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Authors

Li, Ji

Shaffer, Gregory

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China and the International Legal Order

Ji Li* and Gregory Shaffer**

China's economic growth, expanding political influence, and strategic initiatives such as the Belt and Road Initiative, challenge the existing paradigms of international law and transnational legal ordering. As China increasingly asserts its interests and perspectives in international, regional, and bilateral forums, it catalyzes debates on sovereignty, human rights, economic relations, and private law, potentially reshaping the contours of international and transnational legal discourse and practice. While the debates are still ongoing, a sizable body of literature has already emerged. Some argue that China's growing influence will negatively impact the liberal international legal order,¹ while others see China's rise as a manageable challenge unlikely to undermine the foundations of the existing system.² In contrast, some scholars hold a more optimistic view, emphasizing the potential positive contributions China could make through its more active participation in reforming international law.³ Recently, some scholars have taken an empirical approach, documenting China's evolving policies toward international law and institutions.⁴ Others, however, see international law as largely irrelevant in any China-driven shift of global geopolitics.⁵

Despite the growing body of literature, many important questions remain

* Ji Li is the John S. and Marilyn Long Professor of U.S.-China Business and Law at the University of California, Irvine School of Law.

** Gregory Shaffer is the Scott K Ginsburg Professor of International Law at Georgetown University Law Center.

1. See, e.g., Ingrid Wuerth, *International Law in the Post-human Rights Era*, 96 TEX. L. REV. 279 (2017); Tom Ginsburg, *Authoritarian International Law?*, 114 AM. J. INT'L L. 221 (2020); Timothy Webster, *Retooling Sanctions: China's Challenge to the Liberal International Order*, 23 CHI. J. INT'L L. 178 (2022); Gregory Shaffer & Henry Gao, *A New Chinese Economic Order?*, 23 J. INT'L ECON. L. 607 (2020).

2. G. John Ikenberry, *The Rise of China and the Future of the West: Can the Liberal System Survive*, 87 FOREIGN AFFS. 23 (2008).

3. CONGYAN CAI, *THE RISE OF CHINA AND INTERNATIONAL LAW: TAKING CHINESE EXCEPTIONALISM SERIOUSLY* (2019); William W. Burke-White, *Power Shifts in International Law: Structural Realignment and Substantive Pluralism*, 56 HARV. INT'L L.J. 1 (2015).

4. See, e.g., Kong Qingjiang, *Beyond the Love-Hate Approach?: International Law and International Institutions and the Rising China*, 15 CHINA: AN INT'L J. 41 (2017); Pitman B. Potter, *China and the International Legal System: Challenges of Participation*, 191 CHINA Q. 699 (2007); GREGORY SHAFFER, *EMERGING POWERS AND THE WORLD TRADING SYSTEM: THE PAST AND FUTURE OF INTERNATIONAL ECONOMIC LAW* (2021); Matthew S. Erie, *Chinese Law and Development*, 62 HARV. INT'L L.J. 51 (2020).

5. Eric A. Posner & John Yoo, *International Law and the Rise of China*, 7 CHI. J. INT'L L. 1 (2006).

unanswered. Notably, China's interactions with the international legal order vary significantly across different subject areas and over time. However, few scholars have systematically examined these variations and their implications. Additionally, much of the existing literature adopts a state-centric approach, treating China as a monolithic actor focused solely on expanding its power and influence in a unified global legal domain. We believe that disaggregating the state offers valuable insights into how China adapts to and influences the international legal order. With this in mind, we organized an international symposium in September 2023 at the University of California, Irvine School of Law. Scholars from around the world presented papers on various topics related to China and the international legal order. Five of these papers are published in this symposium issue, covering subject areas ranging from international human rights to international commercial arbitration.

In his article, *China and Sovereignty in International Law: Across Time and Issue Areas*, **Jacques deLisle** examines how China's stance on sovereignty has evolved over time and varies across different issue areas.⁶ Under Mao Zedong, a vulnerable China strongly defended sovereignty in a hostile international environment. In the early Reform Era, as China became more secure and internationally engaged, it adopted more flexible positions, especially in international economic law, while maintaining sovereignty's primacy. Today, under Xi Jinping, a more powerful China has returned to a harder line on sovereignty, except where its global interests call for a "sovereignty for me but not for thee" approach. DeLisle suggests China's stance will likely sharpen further amid ideological rivalry with the West and the "securitization" of economic disputes.

In *China's Pragmatic Approach to International Human Rights Law*, **Sida Liu** and colleagues also highlight the variations in China's interactions with the international legal order.⁷ Their analysis of China's engagement with the ICCPR and CEDAW, focusing on criminal procedural rights and women's rights, reveals the complex and uneven nature of China's human rights governance. While China has gradually reduced overt violations of criminal procedural rights, it has concurrently developed a more opaque and institutionalized punitive system. In comparison, despite recent legislative advances, practical enforcement of women's rights remains limited, and state control over feminist activists has increased.

This varied, pragmatic approach to transnational legal borrowing is also evidenced in the article by **Wei Zhang**, *Learning from Your Rival? A Surprising Convergence of Chinese and American Corporate and Securities Laws*.⁸ Zhang analyzes recent amendments to Chinese corporate governance and securities regulations and highlights their resemblance to U.S. laws. He attributes this convergence to political populism and legal professionalism. Political pressures push Chinese lawmakers to

6. Jacques deLisle, *China and Sovereignty in International Law: Across Time and Issue Areas*, 9 U.C. IRVINE J. INT'L, TRANSNAT'L & COMP. L. 4 (2024).

7. Sida Liu, Yun Xian & Sitao Li, *China's Pragmatic Approach to International Human Rights Law*, 9 U.C. IRVINE J. INT'L, TRANSNAT'L & COMP. L. 46 (2024).

8. Wei Zhang, *Learning from Your Rival? A Surprising Convergence of Chinese and American Corporate and Securities Laws*, 9 U.C. IRVINE J. INT'L, TRANSNAT'L & COMP. L. 77 (2024).

periodically modify the laws to empower retail shareholders, while legal elites—dominant in relevant government bodies and academia—favor U.S. legal frameworks due to their receptiveness to American corporate and securities law models.

Weixia Gu's article, *China's Modernization of International Commercial Arbitration and Transnational Legal Order*, similarly emphasizes the role of Chinese legal elites in the development of China's commercial arbitration system.⁹ Her analysis reveals a shift from initial resistance to international arbitration norms to gradual alignment, and eventually, China's potential role as a rule contributor. This evolution is evident in reforms aimed at adopting global standards, pro-arbitration judicial efforts to incrementally reform the system, and institutional competition in China's arbitration market. As China's global influence grows, it is innovating the international commercial arbitration landscape through initiatives like the China-Africa Joint Arbitration Centre, the China International Commercial Court's one-stop dispute resolution platform, and the International Commercial Dispute Prevention and Settlement Organization. Chinese legal elites have played a key role in selectively adopting international commercial rules and practices in China and more recently in introducing Chinese innovations to the international arbitration community.

In *China and Global Trade Order Post Ukraine War: From Value Chains to Values Chains*, **Henry Gao** examines how the shifting geopolitical environment has affected China's position in global value chains, a critical component of the international economic and legal order.¹⁰ While the other papers in this issue focus on domestic Chinese actors, Gao's article underscores the interactive nature of relations between Chinese stakeholders and international legal orders. It suggests that future research on China's impact should account for strategic reactions by other countries and non-state actors, as coordinated pre-emptive transnational lawmaking could mitigate the potential disruptions China might cause to existing transnational legal and economic systems.

9. Weixia Gu, *China's Modernization of International Commercial Arbitration and Transnational Legal Order*, 9 U.C. IRVINE J. INT'L, TRANSNAT'L & COMP. L. 110 (2024).

10. Henry Gao, *China and Global Trade Order Post Ukraine War: From Value Chains to Values Chains*, 9 U.C. IRVINE J. INT'L, TRANSNAT'L & COMP. L. 141 (2024).