interest between countries. And states can instrumentalise legal standards, as seen for instance with the Soviet Union in Afghanistan and the West in Libya.

Turning the focus to where we are now, the task of ensuring the progress of international law must still continue through the multilateralism and the dialectic of compromise through the gradual recognition of the extent of differences, especially cultural ones. Global constitutionalism and the creation of a global civil society for which it aims is not to be despised, but it can be seen as a utopian goal.

For its part, China has at times, such as during the Cultural Revolution, stressed a struggle to overthrow imperialism (*ibid.*: 180–4). Yet Zhou en Lai's warning remains fundamental, namely, to deal calmly with the complexities of the outside world. Realism also means a calm observation of the complexity and ambiguity of norms and facts through a judicious and critical reflection on the various cognitive interpretative codes that exist globally (*ibid.*: 201–2). A realistic approach to international law has a spiritual dimension in its ability to avoid both over-romanticism and nihilism. He and Sun argue that the world needs the development of effective international institutions, but they do not exist (*ibid.*: 210).

The task of ensuring the progress of international law rests with the multilateralism of states, whereby they slowly compromise through the gradual recognition of the extent of differences. Global constitutionalism remains a utopian ideal.

The authors end on a note of caution about ideals, whether it is the dream of a world Kantian peace or the global benevolence and *tao* (way) of Confucius and Mencius. Neither have any specific method or procedure for implementation, which is why they can have only an inspirational role. Furthermore, we must never lose sight of the conflicts of interest for which they can be so easily instrumentalised. Precisely for this reason, multilateralism is an absolute priority for China.

2.3 The place of a rules-based international order in imagining multilateralism

2.3.1 Critical Western reflections

Given the constant reiteration by the West that China must be called to account to observe the rules-based international order (most recently at the June 2021 G7 meeting in Cornwall), it is worth noting that authoritative

Western opinions from academia and thinktanks correspond very closely to the vision set out by He and Sun. Firstly, Chalmers identifies a crucial gap in the existing international order (2019), a view that is reinforced by Williams (2020). The UK's integrated defence review of 2021 also chimes with these two analysts. Chalmers divides the international space into four sectors: the universal political order (e.g. the UN Charter, the Law of the Sea Convention of 1982, the Human Rights Covenants); the universal economic order (including the World Trade Organization (WTO) and Bretton Woods System); the Liberal Democratic order (which is not universal); and, most importantly, a normative void where there is an absence of rules and instead a balance of powers. Williams complements this perspective in his description of *International Law with Chinese Characteristics* (2020). His general conclusion about international law is that in making criticisms of China, the West should not romanticise the clarity or the moral force of the law, or indeed its necessarily liberal nature. The language of international law is used to explain states' actions and goals, encompassing within it a normal contestation of politics. Williams argues that the issue is not how to preserve a rules-based order, but how to reshape and reform various rules to account for complex challenges (*ibid.*: 10).

2.3.2 Traditions in dialogue

The primary significance of the contribution of Bai Tongdong in *Against Political Equality: The Confucian Case* (2020) is to suggest a model of the way forward for relations between China and the West. He tries to understand the differences of approach through the conscious construction of a dialogue between the two traditions of Chinese Confucianism and Western liberal democracy, which should make each reflexively aware of the self and of the other.

Writing from the Philosophy Department of Fudan University after stays in New York University and Harvard University, Bai's intellectual history goes back as far as doctoral studies with the American philosopher Stanley Rosen, author of *Hermeneutics as Politics* (1987). Bai concurs with the view of He and Sun that China should not aim to present itself without qualification as a Confucian State, insofar as he says that none of his own arguments for Confucianism necessarily have any application to contemporary China. At the same time, a fundamental distinction in the thought of Bai is that he rejects the primacy of historical heritage (and hence the Western historical school of law) precisely on the grounds that it is a historical and not a philosophical approach. Bai, unlike He and Sun, presents Confucianism not as a Chinese philosophy, but as a universal philosophy – one that addresses features of the human condition that arise everywhere.

He juxtaposes this philosophy with that of liberal democracy and says that it is the latter which is in certain respects defective at the present time.

This philosophical argument for the universality of Confucianism will mean that its characteristic methods of social organisation will also appear unconsciously in the West because they are natural human responses to shared human experiences. The idea of liberal democracy may be reflected in certain rules, but it is above all a social glue which enables families of like-minded nations to evolve their relationships with one another. They develop distinctive patterns of privacy and transparency, making space for one another while remaining open towards one another (Bai 2020: 138–40, 245–55). Section 3, on human rights, will use case studies to explore Bai's comparisons further.

Bai's fundamental warning remains: nation states are inevitably antagonistic towards one another and they will only see the growth in another's power in a negative light. Relentless competition between nation states, as long as political entities retain this self-understanding, will always generate serious instability in their relations.

He and Sun have constructed a theory of international law which excludes an explicit role for Confucianism in the development of multilateralism, while at the same time recognising that the communist one-party state in China will always be a cause of distrust on the part of Western states. Indeed, China currently faces various attempts to build a coalition of like-minded states which call themselves liberal democracies. The interest of the work of Bai Tongdong is that he addresses this opposing ideology proactively. Bai offers a challenge to liberal democracy, but also an equally serious challenge to what he takes to be the realist nationalism underlying the dominant Chinese approach to international relations (Bai 2020). In other words, Bai does not think that the conflict of national interests among states will be resolved through a dialectic of clashing perspectives leading to compromise or consensus. Nation states are deeply antagonistic, so a China which rises with this ideology is bound to cause concern. The great interest of this analysis is that, while it does not directly consider He and Sun, it does suggest a closeness between their ideas and the official Chinese position while allowing for debate about how to modify their thesis.

As will be seen later in Western reviews of the Chinese multilateralism, there is a great anxiety that one form of Chinese hegemony would be an attempt to spread Confucianism as part of the rejuvenation of China. This is because the traditional Tributary System, with its hub and spoke character, represents a hierarchical vision of world society with China at the centre. Formal equality of individuals is a basic tenet of liberal democracy, and this is reflected in international law. However, Bai is a philosopher who asserts that Confucian

classical texts are a starting point for contemporary, universal philosophical reflections, including also reference to historical examples of China's Spring and Autumn/Warring States period from approximately 770 BCE to 221 BCE.

The explicit assumption that Bai shares with He and Sun is that China is not a Confucian state. The hostility of Chinese nationalist modernisers towards Confucianism since the Sino-Japanese War of 1895 has, in his view, left the majority Chinese ethnic group, the Han, as a people without a culture. To address this, he calls for a cultural project rooted in education.

In his critique of nationalist realism, Bai states that the central pathway to modernity chosen by China is ethnic nationalism, but at a time when the ideology of liberal democracy considers this to be inherently conflictual and doomed to struggles for hegemony. Therefore, he thinks hostile Western perceptions of China are inevitable. His ideas on international order form an integral part of the entire book, but they are specifically set out in chapter 7 (pp. 175–213). Bai's entire philosophical project is undertaken in dialogue with liberal democracy, and he holds out the promise of a reconciliation with it.

2.4 Constructing a Chinese philosophical foundation for international relations

There are three crucial elements of Bai's argument that pave the way for his foundation for multilateralism. The first step is the argument that modern Western nationalism has been built on race, and this inheritance by blood has proved divisive and conflictual in Western history as well as in China where this ideology led to assimilationist strategies in Tibet and Xinjiang. These provinces were conquered by the Qing Dynasty, itself a minority ethnic group, with no interest in assimilating the provinces to the Han people. Official pressure on the Chinese government to recognise different ethnic groups merely accentuates division.

The second step is to argue that the Western solution to the nationalist dilemma is equally unsound. It conceives of the world without national identities, resting instead on a concept of universal human rights held by individuals in states indistinguishable from one another. Human rights occupy the central space and individual states may – at most – develop a notion of civic identity through their country's constitution. Bai argues that this harks back to the ethos of the Roman Empire which collapsed suddenly when the centre, Rome itself, fell.

The third step is to argue for a form of cultural and historical identity that would enable a society of people to enjoy a sense of cohesion. He thinks that a compromise has to be found between the extremism

of a racist nationalism, which is completely impenetrable, and a universalist human rights ideology, which he provocatively equates with the extreme altruism of the Chinese cultural revolution. Fei's comparison of Confucian Chinese and Western approaches to the creation of institutions will make it possible to explore in greater detail the contrast in this human rights ideology. First, it is necessary to consider what he would see as Confucian foundations for multilateralism.

Crucially, Western discourse ties multilateralism to partnerships of liberal democracies. Chinese multilateralism will, therefore, inevitably be shaped by having to respond to this understanding of international cooperation. Bai's premise for constructing a Confucianist theory of international relations is that it is a philosophical approach, not a historical or anthropological one – and therefore not a culturalist characteristic of China – that could lead to an international order with Chinese characteristics. That is, there are universal problems to which universal solutions are offered, and Confucianism is one such offer to be judged by the quality of its answers to these problems (Bai 2020). With this thinking, Bai hopes to win over the partially undecided states beyond the narrower circle of North America, Western Europe, and Australasia.

Bai's critique of liberal democracy equates Confucianism with the need for a meritocracy in large, modernised states with disparate populations and where state administration is too complex for a 'one man, one vote' system of electing political leaders to work effectively. A meritocracy, by contrast, is a professional class of state administrators or managers trained and selected on the basis of proven competence to govern the modern state as a life-long task. While Bai draws on Confucius and Mencius for his arguments, adopting a universalist stance, he draws equally on Plato (*The Republic*), Montesquieu, and even John Rawls to make the argument that even professional classes of workers such as lawyers, engineers, and doctors, do not have the general expertise and leisure time necessary to understand and participate in political decision-making, not to mention lower working classes.

2.4.1 Democracy vs meritocracy

Democratic voting is one of the key elements of liberal democracy. It is based on universal suffrage, or 'one man, one vote' and has its roots in the natural law idea that all men are born equal and have equal innate rights, not rights accorded to them by society. The Confucian method is a meritocracy, in which people only become entitled to participate politically through an education that is both knowledge-based and moral. The capacity to make political decisions is gained

through an apprenticeship in actual decision-making which takes years before reaching the higher levels of central government.

The supposed innate political equality of individuals means that they tend to follow their short-term selfish interest in voting. Additionally, the public are generally ignorant of the issues. An outcome of this is that the electorate is open to demagoguery and corruption. Bai draws on Rawls and Montesquieu for the argument that large democracies are prey to oligarchical pressure, which further increases their dysfunctionality (Bai 2020).

The liberal wing of liberal democracy offers some hope of compromise or common ground. It encompasses the rule of law, which is effectively government by unelected judges whose authority rests upon moral probity and a wisdom-based experience. Equally, financial management, for example the US Federal Reserve and the management of diplomacy through a foreign service selected through competitive examination, means that in practice considerable areas of Western governance do follow a kind of meritocracy. Bai shows that the US historically had a constitutional system that involved a great deal of indirect election. Experienced state politicians would advance to the federal level, and indeed, the president himself was indirectly elected by Congress. However, the liberal approach to democracy assumes a mass suspicion of elites which is now – especially with the latest waves of populism – even more difficult to resist in favour of arguments for meritocracy.

Bai's arguments do not require him to commit himself to a single model of hybrid government. The great relevance of his thinking is to detoxify the authoritarian image of Confucianism and, with it (although he separates the two), claim that China is not a Confucian state. Also important is that the Chinese model, whose worst feature in the eyes of the West is its supposed authoritarianism, sees itself instead as a meritocracy.

A model of government that he does mention is the quota system of the functional constituencies in Hong Kong, where all the professional groups select a few representatives to devote themselves mainly to government. Another quota system can be seen in the German Federal Council, which consists of delegates from all the federal states whose composition is always changing through staggered elections, thereby ensuring that every shade of opinion is taken into account in government.

Bai accepts that the ultimate legitimacy of government is the conviction of the people that the government is serving their interests. In this way, there should be a place for a popular assembly chosen by democratic vote where these concerns can be voiced, but it should never be allowed to have the final say. This is very much in line with the classical Confucian

view that while the ruler is there to serve the people, there is no procedure whereby the people could overthrow the ruler. At the same time, historically, rulers who were tyrants were usually deposed one way or another and this was taken, retrospectively, as an indication that 'heaven' had withdrawn its approval of, and hence the legitimacy of, the ruler (Bai 2020).

2.4.2 Confucian compassion

The key quality of the meritocratic ruler, for the Confucian philosopher Bai, is the capacity for compassion. A large part of the argument against 'one man, one vote' is that it cannot assure the necessary comprehensive representation of interests, including future generations, minority groups within states, and (crucially for this study) the welfare of other states. The foundation of democracy as an innate natural right places no restraint upon the discretion of the individual voter to decide in their own short-term personal interest, including no duty to act reasonably even with limited choices. The concept of compassion covers the imaginative capacity to consider all of these interests, especially the longer-term view.

Bai tries to avoid metaphysical speculation about the nature of the 'common good', which is the object of compassion, but it is part of his argument that Western public space is now radically fragmented, not only by the selfishness of materialist individualism, but also by sectarian world views within Western societies that concern gender, race, and religious views. Populism is also driven by extreme economic inequality and growing pressure from the oligarchy in the media influencing public opinion. Western perspectives about governance cannot be expected to change. Instead, these ideas about meritocracy are aimed towards Asia, Africa, and Latin America, who are the primary targets of Chinese multilateralism.

Compassion is given considerable space in Bai's work as it provides the political philosophy that could underly a Chinese approach to multilateralism. He treats compassion both as the social glue which holds large societies of strangers together and, more originally, as the bond for inter-state relations (Bai 2020: 110). Compassion is the imaginative capacity to grasp the significance of the welfare and happiness of others and (following Mencius in particular) is the primary marker of humaneness.

The classic example is of a stranger rescuing a drowning child from a pond. The bond of compassion arises in this case completely without self-interest and the absence of this quality is the very mark of inhumanity. Compassion overcomes the defects of representative democracy because this larger spirit does not crave popular approval and – crucially – has an emotional range that encompasses strangers, including those beyond the boundary of one's own state. It even encompasses the whole of humanity.

There are at least two crucial features of the virtue of compassion which render it distinctive from the usual catalogue of Western values. Because compassion is not innate, in the sense that one is not born with it automatically but it is learned in the family, the distinction between private and public, as upheld by the West, is lost.

Confucian thinking about benevolence maintains that it has to be nurtured and learned by education and habit in the basic forum of the family. The crucial imaginative step is to extend this relationship of compassion into a wider vision of family. Confucius famously describes how benevolence extends from the son to the father, from the family to the neighbourhood and society, and from the society to the whole world. It is Mencius who gives this idea a specific international relations dimension because he develops the concept of the benevolent ruler, whose imagination extends to the welfare of all neighbouring states.

Bai explains that the concept of benevolence is universal in the philosophical sense, as a response to the dilemma of government when it comes to large political bodies and their relations with one another. It comes from a Chinese thinker and is distinctly Chinese only in the sense that the classical Western virtues set out in Plato's *The Republic* do not contain this element. Instead, Western normativity is constructed through the free will of innately independent and equal individuals, with all obligation traceable back to contract. This will be seen more later in a discussion of Fei.

2.4.3 Bridging the private and public spheres

Benevolence as a foundation for political relations turns the Western distinction between private and public virtue upside down, which in turn has crucial implications for the purpose of law (whether constitutional law or human rights law). Western thinking assumes that there is an unbridgeable chasm between the private and the public. In this way, the function of law is to protect one from the other. First, it has to protect the public from the private because the intrusion of self-interest into the public domain will distort the public good. Second, the intrusion of the public into the private is a suffocating force to the individual. Yet, starting from the concept of the family (a universal phenomenon), Bai insists that the capacity to transcend self-interest is learned through relationships in the family. Only then does it extend to wider society and the world. Without this grounding in the family, nothing will follow. This is not a view that is widely held in the West today: values are learned through liberal education in schools. *The Republic* goes as far as to talk of abolishing the family. While Aristotle is not so extreme, believing virtue must be learned and that family rests on the partnership of man and woman, compassion still does not feature in his litany of virtues.

There is a fundamental feature of Confucianism which has parallels in *The Republic* and is directly relevant to the Western anxiety of what it calls Chinese authoritarianism. As previously mentioned, Bai resists universal suffrage in favour of a mixed regime of meritocracy and popular representation. The most crucial element of the toolbox of the meritocratic ruler is compassion. This is not a virtue that one can expect the masses to possess. The capacity to take the long view – the intergenerational view and the international view – is only possible by an aristocracy of rulers, called the benevolent rulers. *The Republic* has a similar concept of 'guardians', whose authority is constructed through Socrates' famous lie that they are somehow born out of the soil of the homeland. They are taken completely out of the realm of the private sphere and must have no family connections and own no property, being sustained entirely from public funds as they operate solely for the welfare of the public.

A definition of public welfare is not found anywhere in *The Republic*, Bai notes. The Confucian concept of the public good goes beyond that of the Western because it asserts that an individual's wellbeing includes not merely the material but also the moral or spiritual. This cannot be provided through legal regulation, but through moral education. As there is no clear dividing line between the public and the private spheres, this may appear arbitrary. However, public direction is not guided by coercive laws and sanctions, but through the influence of habit and practice in the fulfilment of roles in the society, as well as in the development of relations at the international level. These habits and practices undergo continual adjustment through interactive feedback. These assumptions shape the Chinese institutional practice of multilateralism, which is not focused primarily on rule observance as much as on frameworks for continuous cooperation and consultation.

This approach to governance is quite different from the liberal rule of law, the latter being based upon ostensibly precisely agreed standards, and its legitimacy determined only through consent of the parties. Bai claims there is an inflexibility in the rule of law which lies in the fundamentalist individualism which argues that individuals are innately free and equal and come to association without moral characteristics, apart from free will. The Confucian approach, based upon the experience of familial compassion extended into wider society, is by contrast a pragmatic system of trial and error. This offers more flexibility than a rigid liberalism that does not allow for negotiation. The argument about whether an agreed rules-based order becomes rather a fetish of the idea of such an order, which has not in fact been agreed in any detail, remains to be seen. However, the West is aware that a Chinese approach, so far as it is Confucian, would be in a different spirit. It would state very broad aims of friendship and constructive cooperation, laying the stress upon frameworks for continuing collaboration

and building relationships based upon mutual understanding – a typical diplomatic concept stemming from the core virtue of compassion.

2.4.4 Reflections on world government

Like He and Sun, Bai remains sceptical of world government. They believe that a population will always look first to its own national government for protection and welfare. Bai's doctrine of compassion argues that the strongest compassion exists within the family. As it extends to wider society and internationally, it becomes weaker to the point that, at the international level, it is always the duty of the state to consider first the welfare of its own people. No precise demarcation rules exist for these gradations. In the view of Bai, the virtue of compassion is the only viable foundation for long-term international collaboration on matters of the common good, especially the environment. However, he sees that momentum for such collaboration will always be relatively weak compared to the domestic sphere.

Some famous Confucians are for global government, but Bai rejects this idea. The goal of a harmonious world is to be achieved through the humane spirit of a large state humanely governed. Mencius believed that a single global state could only be coercively constructed. Instead, he favoured a principle of universal compassion, with open borders so that persons can move freely from tyrannical states to humanely governed states. This principle of universal governance is based on the idea that a leading humane state openly attracts strangers from abroad to migrate to its territory. It is this inward migration which is the foundation for its growing primacy (Bai 2020: 238–9).

Despite Bai's philosophical stance towards Confucianism, we might recall He and Sun's realistic assessment that the West will always feel some distrust about the existence of the communist party system in China. Beyond describing these ideas, it is still necessary for Western social theory of international law and governance to offer some framework for a practical coming together of perspectives. However, at this stage, the relevance of Bai depends upon showing that Confucianism is influential in China, both officially and academically/intellectually.

The discussion that follows will primarily focus on international governance but it will, where appropriate, make further mention of the questions around cybersecurity, the environment, the role of law, Confucian ethics, and – above all – the relationship between state and civil society in China.

The contextualisation of contemporary Confucianism in China's approach to international relations is reaffirmed by some Chinese scholars in their views about China's role in international development.

2.5 Confucianism in Chinese public policy

The relevance of Bai depends upon showing that Confucianism is influential in China, both officially and academically. China not only pursues the prosperity of its own country and people, but it also consciously coordinates the relationship between national interests and the common interests of mankind. It integrates rationally into globalisation, participates in international mechanisms, undertakes the responsibility of a responsible power in international affairs, and creates an environment conducive to the common prosperity and progress of mankind (Gu 2015; Gu and Kitano 2018; Cai 2005).

2.5.1 The community of human destiny

The 'community of human destiny' is a concept on the development of human society advocated by the Chinese government in recent years, and it is a significant guiding influence in China's foreign policy. In 2011, the White Paper *China's Peaceful Development* proposed for the first time to seek new meanings of common human interests and values from the new perspective of a 'community of common destiny' (SCIO 2011). In 2012, the National Congress of the Communist Party of China formally put forward that, in recognition that there is only one earth for mankind to inhabit, this idea of the 'community of human destiny' should be promoted (Cai 2017a: 34).

Win-win cooperation means advocating a sense of a community of common destiny for mankind, taking into account the reasonable concerns of other countries in the pursuit of their own interests, promoting the common development of all countries in the pursuit of their own development, establishing a new type of global development partnership that is more equal and balanced, helping each other in the same boat, sharing rights and responsibilities, and promoting the common interests of mankind.

The interests of all countries blend, rise and fall together, and peace and danger coexist, forming a community of shared destiny. In the face of the complex and changeable international situation and severe and prominent global problems, people of all countries need to strengthen friendly exchanges, join hands and help each other in the same boat. (Xi 2014, in Cai 2017b)

Contemporary China is an active participant in and a key beneficiary of globalisation, and firmly pursues the policy of economically opening up to the outside world, advocating freedom of trade, foreign investment, and

the global governance strategy of joint discussion, joint construction, and sharing. These strategies and policies undoubtedly have the colour and value orientation of liberalism. In particular, the emphasis on the community of human destiny highlights a difference to nationalism (Cai 2017b: 20).

2.5.2 China's participation in global governance

From the perspective of relations between China and the world, contemporary China, having developed and advanced under reform and opening up, now stands as one of the world's leading economies. As China's standing in foreign and international affairs increases, so the international community expects more of it in terms of responsibility. As a result, actively participating in global governance is of particular importance for contemporary China.

By actively participating in global governance, China indicates its identification with the current international system and international order, helping to mitigate any doubts or misunderstandings the international community may harbour about China. Global governance, as a project of contemporary human society, is conducted under the framework of the existing international system. Active involvement recognises the legitimacy and authority of the UN and international law and signals an identification with the existing international system and order. China therefore plays the role of a reformer and improver rather than a revolutionary or challenger in international affairs (Gu, Humphrey and Messner 2008).

Second, China's active participation in global governance demonstrates an assumption of responsibility, which in its very being defuses criticism from the international community of China's insufficient involvement. Global governance relies on the active involvement of various actors, and especially those that provide more global public goods, defined as material goods (funds, tangible materials, etc.) and institutional and conceptual goods (international mechanisms, new ideas, value norms, etc.). The supply and management of global public goods is an important guarantee for the implementation of global governance, and an effective means of promoting it. China's increased UN membership fees and enthusiastic participation in the Paris Climate Accord, the establishment of the SCO, the Boao Forum for Asia, the AIIB, funding for the BRI, and advocacy for a harmonious world and the community of human destiny all attest to China's endeavours to provide global public goods. However, while cautiously insisting on China's position as the world's largest developing country, we should also take a broader global view of the expanding impact and subsequent influence on the world of this huge economy.

Only by actively participating in the process of global governance and constantly advocating and practicing these ideas can China cast off the shackles of realism in contemporary international relations, diminish and eliminate conflicts and confrontations, and guide mankind towards harmonious coexistence and common prosperity.

Regardless of the international realities the country confronts or the ideas and values it should establish, actively participating in global governance is China's strategic vision (Cai 2016a: 144–45). China is facing several new challenges in the process of participating in global governance. Many of these aspects are well-known but the most central is the advocacy of a community of human destiny, which is a unique contribution and commitment to the furtherance of global governance (*ibid.*: 323).

2.5.3 Soft power

Specifically on the question of whether China may have hegemonic aims through its soft power, Confucian or otherwise, Chen Zhimin makes the following interesting observations. There are many complementarities or overlaps in the soft power resources between China and the EU, but there are also some significant differences, especially the differences in the values conveyed by them. Due to high levels of economic and social development and deep integration, the core values of many European countries have Western characteristics, such as democracy and human rights, limited sovereignty, supranational governance, humanitarian intervention, environmental protection, and sustainable development. However, China has had complete national independence for only 60 years and is still a member of developing countries in terms of economic development (despite China's leading role in world trade, it still has about 600 million people living in relative poverty). Its core values emphasise sovereignty and development. European countries safeguard territorial integrity and oppose external interference in a country's affairs, insisting on international cooperation through consultation. China emphasises development as a priority, with environmental protections to first take into account the needs of economic development.

Chen also states that for China – in view of longstanding misgivings and misunderstandings of the international community, especially developed countries – soft power is more for defensive purposes. It intends to promote communication and understanding across borders, deepening exchanges between countries and reducing distrust of China's development rather than actively promoting China's values. So far, the Chinese government has never publicly acknowledged the existence of the Chinese model, let alone adopted relevant policies to export it (Chen 2011: 51–52).

3. Human rights and the international order

3.1 Introduction

Human rights have acquired a very generalised role in the context of Western states' approach to China. They speak of democratic alliances to contain China as an authoritarian state, so as to preserve the liberal democratic international order. The key human right underlying this order is universal suffrage, with regular elections held in a multi-party state (Ginsburg 2020). Other rights include freedom of speech, personal freedom within the rule of law, and a market economy rather than state-directed mercantilist economy (the main focus of the US-directed trade war against China).

With the crises over democracy in Hong Kong and anxiety over the national security implications of Huawei's advantages in 5G communications technology, the issue of human rights has become an integral part of geopolitical debates involving China. It is no longer simply a matter of state interaction in the UN Human Rights Council. As mentioned earlier, the whole idea of multilateralism becomes problematic if participating states begin to divide themselves into groups, such as by expressing a desire to collaborate with like-minded states to contain others which do not share their values, i.e. authoritarian states.

The area of human rights has become contested within the wider context of the international order as a whole. In relation to this wider discussion of multilateralism, two suggestions will be made.

First, given that human rights issues, from China's perspective, are likely to spill over into core issues of international trade (e.g. the European Parliament calling for non-signature of the CIA and the danger of a Western boycott of Huawei), it is interesting to explore and highlight the challenges that Bai presents to Western-style democracy, particularly for the still-developing third world. This goes beyond maintaining the stance that China has held until now: that human rights are a matter of domestic jurisdiction. This may not be enough if Western countries are serious about linking trade with human rights. While China is already building a coalition of developing countries to support it at the UN, this may not be enough for it to confront the comprehensive breakdown of multilateralism which threatens. It is necessary, as Bai recommends, to demonstrate to the West the shortcomings of its own concepts of human rights-based governance. What the present practice of Chinese multilateralism in

human rights appears to show is more of a siege mentality, a defensive stance which does not systematically engage with a looming repeat of the nineteenth century move by the West to try to isolate and control China.

Second, the West needs to appreciate that the rules-based order of the liberal, democratic, market economy that it is calling for is not, and never has been, a universal system of international order. If the West is going to persist in demanding that this system must be accepted by Russia and China, the West would be, in this case, the revisionist power. The focus of this study is Chinese approaches to multilateralism, not those of the West, but it is obvious that Chinese approaches cannot function in isolation. If the restoration of multilateralism in the West under President Biden will mean a reinvigoration of NATO and involve a partnership of countries across the Atlantic to contain authoritarian states, then such strategies are not globalist. Both sides must recognise that the world order is not complete, and that there is still work to be done to shape this order. As indicated earlier, studies are already emerging which help to indicate what this work entails.

In this context, we will now undertake a closer analysis of critiques of Chinese conceptual approaches to human rights to uncover exactly what is at issue in human rights controversies. Then, the issue of Chinese objections to interference in domestic affairs on the pretexts of human rights offences will be explored both in the general context of international law on intervention and in terms of differences in understanding between China and the West with respect to freedom of expression, intellectual discourse, and the nature of public political debate. This will be followed by a case study on global regulation of cyberspace. The analysis will then conclude with a commentary on Western criticisms of Chinese human rights diplomacy at the UN and China's approach to UN peacekeeping. The topic of development finance and assistance will be left to the next and final section.

3.1.1 The Chinese experience

Reflecting once more on a major criticism of the work of He and Sun, directed to themselves and their Chinese international law colleagues, is that they are not able to reconstruct international law thinking in a way that expresses their own culture and history. This is an intellectual task which they are not yet either equipped for, or willing to undertake. Bai, however, is more directly challenging of his American political theory colleagues, as they are with him. He argues that the Chinese approach to human rights is based upon the classical (pre-1945) Western view that human or civil rights are a matter of domestic constitutional law, where each country develops its own view of these rights. As He and Sun make clear, the notion of the nation state upon which human rights build is constructed around the German historical

school of law, in particular Fredrick von Savigny. The governing idea is that each nation has its own constitution which reflects its own traditions.

There is now increasing concern that China is in fact gaining widespread diplomatic recognition for its approach to human rights, but it is not appreciated that there is nothing particularly Chinese about this approach. The point of national independence is to guarantee this. It is only Bai who deepens the debate and gives the Chinese experience a potentially universal import, though not yet from a legal perspective.

3.1.2 External observations

In a systematic and comprehensive study published in 2012, German political scientist Katrin Kinzelbach examines all of China's statements and initiatives in the UN human rights fora. What emerges is a consistent pattern stretching from the early 1990s to the present day. Her critique of China resembles that of He and Sun, in terms of a Chinese dissatisfaction with contemporary international law thinking that, as yet, does not have the capacity to reformulate it in preferred terms. Her fundamental points are that China does not contest any of the existing catalogue of human rights, including a right to democracy, but insists it must be entirely within the judgment of each state how it develops and protects the uncontested rights of its people. China always challenges the implementation of rights, and not the normative order as such (Kinzelbach 2012: 331). She sees that China is not opposed to international standards, but compliance is a matter of interpretation and not facts (*ibid.*: 309). So, it is not surprising that Beijing insists that no entity independent of the Chinese state, whether domestic or international, should interfere with the exercise of its judgment about its national circumstances. The idea that there is no one model of development is the very essence of nationalism, in her view, as nationalists always claim they are unique and no one universal rule can apply to them (*ibid.*: 308–9).

However, as a German and European scholar, Kinzelbach does not appear to be fully aware of her own history or to understand any longer the classical international law to which China is continuing to adhere. She contends that China considers sovereignty to be more important than human rights, citing Deng Zhou Ping who said that the rights of the nation are more important than human rights. She is astonished that China talks of the fundamental rights of states when for Europeans, this language belongs to individual persons. This is to treat the state as absolute (*ibid.*: 320). She forgets that such language was normal Western international law vocabulary at least until the 1950s (Carty 2019). She also does not appreciate how easily China can win coalitions with other countries based on the conviction that enforcing human rights is a pretext to interfere in the domestic affairs of

other countries. In forgetting the European colonial history, she is bemused by the Chinese view that the right to self-determination is the basis for all human rights, making the violation of sovereignty a human rights violation. So, China says that to interfere in another country in the name of protecting human rights is a betrayal of the human rights cause (*ibid.*: 322).

Kinzelbach detects an unwillingness from the Chinese to discount the significance of human rights but also sees that the country is unable to prioritise them. She reiterates that economic, social, and cultural rights come first, but political rights complement the others. An orderly increase in political participation is, therefore, also an important goal (*ibid.*: 324–5). She recognises that China does not say that any rights are intrinsically more important than others (*ibid.*: 329). Her impression is that China is unable to fundamentally challenge the normative order established by human rights law, which is why it instead challenges implementation. So, in her view, why would that change in the future (*ibid.*: 131)?

It is doubtful whether Kinzelbach or her fellow Europeans are any more able than the Chinese to reflect critically on the nature of this inherited order. Kinzelbach notes with concern that China has tried to call on the Human Rights Council to promote the inclusiveness of different cultural traditions, a move which she calls out as a 'particularist' approach, presumably failing to see that human rights are inherently a globalist, cosmopolitan ideology. She is especially alarmed about the Chinese promotion of the idea of social responsibility and harmony because this challenges what she calls the very essence of human rights norms.

Kinzelbach notes that the EU response to human rights made them conditional on the performance of human duties and responsibilities – which was against the core principles of human rights. Kinzelbach says that China is questioning the central concept of unconditional entitlement (*ibid.*: 309–11). She continues: 'that human rights protection was subject to an individual's social conduct defies the very essence of human rights' (*ibid.*: 300). She recognises that this implies an entirely different idea of the relationship between individual, society, and state. She concludes by formulating the issue as necessarily confrontational. Beijing will not accept the idea that individuals hold unconditional entitlements against the state (*ibid.*: 329). This is without saying what unconditional means and with respect to what. This is a civilisational difference between China and the West which Bai has clearly articulated. The Western idea is that human rights are innate, granted by God at birth, while the Chinese Confucian view is that the individual is only educated into full moral personhood in society, primarily through the family. It is also a fact that this Western conception is

not inherent to the whole Western tradition, as the role of social upbringing in constituting individual moral personality was recognised also by Aristotle.

3.2 Intervention

From a purely, albeit narrow, legal perspective, the above conflict about the very meaning of basic concepts of human rights is playing out as a normative battle around the notion that international law prohibits interference. This goes beyond intervention in the internal affairs of states on the ground that they are violating human rights. Therefore, it is necessary to revisit the whole understanding of the concepts of free speech and freedom of information and of the media (including the internet) within the wider context of definitions of foreign intervention in the domestic politics of states.

3.2.1 The legal framework

The United Nations General Assembly (UNGA) resolution, *Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of their Independence and Sovereignty* in 1965, passed unanimously, provides 'no State has the right to intervene, directly or indirectly for any reason whatsoever in the internal or external affairs of any other State' (UNGA 1965). A later UNGA declaration is even more explicit on this point:

Armed intervention and all other forms of interference in the form of providing financial or other assistance or to incite or tolerate subversive, terrorist or armed activities directed towards the violent overthrow of the regime of another State, or interfere in civil strife in another State violate international law.
(UNGA 1970)

Despite these categorical statements, great disagreements arise in practice concerning the meaning of intervention. Some idea of the reasons for this can be gathered from another UNGA resolution which did not receive universal consent: the 1981 *Inadmissibility of Intervention and Interference in the Internal Affairs of States*, which went into further detail still. It is discussed by a private group of experts called the European Leadership Network who, in 2017, were trying to devise common standards for non-interference between Russia and the West. They notice that the provisions of the above resolution offer maximum clarity. It goes much further than calling for no threat or use of military or economic coercion, to require as well that States refrain from:

- a. any action or attempt to destabilize the political system
- b. the promotion, encouragement or support, direct or indirect, of any action which seeks to disrupt the unity or undermine or subvert the political order of other States
- c. any defamatory campaign, vilification or hostile propaganda
- d. the exploitation and the distortion of human rights issues as a means of interference.
(Raynova 2017)

This European study recognises the practicality of these formulations but says that they largely boil down to descriptions of events, actions, and expressions of opinions where there will be no agreed standards of objectivity between Russia and the West.

The four standards enumerated have not been recognised universally as binding in general international customary law. The Max Planck *Encyclopaedia of International Law* entry on intervention (Kunig 2008) was more categorical. Kunig says this resolution is not helpful and its broad definition was passed against the will of many states. He stresses that hostile propaganda to influence a situation in another state is illegal (but only if it can be proven that it was conducted by a foreign government and not private persons), yet in no circumstances is criticism of the internal politics of another State subversion, 'if this criticism is substantiated by facts' (*ibid.*: 6). This point brings us back to the difficulty mentioned in the above European study. There will be no agreement between Russia and the West as to what is meant by 'criticism substantiated by facts', especially in the feverish atmosphere at present, not just in Hong Kong but also more generally in the US and other Western countries' attitudes to China. This has decisive implications for issues about the relationship between acts of subversion and foreign interference in the areas of freedom of speech, freedom of assembly, and academic freedom or cooperation beyond borders.

Standard Chinese international legal doctrine makes clear a connection between the rule of non-intervention of one state in the domestic affairs of another and the Bandung Principles (Shao 2008: 41). Shao Shaping is aware of the tendency of Western doctrine to wish to limit the rule of non-interference to overt, forceful intervention (2008: 41 *et seq.*). Instead, she argues, there is a broad prohibition of interference in each other's internal affairs. Traditional Western international law must be understood as a legal ideology, that is to say, it is a weapon for criticising others, while the Bandung Principles reflect the needs of developing countries for respect. They represent an anti-hegemonic fight against the spirit of power politics

whereby state should take any measures to force another state to accept a specific ideology, social or political institution or intention. The range of what can be classed as a state's internal affairs, according to Shao, include any kind of issue or activity related to politics, economics, society, military, culture, and diplomacy. 'If a State employs agents to create panic in another State, funding anti-government activities, sending in spies etc... all of this is interference in the domestic affairs of another country' (Shao 2008: 41–48).

3.2.2 Debate and public discourse

Shao's perspective is not simply based on a forensic examination of the language of resolutions by the General Assembly. It is an expression of a widely held East Asian understanding of public discourse and interaction. It is deeply rooted in a Chinese philosophy that, in interpersonal relations, harmonious silence is advocated over critical debate. Chinese cultural tradition sees that a public discourse of an individual should be and will be born of rich emotions and good will. In the classic tradition, this is exemplified by Liu Xie's *The Literary Mind and the Carving of Dragons* (Liu 2003). With Confucianism as its core guidance, the author explains how good writers aim to express their own emotions rather than defend their own points of view, and least of all attack other views with which they may not agree (*ibid.*). Qualities that Liu praises are emotion, courage, integrity, and creative talent. Each writer would be esteemed for their unique style generated from their own life experience. Liu describes how speakers give their personal perceptions of the world in a way that their feelings and emotions dominate. Chinese culture uses literature and poetry to stress dignity and openness to empathy. By contrast, for Aristotle, public discourse should not be too personal and emotional. Aesthetic implicitness is deeply rooted in Chinese culture. The beauty of writing or speech inspires the reader or listener to understand what is hidden in the heart of the creative author. A crucial difference in styles of diplomacy is therefore the implicit versus the explicit.

Liu believes the power of discourse to inspire and move the heart of the listener rests upon its capacity to bring alive the most excellent aspects of tradition, but never to challenge this tradition or argue with the listener. At the same time, discourse intends to represent power and authority in an inspiring way to encourage acceptance. Through it flows political power which influences the loyalty and belief of the people.

In the Chinese tradition there is certainly a tendency to follow authority and to be scrutinised for political correctness, while for Westerners the focus is respect for facts and the truth, and ability to deliver argument in a reasoned, effective, and logical way. The outcome of the Chinese form of discourse is that it will usually communicate itself in expressive

ways, allowing for flexible and wide interpretations and leaving space for the audience to form their own understandings. Westerners will resist this, in the Aristotelian tradition, in favour of accurate, stable, precise rules. The objectivity excludes the subjective and personal.

3.3 Between cyber-sovereignty and the rules-based liberal democratic international order

Another legal field in which the Chinese–Western tension plays out is in the attempts at international regulation of cyberspace.

In 2015, President Xi Jinping set out clearly China's understanding of multilateralism in the context of cyberspace, saying: 'There should be no unilateralism. Decisions should not be made with one party calling all the shots or only a few parties discussing among themselves' (Xi 2015a). There must be a full participation of all countries, through which, by consultation and dialogue, an equitable and just outcome acceptable to a majority of countries can be reached. This democratic approach should involve all stakeholders, including internet companies, non-governmental organisations (NGOs) and citizens, but China is clear that governments should be taking the lead with respect to public policy and security (MOFA 2017). There is very much present in this way of thinking the conscious belief that rulemaking grows out of a density of interaction among a very wide variety of technological communities, internet companies, which will lead to a 'multi-dimensional and well-coordinated governance framework' (Xi 2019). At the same time, governments have the responsibility to draft the laws and policies in the light of their national conditions and contain the spread of cybersecurity risks. This should happen within international organisations such as the UN. Internet companies should commit themselves to law-based governance. Finally, individual citizens must 'conscientiously regulate their own online behaviour' (*ibid.*).

In China's view, the realistic perspective is to recognise that it is having to reorient a global cybersystem that is actually dominated by private Western companies, the 'multi-stakeholders'. This brings China into solidarity with Russia, which considers the role of the multi-stakeholders to be exaggerated (Russian Federation 2021). China's cybersecurity law of 2017 insists upon digital boundaries in order to protect its political, economic, and social systems from foreign intervention. It does this also by strictly controlling the inflow of information from abroad and ensuring no external dependence on cyber-technology. This is the way to avoid, in the words of President Xi Jinping, any situation whereby a country may 'connive in or support cyber activities that undermine other countries' national security' (MOFA 2017).

The cyber-sovereignty approach leads China to prefer a hard law over a soft law approach to cyberspace regulation. It is so concerned about the possibility of the multi-stakeholders (private companies within the Western liberal democratic order) endeavouring to undermine its social, economic, and political structures that it would prefer to apply precise legal standards to cyberspace. In the UN Group of Government Experts (GGE), China required reference to sovereignty in its reports and, along with Cuba and Russia, insisted on there being no reference to self-defence and humanitarian law on the grounds that this could invite technologically advanced countries to launch attacks on other nations, threatening their governments.

With Russia, China set up a parallel group called the Open-Ended Working Group (OEWG), open to all UN members instead of just the 25 of the GGE. There, China proposes that a consensus on non-binding norms should be translated 'into a more binding international instrument' (OEWG 2018). While China has the support of many developing countries, the US thinks general international law can apply (United States 2020). Such a general law, in China's view, which is based on ill-defined custom and shaped through Western (specifically European) history, can be interpreted in different ways. It therefore needs to be replaced by a freshly drafted and precise international treaty. This is the true meaning of socialism with Chinese characteristics: new standards drafted freely and in precise terms by China with other developing countries (Xinhua 2017).

What China is really bringing to the surface here is a fundamental point about the structural history of international law and order. The recognition that the world has never had a complete international legal order, only a Western- (and European-) led order to which the rest of the world has never officially consented, is the perspective developed by He and Sun (2019). In the new context of cyberspace, this order is not currently regulated at all. So, it is up to each sovereign state to negotiate a new and explicit order, in a dialectical struggle which reflects all their interests. And the most appropriate mechanism for this is a new multilateral treaty.

3.4 Governance and civil society: Chinese reflections

In addition to this analysis of international law, it is worth stating that China would not accept the widely presented Western interpretation of Chinese society in which civil society is excluded from the system of government and the state permeates everywhere in society. The opinions of the Chinese thinkers Yu Keping and Cai Tuo are quoted extensively here, and we stress the extent to which they reflect official thinking. The primary duality is between

government and governance, the former resting strictly on obeying law while the latter engages the whole of society, particularly at an ethical level.

First, Yu Keping:

Governance is different from government, it refers to the use of public authority by government and/or non-governmental organizations to manage social and political affairs, maintain public order and meet the needs of the public. Good governance means that the government and the people co-govern social affairs, which is the best situation of the relationship between the state and society.

The decision on comprehensively promoting the rule of law passed by the Fourth Plenary Session of the 18th CPC Central Committee puts forward such an important proposition: 'good law is the premise of good governance.' The political report of the 19th National Congress of the Communist Party of China once again emphasized that: 'we should promote scientific, democratic and legal legislation, promote development with good laws and ensure good governance.' This means that China's top leadership has officially regarded good governance as the ideal goal of China's political development.

As the cooperative management of public affairs between the government and citizens, good governance needs the joint efforts of the government and citizens. Moreover, with the development of society and the progress of politics, the role of citizens in the management of public affairs will become increasingly important. However, so far, among all the power subjects, the government undoubtedly has the overwhelming importance, and no other power subject can be compared with the government. The government is still the 'locomotive' of social progress, the officials are still the 'driver of human political train', and the government still plays a decisive role in the realization of good governance.

A new state governance model is gradually taking shape in China. From the perspective of comparative politics, this new model has the following features, enabling the laws and ethical doctrines to play their respective roles... As the ideal state of governance, good governance entails the partnership of the government and citizens in public affairs management and implies the optimal functioning of the state and the society. In the process of speeding up governance modernization and striving for good governance, China has to pay sufficient attention to some general trends, including from the monolithic model of governance to the multi-actor model of governance, from centralization to decentralization, from the disproportionate roles of individuals to the prevalence of the rule of law,

from regulation to service, and from closeness to openness.
(Yu 2019: 28–30)

Second, Cai Tuo:

'China model' is a social development model that begins to pay attention to social function, tap social potential and play the role of society. It is aware of the real existence of social space outside the traditional political fields such as the state and the government and its indispensable role in promoting social development. It is aware of the significance of social harmony in resolving social contradictions, gathering social forces and promoting citizen participation. Therefore, it advocates the establishment of a harmonious society. This shows a new direction, that is, the transition from state politics to non-state politics... It is a more forward-looking strategic change to expand from a purely state perspective to a non-state perspective, and to give full play to social forces, including domestic civil society and global civil society. It not only reflects China's progress with the times more truly, but also makes China stand in the forefront of the times.
(Cai 2005: 13)

Non-state actors are increasingly active and rising. When we look at today's international environment, it is obviously unwise to ignore the role of NGOs and global civil society. Non-state actors are influencing the issues, procedures and processes of international relations from multiple fields and levels, thus restricting the grand strategy of all countries... The rise of non-state politics, whether in the shifting global politics or in the downward group politics, has demonstrated the role of non-state actors (e.g. international organizations, civil society and NGOs) at different levels. They actively participate in public life and share the function and authority of managing social life to varying degrees. This kind of political transformation shows the future trend of politics, which cannot be ignored by China's grand strategy.

The process of legalization has been accelerated, while the process of democratization has lagged behind. After the reform and opening up, the process of the rule of law in Chinese society is obviously accelerated, and the concept of the rule of law is increasingly popular, which makes the social and political life more standardized and orderly. Comparatively speaking, the process of democratization is far away from people's expectation and does not fully meet the actual needs.
(Cai 2006: 5–7)

3.5 Wider Western responses to the nature of a human rights-based international order

There is recognition on the part of consultants to the Carnegie Foundation (Williams 2020) and the Royal United Services Institute (Chalmers 2019), that there is not at present an established liberal democratic international order to be defended. Instead, there is a Western conviction that it is the most sound and decent way for the world community to develop. Since this aspiration translates into security concerns, it is acutely relevant to otherwise distinct issues such as development finance.

The 2021 UK defence review insists that the distinction between national security and economy is illusory, while it is clear that national security for the West is bound up with the idea of open society and transparency. A state which does not have universal suffrage and controls all information within its jurisdiction will therefore have its intentions in international affairs viewed with serious uncertainty. So, the defence review calls for the integration of the logic of diplomacy, development, intelligence, and security. It further recognises that the issue is how to manage an increasingly contested international order, where multipolarity is the rule and the centre of gravity is moving towards the Indo-Pacific (HM Government 2021: 24–26). With China as by far the most significant competitor in the multipolar contest to shape the international environment, it states that a priority for the UK is to increase the capacity to understand China in the context of this struggle – as the UK sees it – between an authoritarian and liberal perspective on how the world should develop (*ibid.*: 27–28).

There is currently little evidence that either China or the West will concede their positions. The battleground is between the West and China for the hearts and minds of the nation states of Africa, Asia, and Latin America. For instance, a major contestation between the West and China is about the nature of the latter's supposedly authoritarian government. The central feature of Bai's argument is a hybrid form of government which has a meritocratic element as well as a popular element. His claim that the management of contemporary society is far too complex for even highly educated citizens to understand effectively can hardly be contested. However, there is also a crisis surrounding the authority of experts in the West, leading to the spread of populism which argues that experts are not impartial but part of a ruling class and therefore acting partly in their own interests (Davies 2018; Carty 2021).

In the West, it difficult to see any way out of this dilemma. The cardinal principle of its individualist democracy is itself populist, in that people are sovereign and it is impossible to tell them that they are wrong – and

therefore not entitled to final political authority. The progress of universal suffrage since the nineteenth century has been based on the principle that exclusive franchises were exploited for the economic interest of those holding them (Leigh 2018). However, the evidence that popular votes can be easily manipulated and the recognition that issues of government are incredibly complex are now so overwhelming that many in the 'third world' are likely to be inclined towards the Chinese model and the arguments of Bai. It might be said that the governance of the EU retains large parts of a hybrid philosophy, with the European Commission appointed while the Parliament is directly elected. In which case a pragmatic approach to European–Chinese relations may well be able to reach some common ground. However, the present climate of opinion in Europe about human rights in China has led the Parliament to suspend further deliberation of the CIA between the EU and China.

Western reflections on China are, for the most part, based on external observations of Chinese practice and extrapolate Western ideological descriptions to superimpose a particular picture of Chinese intentions. In short, they express Western convictions, for example that China wishes to keep civil society under state control as much as possible, and that China recognises the importance of development for stability and peacekeeping but does not believe in endeavouring to construct new civil and political institutions, apart from encouraging economic development and providing infrastructure. The Western discussion recognises that the conflict with China in these fields concerns not its own relations with China, but rather shaping the global discourse and winning over the global South – where the competition is focused.

3.6 Human rights and developmental peace

Since 2013, China has taken a more active role in the United Nations Human Rights Council (UNHRC) (Piccone 2018). Piccone argues that China aims to promote what it calls 'orthodox interpretations of national sovereignty and non-interference in internal affairs that weaken international norms of human rights, transparency, and accountability' (*ibid.*: 1). On the other hand, He (2019) and De Coning and Osland (2020) argue for the idea of 'developmental peace', which focuses on securing an environment for economic development without facilitating political institutions along Western lines. In the view of these authors, the cumulative effect of both Chinese policies (in the UNHRC and in favour of developmental peace) is to direct attention away from furthering a global liberal democratic order.

Piccone complements the work of Kinzelbach by tracing the types of resolutions China has had passed or tried to pass in the UNHRC.

This environment, for Piccone, allows states more power to interpret 'lawfulness' and thereby takes away the power from NGOs, whether Chinese or from other countries. This replaces what China would consider a confrontational relationship between the state and civil society with a more harmonious one. Just as Kinzelbach noticed, Piccone also remarks how China stresses the necessity of economic development for the fulfilment of human rights, although not clarifying how to balance the claims of economic rights (satisfied by economic development) with civil and political rights, which may be neglected in the Chinese pathway to development. Piccone assumes reality to be inevitably conflictual, meaning that economic and political rights are bound to clash. In a similar vein, Piccone notes that China seems to want to encourage a diplomatic conversation about the nature of human rights rather than facilitate a judicial process of adjudicating state violations of human rights.

The fundamental issue for China, in Piccone's view, is control of civil society. Here there is a divergence in perspective from Yu Keping and Cai Tuo. Piccone sees that ensuring civil society organisations operate in a legal way gives states the power to repress them if desired. The unifying principle of the Chinese perspective is absolute territorial sovereignty. As such, China has tried unsuccessfully to introduce language into the UNHRC resolutions recognising states' internal sovereignty, which would give international legitimacy to the repression of minorities in the autonomous Tibetan and Xinjiang Uighur regions. Piccone's overall interpretation is that China wants to remove from the UNHRC resolutions mention of anything that would provide a conducive environment for civil society to operate. For Yu Keping and Cai Tuo, the objective of an active civil society shapes the whole development of China's domestic life. Clearly there is a clash of interpretations here.

Piccone correctly points to the coalition of like-minded 'authoritarian' countries which support China in the Human Rights Council as having a large percentage of the vote in the UNHRC, although not going unchallenged. Full support comes from Bangladesh, Bolivia, Burundi, Cuba, Egypt, India, Indonesia, Kyrgyzstan, Pakistan, Qatar, Saudi Arabia, United Arab Emirates, Venezuela, and Vietnam. Other states which usually, but do not always support China, are Ethiopia, El Salvador, Iraq, Nigeria, and the Philippines. These states appear to share China's commitment to state-led development. China will receive intermittent support from some African countries while Western Europe, North America, Japan, and Australasia will usually try to oppose China.

Additionally, UN peacekeeping, particularly in Africa, is relevant to governance, of which human rights is a part. While China may be formally opposed to intervention in the domestic affairs of states, it is very prominent

in participating in peacekeeping operations within a developmental framework. He (2019) argues that China is actively promoting developmental peace over the idea of a liberal peace. Developmental peace emphasises the strong state leading the development process while political and social stability come from strong institutions. De Coning and Osland (2020) agree with the idea that peace comes from economic stability and that development which mirrors the Chinese approach is achieved not through imposition but through imitation. Economic development assistance via aid with no conditions attached means there will be no talk of strengthening democracy, the rule of law, or individual human rights. Both De Coning and Osland (2020) and He (2019) note that the two different concepts of peace are not necessarily mutually exclusive and incompatible. However, insofar as peacekeeping forces are also working for economic development, there are characteristically Chinese ways of collaborating.

In the view of De Coning and Osland (2020), the Chinese are able to play a more effective peacekeeping role in both Mali and South Sudan because they are liked and trusted for their business-like approach. In the Sudan the Chinese share economic interests with both sides of the civil war and therefore offers an equal economic incentive to the two parties to try to diffuse potential violence.

The general question remains of whether liberal democracy improves the efficiency and equity of economic development in the course of conflict resolution in the global South. Western interpreters of Chinese practice will always tend to be sceptical and, in some recent cases, with good cause. Recently, China has vetoed proposed resolutions of the Security Council, calling not merely for humanitarian assistance in the conflict in Ethiopia but also demanding a ceasefire of hostilities.

4. Chinese Confucianism: implications for the nature of multilateralism and international organisation

It will be argued in this section that there is a distinctive Chinese way of approaching multilateral diplomacy with regards to the structure of international organisations and multilateral treaties. This means delving more deeply into the historical and sociological aspects of the impact of Confucianism on Chinese behaviour. The fundamental text on the construction of the discipline of sociology in China is Xiaotong Fei's (1992) *From the Soil: The Foundations of Chinese Society*. Fei's thinking is outlined in contrast with standard Western thinking to consider how these differences are also reflected in Chinese diplomacy. While the Chinese perspective is aware of the Western one and considers itself in relation to it, this is not reciprocated. Indeed, the Western perspective is not clearly aware of the Chinese perspective (except as being something deviant), and furthermore considers itself as universal. There is a recurring complaint from the West that China has not followed their expectations to assimilate despite an invitation to become a stakeholder in their world, causing them to feel disappointed – even deceived.

4.1 Social regulation

As a sociologist, Fei points in the direction of unconscious, inherited thought and behavioural patterns of Chinese people generally, which is possible to recognise in the ways they organise themselves and relate to other groups. Quite apart from the point that the Chinese government revives classical Chinese philosophy in official matters today, the 2,000-year history of the country will inevitably unconsciously shape the behaviour of Chinese people in both the public and private sector.

The far-reaching influence of Chinese people around the world does not follow a specific blueprint. Some reviewers have suggested that this is either a lack of overall coordination or a deliberate ploy to keep China's strategies opaque and therefore flexible and adaptable. The assumption underlying the exposition of Heng Wang (2019, 2020) and Jakóbowski (2018) on multilateralism is that Fei provides the most likely explanation of Chinese behaviour: the overall Chinese

motivation is largely driven by habit, reproducing the way in which Chinese society functions domestically at the international level.

Fei's view of Chinese ethics is not unproblematic, but its value is that it may provide another framework within which to analyse Chinese multilateralism. Fei believes that Chinese organisational thinking is based on the experience of rural, agricultural and village life, as opposed to modernised, industrial, and urban life. Since Chinese society has been radically transforming from rural to urban, his thinking might appear redundant. However, the argument here is that the influence of rural, traditional (i.e. Confucian) society continues to dominate. In the 1940s, Fei remarked that when any Chinese person is asked where they come from, they answer with the homeland of their ancestors. This connection endures today with Chinese returning to their hometown from across the country every Chinese Spring Festival.

Also paradoxical is Fei's thesis that the Confucian ethic is completely egocentric. The individual is expected to learn self-restraint, to discipline himself, and, in this way, acquire the capacity to build relations with others through a benevolence which extends outwards from himself to his family, from the family to society, and from society to the wider world. At the same time, the essence of this self-restraint and discipline is that the individual learns to adapt and adjust himself to the existing society that has preceded him. Confucius says that a son who is respectful of his father will rarely be inclined to get into dispute with the state authorities.

The central feature of this analogy of extending the family to all human relations is that it depends upon the building up of personal relations to explain the evolution of the whole of social organisation. It holds that individual loyalty – meaning sincerity and trust – is the fundamental glue of social organisation. It depends upon a constant cultivation of personal relations. Agreements are an expression of a relationship at a particular time and must be continuously sustained. Social organisation is a function of the expansion of individual personal relationships which criss-cross, interact, and network with one another.

In imperial China, all relations would ideally eventually lead back to the Emperor, whose rule was a function of a vastly extended notion of the imperial family to the whole country. The stress in Confucianism is on the importance of the benevolent ruler (as opposed to a self-centred tyrant) who has the character of *ren* – meaning humanity or benevolence – which is the foundation of his capacity to sustain a harmonious political society. The quality of these extended personal relations is always dynamic, holding the potential to flourish further, but equally the possibility to wilt and fragment.

4.1.1 Rites

The basis of the Confucian way of thinking is the experience of the rural community. The capacity to practice self-discipline and restraint is represented in the learning of the rites. Rites refer to the accepted ways of behaving in typical situations that occur frequently. It is the responsibility of the father to educate his children to learn these rites through repetition until they are internalised in the spirit of the individual.

In Western terms this amounts to a kind of customary law, especially if the latter is seen as resembling the English common law. The rites arise out of the experience of the community in dealing with particular situations, not unlike precedent in English law. Rites follow the experience of concrete situations and are always so specific that there are a multiplicity to be learned. Just as in the common law, if the rite is to be modified, this will be done by an interpretation which only very discretely alters its meaning, maintaining the appearance that it remains unaltered. There is not a strict procedure for enforcing rites. As the responsibility of the father, he would be to blame if this process of educational internalisation does not occur within his children. If the children do not behave correctly, they would ultimately be excluded from society. Enforcement therefore tends to be directed upwards in the hierarchy to the person responsible for those lower down in the social structure, the entire fabric of which is patriarchal.

References to common law are not explicitly in the text of Fei, but the concept of rite resembles common law much more closely than the international law idea of customary law, which is, in any case, obscure and controverted, but is widely assumed to mean an unconsciously developed practice dating back to a time when it was not yet binding law. The commonality between a Confucian rite and the idea of custom is that individuals do not choose the customs but are born into a society in which they exist. Rules and rites are constructed by the society through education and individuals must learn and follow them to remain part of the society. For the practice of multilateralism, arising out of this tradition where society is still to be constructed, the aim of a Confucian-infused ethos or ethic will be to set frameworks in which dense and detailed social practice can be stabilised, and in which a series of rites can arise from experience of precedents.

4.1.2 Political governance

Fei contrasts this Confucian approach to social regulation to the Western idea of law with much the same understanding of Western individualism as Bai. The West has an idea of what Bai called the innate natural rights of individuals which precede and are quite independent from society. The rights to freedom and equality attach automatically to the individual and his formal

consent is necessary to any derogation. Fei adds the dimension of God and Christianity, which is essential to the Western idea that law transcends human beings and regulates them. This divine law creates and legitimises the innate nature of the individual, created by God as free and equal. Individuals are governed by law and not by persons; far from being enmeshed in society, individuals are quite separated from one another. Any decision to deviate from the contractual order is taken as a matter of conscious will.

A political society is based on a constitution that provides the basis for governance within a nation. In the same way that this is necessary, international relations give rise to the need to form institutions that supervise relationships between national political societies. This arrangement also ensures that all participants observe the terms of the contract and criteria for membership. If not, the latter would lapse. Further, the member could simply withdraw should they so desire.

Thinking in terms of the individual, however, this framework is not realistic as it does not account for the web of relationships that individuals are inextricably tied to from birth. It is not possible to simply extricate oneself from the planet.

The idea of a rules-based domestic or international order assumes that individuals have contracted certain terms for regulating the space between them and that it is appropriate to have an independent mechanism to see that individuals comply, and are formally sanctioned if they do not. As will be explored further, the terms of contracts can sometimes be open to debate.

4.2 Rules and institutions in Chinese multilateralism

The literature on China's practice of multilateralism is vast, but the aim here is to examine how certain features of China's BRI, are absolutely central to understanding how it will shape normative approaches to international order. Its multilateral initiatives, *vis-à-vis* the European 16+1 and the Africa and East Asian relationships, will then be considered more briefly.

Even Chinese commentators appear to present Chinese practices apologetically in comparison with Western approaches to normativity, without fully considering the possibility that the Chinese may have profoundly different views of how to construct international relationships. This report also posits that Chinese policymakers are themselves not fully aware of how their own history influences and shapes their approach. This mutual lack of self-consciousness, it is believed, is a significant principal reason for Western fear and lack of trust of China. It is perceived as an expanding power whose apparently irresistible rise must be contained.

It will be argued here that, given the deep structural aspects underlying China's approach to multilateralism, striving for global hegemony is not a likely intention and, once China's approach is understood, all that is required is some form of compromise between two very distinctive approaches to normativity.

4.2.1 Lessons from the BRI on the nature of Chinese normativity and rulemaking

Two articles by Heng Wang (2019, 2020) consider the BRI from the perspective of characteristics of normativity. He makes no mention of a conscious Chinese intention to spread benevolence abroad, nor to personalise rather than institutionalise international relations, instead attributing the Chinese practice to a pragmatic response to the nature of the BRI as an activity. China's actions in this policy area are broad, complex, and unpredictable, requiring extreme flexibility. However, the argument here is that, with few exceptions, this approach will reproduce itself more and more distinctively in China's approaches to international relations.

Heng Wang stresses that the megaregional nature of the BRI means it is central to understanding China's approach to international economic law (Wang 2020). His article reflects on hundreds of what he calls primary agreements between China and other countries. Generally, he says these are not law, nor politics. The agreements emphasise project development, not rule development, by which he means not that China is careless about the search for the highest standards, but that it has a distinctive way of aiming to achieve them (*ibid.*). President Xi Jinping expressed this himself in a speech at the Second Belt and Road Forum:

We should strive to achieve the goals of high standards, benefiting people's livelihood and sustainable development, introduce rules and standards generally supported by all parties, and promote enterprises to carry out project construction, operation, procurement, bidding and other links in accordance with generally accepted international rules and standards, while respecting the laws and regulations of various countries. We must adhere to the people-centred development philosophy, focus on eradicating poverty, increasing employment, and improving people's livelihood, so that the results of the 'Belt and Road' joint construction will better benefit all people, and make tangible contributions to local economic and social development, while ensuring commercial and financial sustainability, to achieve good beginning and good ending, good work and good accomplishment.
(Xi 2019)

Heng Wang distinguishes three characteristics that would need to be present to make the agreements law-like. First, there is not a precise statement of obligations from the parties. Second, there is not a delegation of responsibility to third parties to interpret the agreement and ensure compliance. Third, the objectives to be achieved are presented in broad parameters and are not precisely delineated (Wang 2020). Instead, the agreement speaks of cooperation among the parties to ensure that the project is faithfully implemented (*ibid.*). Mechanisms of concrete collaboration are to be found to ensure specific projects will carry out the political will of the leaders (*ibid.*). Wang reflects that from a Western perspective, weak legalisation means that imprecise norms are most often interpreted and applied by the very actors whose conduct they are supposed to govern. The room for discretion left by the terms of the agreements means there is difficulty in assessing compliance (*ibid.*).

Of course, while the BRI should be multilateral because it involves numerous states, China is usually the one taking the initiative. All primary agreements are signed with China, which has blueprints which usually explicitly exclude the application of international law. China stresses connectivity, but above all understanding on usually five priorities: policy coordination, person-to-person bonds, financial integration, unimpeded trade, and facilitating software connectivity (*ibid.*). Yet for all this colossal expansion of China, there is no central institution for the making of formal rules for the BRI. Instead, it is repeated that issues such as the distributive consequences of actions under the BRI for different state actors – in contexts of diverging legal and political cultures – require continuous understanding and coordination (*ibid.*).

In short, there is minimal institutionalisation in the BRI. The exercise is seriously concerned about results, namely achieving a massive material connectivity through infrastructure, but this is to be achieved through continuous collaboration in networks of relationships. In Wang's view, the structure is expected to ensure an expanding international environment favourable to China (Wang 2019: 35). However, President Xi Jinping repeatedly stresses mutuality of interest with no one side imposing its will, thereby indicating a readiness to reconsider relationships that one side sees as becoming unbalanced.

In response to questions about Asian infrastructure investment banks and improving the global governance structure, Xi Jinping pointed out:

With the continuous development and changes of the world, with the increasing number of major transnational and global challenges faced by mankind, it is necessary to carry out corresponding adjustment and reform of the global governance system and mechanism. This kind of

reform is not to make a new start, but to innovate and improve... To promote the development of the global governance system towards a more just, reasonable and effective direction, in line with the general needs of all countries in the world. China and the United States share extensive common interests in the field of global governance, and should jointly promote the improvement of the global governance system. This is not only conducive to the two countries giving full play to their respective advantages and strengthening cooperation, but also conducive to the cooperation between the two countries in promoting the resolution of major challenges faced by mankind... I don't think any country in the world can tilt its global governance structure towards itself, nor do I think it is in line with the trend of the times. How to improve the global governance structure should be decided by all countries. The United Nations is about to hold a series of summits marking the 70th anniversary of its founding. China is willing to work with the majority of member States to promote the construction of a new type of international relations centred on win-win cooperation, improve the global governance structure, and jointly build a community of shared future for mankind.

(Xi 2015b)

As Heng Wang stresses, it is very important for China that the UN Security Council has recognized the BRI as a regional development initiative (Wang 2019: 38). China is also developing related informal agreements with the United Nations Development Programme (UNDP) and United Nations Economic Commission for Europe (UNECE), always avoiding treaties with measurable commitments, in favour of declarations of intent (*ibid.*: 41–43). These are not empty statements, but there is no formal state membership of the BRI as an institution (*ibid.*: 43). There is simply a framework to stimulate a network of collaboration.

It is not possible for China to predict exactly how the BRI will develop, with over 130 MoUs with as many states in an uncertain world climate. So, there is no reference to best standards or name-and-shame procedures. It is recognised that improving infrastructure over vast underdeveloped regions will have unpredictable consequences for trade and market access, given the asymmetrical relations between the various participants in the BRI. Instead, reliance is placed upon the momentum of continuing, willing networking, and collaboration (Gu, Corbett and Leach 2019).

It is important for those concerned with Chinese hegemony to realise that the informality of agreements within the BRI means that explicit concessions to sovereignty are avoided. The BRI is a development strategy that does not try to impose any disciplines or restrictions on the domestic sovereignty of other countries. This informal strategy lowers sovereignty

costs and allows for ample trial and error, learning from mistakes what does not work in particular contexts. There is therefore vagueness around bidding procedures, labour and environmental standards. Everything is left to the relations between individual countries and China (*ibid.*: 49–51). That is why it isn't possible to determine from reading the MoUs and subsequent agreements exact details on the balance of issues between political risk, project delay, cost overruns, and market concessions (*ibid.*: 51–53). Yet the fundamental point remains that China sees the BRI as intended to build a more fair, equitable international order (*ibid.*: 54).

4.3 The Chinese institutional framework: hegemonic or inter-active?

A contested question is whether Chinese multilateralism outside the existing institutions it has joined (such as the UN or the WTO) is an expression of multilateralism or bilateralism. In his review of Chinese-led regional multilateralism in Central and Eastern Europe, Africa, and Latin America, Jakóbowski (2018) treats the two as intimately linked. The initiative to develop the relationship between China and these regions comes from China and, ultimately, in terms of economic relations (infrastructure projects, financial transfers, and trading), they have a bilateral character that is developed through the multilateral framework. The relations have something of a hub and spoke nature, although Jakobowski highlights the considerable scope for mutuality which China has accepted in practice.

These types of activities produce normative relations that are identical to those which are described by Wang with respect to the BRI. More specifically, China's conduct can be characterised, as both Bai and Fei help to understand, as an outward expansion of its relations to virtually the whole of the global South. It endeavours to recreate the ethos of the rural community in China through a China-centred (egocentric, according to Fei) interconnecting web of comprehensive relations with all key regions (apart from ASEAN, to which similar concepts apply). These relations are at all levels, from political leadership to business and personal interactions, and cover every conceivable subject, e.g. culture, politics, economics, society, health, and environment. The density and continuity of these relationships is intended to create communities of nations of which China is an integral part. The practices developed can gradually build up customs, or rites in the Chinese sense, as to how to interact with one another.

Jakóbowski concludes his critical and nuanced analysis by saying that the high intensity of political contacts developed by China enable it to establish multifaceted sectoral dialogues. In the particular case of

Central and Eastern Europe (the 16+1) people-to-people exchanges are increased which reshape local perceptions of China with multiple, flexible and adaptable platforms (Jakóbowski 2018: 673).

Central to the Chinese activity is dispensing financial support in various forms, usually tied to the transfer of Chinese technical expertise. It is possible to assume that China sees itself as behaving in the Mencian–Confucian sense of extending its compassion and benevolence (*ren*) to others through the expansion of its radius of relationships. This entails a long-term aim to accustom the global South to a positive presence of Chinese people in habitual and routine relations of trust. The distinction between habit and rule remains crucial. A rule is separate from the person to whom it applies, while a habit refers to the usual ways of managing behaviour and relations. In contrast to Western approaches to development, there is no one-size-fits-all template, but a huge variety of context-based specific relationships which over time become routine.

Jakóbowski warns that, at least with respect to Europe, the pattern of voluntary, non-binding, and incremental institutional processes results in relatively slow processes of cooperation in his region (*ibid.*: 673). Generally, he says that China approaches Europe with its South–South models of cooperation, which, especially in the area of financial support, are not as attractive as EU funding. In any case, EU rules apply to 11 of the states in the region.

He indicates that the overall pattern of organisation comes from within ministries within Beijing, especially the Ministry of Foreign Affairs (MOFA). It proposes agendas of activity in the absence of any international secretariat and voting mechanism. Jakóbowski recognises that this tends to be China-centric, but in practice it allows the regions (drawing also on their own regional structures), such as the African Union, ASEAN, and China/Community of Latin American and Caribbean States (CELAC), to coordinate and modify general agendas so that it is not just China asymmetrically pushing a bilateral interest (Jakóbowski 2018: 663–5). There is significant participation by FOCAC, and China/Eastern Europe (16+1) in what functions as a reactive feedback loop. In particular, China has been ready to accept more multilateralism in Europe, and individual European countries take the coordinating initiatives in specific areas (e.g. maritime issues in Poland and transport in Serbia). This ensures that agency is shared (*ibid.*: 666–7). After all, the aim of constructing comprehensive dialogue mechanisms – in all possible areas of politics, culture, economics, health, social relations, and education – is to provide a community of vision which amounts to an alternative vision of global order (*ibid.*: 659). China's perspective is long-term and comprehensive.

The aim of this analysis is to understand the institutional framework – or lack thereof – with which China engages comprehensively with the global South, but including Central and Eastern Europe, from a perspective which provides some insight into how China understands itself. The theoretical framework does not only rely upon the Confucian theories of Bai and Fei. It also mentions the realist nation state perspectives of He and Sun (2019) of which Jakóbowksi is also aware. For He and Sun, the best hope for international order is that individual states are first clear in their own minds about what their interests are, after which they can engage in a dialectic struggle to achieve them. The outcome, at best, will be a compromise on the principle of searching for common ground while preserving differences.

In its development of multilateral relations with the global South, China has, according also to Jakóbowksi, the aim of promoting a vision of a multipolar world of democratised international relations, by which it means the effective participation of all states bringing their own perspectives, rather than having a single model imposed upon them (by the US, International Monetary Fund (IMF) or World Bank, for example). China, as a developing country and member of the global South, wishes to reshape the world (Jakóbowksi 2018: 667). It endeavours to do this in every forum, especially FOCAC, but also in Latin America, the Arab World, and Southeast Asia (*ibid.*: 667–8). For this purpose, it is clear that these types of intense, multifaceted relationships – the more proactive and mutual the better – are ideal for the creation of the global village-rural community where states will habituate themselves into insisting upon particularist, context-based solutions to their conflicting visions of international relations. The Central and Eastern European states (16+1) resist being drawn into this broad Chinese strategy, but regardless, Jakóbowksi notes how they are encouraged to align themselves with China's new Five-Year Plan. China has a realistic awareness of what the 16+1 regard as their core interest with the EU and develops its own relations directly with it (*ibid.*: 668–70).

At the same time, China has its own independent focus on its China-centric economic issues, such as its excess capacity to construct offshore infrastructure (albeit also directly related to its trading ambitions). Its accumulated foreign reserves are intended to appeal to the national self-interest of the countries of the global South. Effectively, it is the huge financial resources of China, besides its increasing technical and industrial prowess, which provide the foundation for its capacity to project itself as a global leader (*ibid.*: 659, 669–70; Gu and Carey 2019). The multilateralism so far described is multilateralism created by China.

5. Chinese multilateralism within established orders: case studies

5.1 Background

The most contentious issues about Chinese multilateralism arise around the Western unease that China is a revisionist power trying to change or even overthrow the existing international order. This issue is difficult to analyse because it is speculative about China's long-term intentions and tries to interpret China's immediate behaviour in the light of such speculations. The primary aim of this study is the hermeneutic journey to understand how China understands itself. As interpretations of others are always subjective, this is the most that can be attempted in humanist scholarship.

Western academic interpretations of the Chinese are perspective-driven, giving rise to prejudice and rivalry-obsessed anxiety. At the same time, this study makes the assumption that (as already seen in his *Wall Street Journal* statement clearly directed towards the US), President Xi Jinping is not disposed to accept the rhetoric of the US president, Joe Biden, that America is back and will take the lead (Xi 2015b).

The difficulty, reflected widely in the Western literature on China's international development strategy, concerns the widely-held Western suspicion that China's long-term intention is to use the tool of economic development to achieve political ends outside of normal economic activity, to shape multilateral practices to suit its own form of governance and, further, to increase its strategic and military profile. All this impacts what were traditionally regarded as simple matters of economic development.

A fundamental area is the nature of China's international development financing, where China is concerned at its being blocked in the IMF and the World Bank, as well as other regional development banks, in the sense that its quota of voting shares will never come to reflect its relative importance in world trade and finance.

5.2 Development finance

5.2.1 The AIIB and democratisation of development banking

This section is primarily concerned with assessing how far the Chinese are contesting the rules of the Bretton Woods system on development financing. Bin Gu, from Beijing Foreign Studies University, begins his

description of Chinese multilateralism in the AIIB by setting out some US academic definitions of the concept of multilateralism. For example, it involves three or more states or institutions which act on generalised principles of conduct for classes of actions without regard to particular interests or strategic exigencies of particular states (Gu 2017: 138). Gu adds that President Xi Jinping expressed the hope that the AIIB could help foster a community of the shared future of mankind.

Gu stresses further that this is not only Chinese **multilateralism**, but **Chinese multilateralism** (*ibid.*: 144). This Chinese initiative breaks new ground by having, as well as a headcount, a hybrid, flexible quota system based upon a share formula which follows a country's gross domestic product (GDP). This marks a break with the fixed quotas of the IMF and World Bank, which since 1945 have greatly favoured Western countries. GDP will favour China, but also many other developing countries – especially in East and South Asia. Because the share allocation formula follows a country's GDP, this favours Asian member states and accords them 75 per cent of the vote share. The US retains the requirement of 85 per cent for the approval of any change in quotas based upon capital contributions, which Congress can use to block change. China has a 26 per cent voting power in the AIIB, which is a *de facto* veto over changes to the size of the Board of Directors and the appointment of the President. The policy is to have decision-making by consensus, but since that is difficult, there is also a 75 per cent majority voting system by head count (Gu 2017: 144–51). In addition, China insists upon change in the Bretton Woods policy that a US national is president of the World Bank and a European national is president of the IMF. For the first time, a president of a major development bank was apparently elected solely on the basis of merit (Jin Liqun, a Chinese, was re-elected by the Board of Governors for a second five-year term starting in January 2021), and other senior offices are equally open (*ibid.*: 151–2).

In the case of the AIIB, it is China's wish that the development bank should operate under the highest commercial and technical standards, being 'lean, green and clean' and that Chinese companies should have to compete equally with other countries' enterprises. It is part of its strategy to compel its companies to upgrade to international levels, also in areas where it already has a competitive edge such as railways, telecommunication, construction, and e-commerce (*ibid.*: 146).

However, a crucial difference with Bretton Woods comes with the manner of negotiating loans with countries. In contrast to the Western strategy of an external, expert-imposed regime of structural adjustment which favours the private sector so as to produce hard currency-earning exports rather than public expenditure on education, health,

infrastructure, and so on, the AIIB philosophy is quite different. First, the GDP-share voting formula favours developing countries, hence the prioritisation of their interests in AIIB policy. Second, the Founding Members voting system gives Asian states, especially smaller ones, effective participation in banking policy. Less developed countries may contribute half of their subscription in their own currency (*ibid.*: 154).

Most fundamentally, and as already indicated, the actual conditions on loans are different from the Bretton Woods system. The aim is to achieve both high and feasible standards. The standards (in terms of the economic and technical aspects of the project) must be high to allow the AIIB to continue to have access to international capital markets and cooperate with other multilateral development banks (MDBs). However, the conditions must also be feasible. So, as Gu puts it, 'the AIIB is advised to take an *ex post* monitoring approach, which demonstrates a feature of democracy in interaction with borrowing countries, rather than the traditional *ex ante* ESS [World Bank environmental and social assessment] requirement'; although Gu notes that is also changing (*ibid.*: 156). The stress is that the bank project requires meaningful communication with stakeholders at national and subnational levels, as well as directly with the private sector and those affected by the project. The key is to avoid the failure of so many past projects that were based on an approach that did not take account of local conditions or context.

This case study by Gu shows how China sees the true face of the liberal democratic international order led by the US. The latter is a hegemon which imposes a one-size-fits-all program of fiscal austerity, privatisation and market orientation. This appears multilateral, but allies of the US have little choice but to follow it. China is providing an alternative choice for under-represented developing countries. This does not mean China is forcefully inserting itself as an alternative hegemon, even if the US continues to boycott the AIIB (*ibid.*: 157). The Chinese strategy is to use its capital surplus to facilitate a mutuality in the formulation of development finance policy and practice, through a democratisation of the international economic order. This is particularly hard for Western countries to accept, as it challenges their primary charge against China: that it opposes democratisation. Indeed, China's development finance, in Western eyes, is supposed to include the export of its authoritarian governance model to the global South. China would consider that the very opposite of the truth. However, there is the domestic aspect of economic governance, where the discussion of human rights takes place. Here, Bai's comments on a Western 'one man, one vote' system versus hybrid government come into play.

5.2.2 The BRI

In the area of Chinese development finance, the primary area of Western attention is probably the BRI and its precursors in Africa and Asia. Goldstein directs attention to the BRI as a solely Chinese initiative, arising out of the already functioning state-owned China Silk Road Fund, the China Development Bank and the China Export-Import (Exim) Bank. Here, in Goldstein's view, 'one finds no undertaking to follow best practices, as with the AIIB, only a narrow economic purpose of transportation networks' (Goldstein 2020: 185–6).

Political science literature can do little more than collect publicly expressed opinions, and this is what Goldstein does here. China's rivals, the US and India, consider China a revisionist state and a threat to US prosperity and security. The BRI is seen by its critics as a narrowly self-interested economic enterprise to gain political leverage over other countries (*ibid.*: 195). India and the US are calling the BRI debt diplomacy. However, Goldstein points out that analysts say the evidence does not support such a charge. He cites Brautigam most prominently for this view (*ibid.*: 196). So, Goldstein asks: why the alarmism? It is because the terms of China's deals supposedly remain opaque, creating suspicion. Even proof in some cases that there is no debt diplomacy does not prove conclusively that in no cases China has not attempted this (*ibid.*: 197).

As has been seen in the earlier discussions about the BRI and in the context of the cultural anthropology explained by Fei, suspicious Westerners are looking for terms, specifically legal terms, in China's agreements with other countries. In their absence, the West becomes uneasy. Yet, as has been shown, such clear legal terms would not adequately represent or characterise the relationships that China may be developing in the BRI regions. Instead, China is being asked by external third parties to prove something indefinable about the quality of its relations with BRI countries, on the assumption that their association with China needs special explanation.

Goldstein draws particular attention to China's discontinuing of the Organisation for Economic Co-operation and Development (OECD) conditionality regime. While they are voluntary guidelines, these principles still embody what Fei would regard as the external, objective standards that Western individualism requires. For instance, the aid agency must have a clearly defined role within an institutional structure. The evaluating process should be impartial and independent from the process concerned with policymaking and with the delivery and management of assistance. The evaluation process must be as open as possible with the results made widely available (OECD 1991: 4). These requirements make little sense in the context of a Confucian understanding of how loyal and trustworthy relationships

can be established. The very insistence upon the results being made widely available indicates the wish to make the BRI development activity as impersonal as possible, the very opposite of what China hopes to achieve.

5.2.3 Western views of Chinese motives

A literature review of Chinese development assistance shows how far Western analysis is, from an external perspective, trying to ascertain Chinese motives by interpreting its outward behaviour. This is done without access to Chinese intentions, even when explicitly expressed, as these will be distrusted. The first motive attributed to China is that it is acting in its own interests by giving development assistance, whether purely economic or also geopolitical. The second is that this does not contradict China's desire to adopt a constructive international order in which many other countries, especially developing countries, can benefit. The third view in the literature is that China does not have a clearly defined overall position about its strategy, but is advancing pragmatically, step-by-step.

An example of the first motive attributed to China – that it acts only in its own self-interest – is presented by Huang (2016) who argues that China's policy is determined by its need for new outlets for its surplus productive capacity. A related 'possible' Chinese motive (i.e. purely speculative) is that China is using the BRI to obtain greater international economic influence by creating its own international economic system (*ibid.*). This is another way of expressing what Fei would call a Confucian expansion of the self and the creation of a global Chinese village. Western scholars can also guess that this Chinese policy is a reaction against a deliberate American (and maybe also European) strategy to exclude China as far as possible from new trading regimes like the Trans-Pacific Partnership (TPP). China was, after all, originally admitted to the WTO on relatively unfavourable terms (Shaffer and Gao 2018).

Whatever the stated principles of the BRI, liberal Western nations perceive see it as antagonistic for three main reasons: fears of greater influence of a communist power; economic/ideological issues surrounding the blurred lines between state-owned and private enterprise; and fears of threats to economic superiority, in that China challenges US hegemony in Asia and indeed in the world (Huang 2016).

The same line of questioning of Chinese motivations in relation to the AIIB would point to China being denied greater participation in the Bretton Woods organisations, through the US congress blocking reform of the Asian Development Bank and IMF (Ren 2016). The usual arguments about searching for influence and unloading excess capacity also arise, without taking into account how other nation states have behaved in

comparison (*ibid.*). Foot repeats the same arguments and offers evidence of the success of China in reassuring neighbours of its positive motives (Foot 2020). He also shows how seven of ten Heads of State of the ASEAN, alongside 29 leaders and 1,500 delegates, attended the Belt and Road Forum in Beijing in May 2017, with 78 countries signing up to China-backed projects in their countries. Foot confirms Fei's Confucian perspective about Chinese approaches to multilateralism by remarking how the bilateral or multilateral basis of many of these projects has led to improved relations between the countries in question, and even claims that this has led to security cooperation and agreements on some territorial disputes. Foot makes the argument that while Xi Jinping is only calling for China to have an equal standing with the US, this is somehow a 'confrontational stance', and speculates that in fact China really intends to expel the US from the Asian region so that it can be the hegemonic power.

In the field of development finance, the most common argument has been that China is engaged in a pattern of debt-trap diplomacy, forcing countries to accept loans which cannot be repaid. In this way, they may abandon strategic assets, submit to pressure on the repatriation of dissidents to China, and accept Chinese policies on the likes of Tibet, Xinjiang and Taiwan. It is said that China has a one-model-fits-all policy for development with its debt diplomacy, despite the fact that long-term infrastructure projects cannot be financed any other way and that the international capital is not otherwise available except from China.

Here, it is again a matter of external interpretation of motives *par excellence* – the leading authority being Deborah Brautigam. Brautigam has discussed many cases in Angola, Mozambique, Djibouti, and Sri Lanka and, although it is not worth repeating her arguments here, we will briefly revisit some details of the Sri Lanka case. Her method is to offer that there is objective evidence of sound commercial and strategic military reasons for China's conduct (Brautigam 2020). These include the desire to access resources in Angola, repayment in the form of oil in Venezuela, and a port in Djibouti to project influence across a US-dominated region (China faced competition from Dubai to finance this port, demonstrating the commercial attraction). The Hambantota port in Sri Lanka is the only case of Chinese asset seizure. However, this was a fire sale by the new Sri Lankan government (not only to China) to lower the country's debt which stood at 57 per cent of GDP. The asset purchase was by a different Chinese company to the entity that made the original loan.

Perhaps there is a certain irony in a final series of comments on Chinese motivation, which is that there is a lack of clarity in its intentions, attributable either to the lack of institutional coherence in the organisation of its

outward strategy, or because of conflicting and unreconciled goals, or simply because China has not itself, as a political entity, worked out clearly what its objectives are. This broad line of reflection is perhaps not so far removed from the intentional, internal perspective, drawing on Fei, that China's approach to overseas development is largely intuitive, reflecting its own internal social organisation based upon rural customary practices. Hameiri and Jones (2018: 573) say that China's development finance is the result of agencies, private and public, leading to 'contested fragmentation, decentralization and internationalization of state apparatuses'. This means that China's global economic policy will be 'unintended and non-strategic in nature' (*ibid.*: 573). Huang (2016) also believes there is a lack of institutional coordination in China.

Narins and Agnew (2019) again adopt the conspiratorial approach that China is deliberately concealing its overall intentions, particularly the geopolitical, as a useful fuzziness, with Beijing deliberately not defining its motives nor its geopolitical identity. More sympathetically, they recognise that China is new as a global actor and will not be sure about how to preserve its role of non-interference with the other countries it must now interact intensively with, and upon whom it will inevitably become dependent. The two authors believe that as China becomes more economically important on the global stage it will have to create a new, geopolitical identity. However, Narins and Agnew point out that China has not yet produced a map for the BRI and its intended goals. They cannot resist implying that China will not be in a hurry to so define itself, preferring to pursue differing and possibly conflicting goals within the same strategy. This allows China to potentially pursue different goals within the same strategy without having to fully align itself with potentially conflicting objectives.

The Western literature insists that the main issue for debate is the motivation and intention of the Chinese government in its multilateral development strategy. The official Chinese narrative is that China is a developing country that has suffered extensive colonial-style exploitation. It now wishes to bring the benefits of its successful globalisation strategy (via extensive foreign exchange reserves) to help other less wealthy and underrepresented countries to catch up. The Western response is that China wishes to become the new world hegemon by entangling developing countries, and indeed the whole world, in financial and supply chain dependency upon China. In other words, the West sees the field of development finance as inter-state rivalry from a realist perspective. However, some Western critics tend towards a third position. This is that China itself is not clear on its motivations and intentions, either because of internal governmental fragmentation, with many different agencies and stakeholders having an interest in such large initiatives as the BRI and AIIB, or because of a

deliberate ploy to keep a vagueness around its intentions in order to maintain adaptability and flexibility in its policy and geopolitical positioning.

5.3 China's approach to climate change

Climate change is one of the greatest challenges the world is facing today. Mitigating the emissions that lead to climate change is therefore crucial. China's approach to climate policy and diplomacy is significant on the global stage, given that China releases 28 per cent of the world's emissions (Tan *et al.* 2020). Climate change is a policy priority for China due to factors such as reducing air pollution, winning green export opportunities, protection of water resources, food security and increasing soft power internationally (Kahn 2016; Xie 2021; Wintour 2021).

China currently has a range of climate targets and pledges, including the recent goal of achieving net zero emissions by 2060. President Xi has assured that the Chinese goal is to strive to meet its peak carbon emission by 2030 and to reach carbon neutrality by 2060 (Braun 2021). In addition, China is creating 1.2 billion kilowatts-worth of solar and wind generators by 2030 (Maizland 2021). At a more systematic level, China can be seen to regard the climate change challenge as an opportunity to cleanse and purify, or simply modernise and improve, its entire industrial system.

China is a world leader in production of offshore wind energy and endeavors to make shifts in a number of areas to reduce its carbon footprint without bringing the central powerhouses of its economy to a grinding halt (Woetzel 2021). These include alternative proteins to lower methane emissions from livestock, sustainable aviation fuels, and batteries and electricity storage technology. Gallagher and Zhang (2019) predict that China's emissions will peak in advance of the 2030 target and identify over 100 policies in place to back up China's climate targets, including: energy efficiency standards for power plants, transport and buildings; a tariff policy for renewable energy generators guaranteeing energy prices; limits to coal consumption; and a national emissions trading scheme (*ibid.*). China also offers subsidies to people who purchase electric cars (Kahn 2016), and local provinces are allowed to pioneer small environmental projects without seeking permission from the central government first (Farhan 2017).

However, Tan *et al.* (2020) observe that China has allowed some room for manoeuvre in many of its pledges and policies. For example, it 'aims to' achieve net zero, but this climate action is conditionally based on developed countries providing support (as stipulated in the Paris Agreement). There also appears to be some very careful calculation of emissions figures which involve excluding exports (*ibid.*). Many of China's

climate-damaging policies relate to its actions abroad, such as its heavy investment in overseas oil extraction – amounting to almost 950 million barrels (Aidoo *et al.* 2017) and financing coal plants overseas through the BRI (Gallagher and Zhang 2019). Greening the BRI is more important than ever. In this context, China's recent pledge to stop building new coal energy plants abroad is welcome and important. China is also currently building coal plants in 60 locations within China (Brown 2021), and while many of the most inefficient coal plants are being shut down, they are being left dormant and reopened to cover gaps in energy needs (Lewis and Edwards 2021). However, energy demand is set to decrease due to increased energy efficiency and the movement of the economy towards the service and digital technology industries (Tan *et al.* 2020).

China has been developing climate change impact monitoring to be able to respond to extreme weather conditions, flooding warnings, and guarding against marine disasters through ocean observation (Zhao 2020). As China suffers severely from climate change, it sees that the effort to tackle the problem must be global. Many countries are not party to the Paris Climate Agreement and many countries that are trying to achieve structural change are delayed. In response to this, China has pledged to cut global greenhouse gas emissions to zero by 2060 (Woetzel 2021).

China's economy is still expanding, making it difficult to maintain a carbon peak and neutralisation limit. It is therefore imperative for China to develop alternative energy sources, rather than just reduce its level of energy activity. China recognises the need to formulate an action plan to reach the peak of carbon emissions before 2030, promote the clean and efficient use of coal, and assure an orderly development of nuclear energy on the premise of ensuring safety (Ding *et al.* 2021).

Debates about climate change and climate justice have mainly occurred at the international level and have focused on the rights and responsibilities of nation states to either be protected from the effects of climate change, or to take action to reduce emissions or support adaptation (Bulkeley, Edwards and Fuller 2014). It is clear that China's climate change strategy is still in the making, but it is difficult to envisage a global climate change legal order that could be imposed upon China.

6. Conclusion

This Research Report is a venture in understanding Chinese approaches to multilateralism through Chinese eyes. It is an exercise in cultural hermeneutics. It also brings out the distinctiveness of this venture by contrasting it with Western critical literature, which reviews Chinese diplomatic practice from the outside and then interprets Chinese motives from the perspectives of various either realist or neo-institutionalist Western international relations paradigms.

China must elaborate its multilateralism in the context of the Western, and particularly American, call for China to observe a rules-based international order which argues that China is not adhering to such an order. The report pays some attention to internal Western critiques of this concept of a rules-based order and even more attention to how it influences Western critiques of actual Chinese diplomatic practice. While the report sees these Western critiques as, to a considerable extent, following a realist international relations paradigm, it also recognises that much commentary remains open to constructive interpretations of Chinese conduct.

The heart of the report, however, has a more civilisational ambition. It recognises that Chinese and Western perspectives have differing concepts of a rules-based order, if not of international law itself. It follows a path through the reflections of Chinese authors, who are aware of the need to explain Chinese approaches in the light of fundamental Western understandings of the ideas of law, rights, institutions, and rules. China accepts the existing system of international law, based on the UN Charter. However, like the West, it sees the need to complement or infuse this system with its own cultural heritage of ethical, social, and international organisation, corresponding to the role that the idea of a liberal, democratic order plays in Western aspirations to improve and complete the international legal order. Of course, there is not unanimity among Chinese thinkers about the relative importance of Chinese civilisational thinking in relation to existing international law and there is acute awareness that such reflections will still be seen in the West as hegemonic. This is reason for some Chinese scholars to warn against going down such a path, while others are aware, if the path is chosen, of the need to show that the ideas are of universal interest and in fact correspond to contemporary world conditions, not even necessarily reflecting official Chinese policy.

Chinese scholars are deeply aware of the nature of Western ideals. At the same time, it is important to have some idea of the extent to which Chinese ideals are also reflected in recent official Chinese

documents, especially in presidential speeches and in national meetings of the Chinese Communist Party. A major part of the analysis of current Chinese diplomacy focuses on identifying where Chinese ideals do actually already infuse contemporary practice – and it is clear that they do. At the same time, much Western critique of this practice is, in turn, influenced by different civilisational perspectives.

This Research Report points towards a call for further informal dialogue between Chinese and Western scholars about the shape of the ideals that could be commonly developed to advance the existing international legal order. This recognises the profound and long-term complexity of the civilisational issues which confront the West and China. At the same time, a balanced approach must appreciate how far both perspectives have a universalist claim. World affairs do not boil down to a clash or struggle between China on one hand and the US and its allies on the other hand. The entire continent of Africa, and sub-continents of South America, the Near East of Asia, South and Southeast Asia do not have to choose between China and the West.

In this light it is possible to see how China's approach to multilateralism has been to avoid the Thucydides trap of a confrontation with the West by formulating the philosophy of a community of a shared future for mankind. Chinese policy has therefore aimed for the consensual elaboration of common standards for global economic and social development in universal fora such as the UN. Furthermore, China recognises, for instance in its relations with the 16+1 European nations, that they also wish to have close economic relations with the EU. While inviting at least some of them to align with its own development profile, China also directly develops its own trade and investment policies with the EU. The same Chinese strategy applies in other regions such as Africa and Latin America. None of these regions are in a position where they have to make hard choices. Multilateralism, in Chinese theory and practice, is clearly about multifaceted interlocking networking of countries and multi-layered global governance.

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