

TUESDAY 27 FEBRUARY 2018 | 15:00 - 19:30

International Workshop | Hosted by the Centre for European and International Legal Affairs at Queen Mary University of London and The Department of International and European Law at Maastricht University. Followed by Roundtable cohosted with Chatham House.

'China and Global Governance: Between the International Rule of Law and the International Rule of Power'

The (re-)emergence of China as a major international power has raised the question whether China will retain the status quo which has enabled its rise or become a revisionist power (Johnston 2003; Kagan 2009; Jacques 2012; Shambaugh 2013). Attempts to discern whether China intends to confirm, adjust, or overthrow the post-World War II rules based order have become even more relevant in a context where China has openly expressed an ambition to increase its discursive power and has started acting on it since 2014. This panel aims to analyse how China shapes the institutional and normative foundations of the international order as well as its ability to provide global public goods. It analyses the multifaceted approaches that characterize China's engagement with international law and international politics in the specific areas of global security and economic, as well as cross-strait relations. This interdisciplinary panel combines the expertise of scholars working in the fields of International Law and International Relations who all share an interest in understanding China's role in global governance.

15.00-15.10: Welcome by Dr. Matthieu Burnay and Dr. Wim Muller

15.10-15.30: Forewords by Dr. Jerome A. Cohen, Professor of Law, New-York University School of Law

15:30-17:30 Panel 1

Chair: Dr. Saskia Hufnagel, Senior Lecturer in Criminal Law, Queen Mary University of London

China and Global Governance: Towards a Low-Cost Global Legal Order?

by Dr. Matthieu Burnay, Lecturer in Global Law, Queen Mary University of London

This paper analyses the Chinese perspectives on the roles that regulatory structures and laws shall play in the orchestration of global governance. It starts with a brief presentation of the ideas and legal doctrines that have shaped the construction of the global legal order. It then turns to an analysis of the different ways in which China has engaged with the plurality of actors (i.e. states, international organisations, civil society actors), legal instruments (i.e. international law, transnational law, soft law, private standards), and values (i.e. human rights, rule of law, and democracy) that shape an increasingly globalised legal landscape. In this line, the paper will investigate the extent to which China tends to confirm, reform, or even overthrow the existing (dis-)equilibrium between law and power politics in global governance. It will be argued that China develops a pragmatic and selective approach towards the international rule of law and the international rule of power. Indeed, China seeks to take advantage of its own rise as a global power while being also more and more in favour of a low-cost version of the global legal order.

Doctrinal Implications for International Law

by Dr. Wim Muller, Assistant Professor in Public International Law, Maastricht University

International law fulfils an uneasy dual role. In the traditional, ‘Westphalian’ approach, it merely regulates the coexistence of states. China has explicitly endorsed this role in the Five Principles of Peaceful Coexistence, which lie at the heart of its foreign policy. However, the liberal norms of the post-World War II international order have also been written into the framework of international law through the UN Charter, as well as ‘post-Westphalian’ or ‘post-sovereign’ developments such as peremptory norms, broad interpretations of human rights, and the development of international institutions. In the wake of the 2014 Fourth Plenum of the Chinese Communist Party, the Chinese government announced its ambition to increase its ‘discourse power’ and become a maker and shaper of legal norms in addition to being a ‘norm-taker’. This would be a logical next step for China to take but also a new one. China was socialized into the international legal order, but has often perceived both its framework and content as foreign and biased against it. This paper explores what ramifications China’s new ambitions will have for the fabric and the content of international law based on an exploration of its previous practice as well as its recent initiatives.

China: Towards a New Understanding of Global Justice

by Ms. Marta Hermez, Junior Researcher at the Leuven Centre for Global Governance Studies, KU Leuven

This paper aims to contextualise China’s own understanding of global justice looking more particularly at the historical foundations of China’s first encounters with international law and China’s recent practice in international adjudication. It will be argued that China’s approach towards global justice remains very much inspired by China’s traditional understandings of justice as a purveyor of order and stability. In addition and alike other major international powers, the Chinese approach towards global justice remains also very much pragmatic and instrumental. This pragmatic and instrumental stance is very obvious in China’s support for a restrictive understanding of the sovereignty concept; ambiguous support for a reform of the global governance architecture; and preference for non-binding settlements to resolve international disputes.

China’s Approach to Global Security Governance: A Symbiosis of Law and Power in the Cyberspace

by Dr. Li Bin, Professor of International Law, Beijing Normal University

Whether China’s rise will lead to the emergence of a Chinese theory on international relations or a Chinese perspective of international law? Whatever are the answers to that question, the underlying concern is that China’s empowering will exert significant impact on the current global order in legal and political terms. It reflects the mainstream inquiry on China’s increasing power and its implications to the international system. The same pattern of analysis exists also with respect to global security issues. China’s strategy attracts more attention due to the prevailing opinion that national interests and powers play a far more substantial role than international legal rules on security issues. As traditional definition of security advocates “politics beyond the established rules of the game”, security implies the “endorsement of emergency measures beyond rules that would otherwise bind”. Following the traditional conceptualization of security, China’s rise would necessarily come up with a stronger impetus and capacity to conduct through using power at the price of legal rules. The reality is more complicated. For example, it is argued that China is lack of clear strategy in dealing with global security issues; China’s evolving interests in security and international responsibility make it even more difficulty to develop a “grand strategy”. Furthermore, China’s position is even complicated by the fact that traditional and non-traditional threats together present challenges to China’s capability of playing a security actor in the global context.

While violence and use of force represent the traditional threats, non-traditional threats call for responses from China, which may differ from those adopted in face of the traditional threats: these new responses are no longer characterized by the power and law binary but a symbiosis of power and law. This paper aims to unfold the transformation of China's responses to non-traditional threats using cybersecurity as a "hard case". It aims to show that new security concerns may drive states to adopt an integral approach on the functions of law and power in security governance.

17:30-18:00: Coffee Break

**CHATHAM
HOUSE**
The Royal Institute of
International Affairs

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and International
Legal Affairs



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University**

18.00-19.30: Roundtable on the Future of Chinese Foreign Policy: Implications for International Law?

Chair: Dr. Wim Muller, Assistant Professor in Public International Law, Maastricht University

Speakers:

- Dr. Li Bin, Professor of Public International Law, Beijing Normal University
- Mr. Roderic Wye, Associate Fellow, Chatham House
- Ms. Harriet Moynihan, Associate Fellow, Chatham House
- Dr. Malcolm Jorgensen, Research Fellow, Kolleg-Forschergruppe Berlin Potsdam Research Group

