China

Chang Yen-Chiang and Sun Jie***

1 From Your Own Country, Is There a Unique Perspective of International Law?

Looking at the development history of international law in China, the origin and development of international law in China have both followed a path of legal transplantation.[1] With China gradually deepening its participation in international governance affairs, international law, as an important guide for China's participation in international governance, its development, and practical application have been given significant attention.[2] Regarding international law, China's current research focuses on exploring and constructing international law with Chinese characteristics.[3]

International law with Chinese characteristics is an important part of China's current international law construction. The construction of international law with Chinese characteristics aims to observe the world from a Chinese perspective, provide theoretical guidance for China to deal with international governance dilemmas, offer Chinese solutions to global challenges, further enhance China's discourse power in the international community, create a favorable external environment for China's development, and contribute Chinese strength to building a community with a shared future for mankind and achieving sustainable development.[4] International law with Chinese

* Professor of International Law, School of Law, Dalian Maritime University, China. The field work of this research is commissioned by the following project: National Social Science Fundamental Project, "Study on Domestic Rule of Law and Foreign Rule of Law Coordination in Global Environmental Governance", Grant No.: 23&ZD166.

** Ph.D Student, School of Law, Dalian Maritime University, China.

1 Chenguang Wang, *Legal Transplantation and Legal Development in Transitional China*, *in* The World Bank: Legal Review, Volume 4: Legal Innovation and Empowerment for Development 161, 177 (Hassane Cissé, Sam Muller, Chantal Thomas & Chenguang Wang eds., 2013).

2 Qingjiang Kong & Xiaojuan Ping, *International Law and International Institutions: Implications for a Rising China*, 1 The Chinese Journal of Global Governance 157, 160 (2015).

3 He Zhipeng (何志鹏), *Guojifa Zhongguo Xuepai de Shengcheng* (国际法中国学派的生成) [*A Chinese School of International Law in Forming*], Qinghua Fa xue (清华法学) [Tsinghua University Law Journal], May 15, 2022, at 174.

4 Guo Shuyong (郭树勇), *Zhongguo Guoji Guanxi Lilun Jianshe Zhong de Zhongguo Vishi Chengzhang ji Zhongguo Xuepai Giantu* (中国国际关系理论建设中的中国意识成长及

© chang yen-chiang and sun jie, 2026 | doi:10.1163/9789004750517_002
This is an open access chapter distributed under the terms of the cc by-nc-nd 4.0 license.

characteristics has three main features: first, international law with Chinese characteristics adheres to the guidance of Marxist theory. Marxist theory is a scientific summary of social development. Under Marxist international law theory, international law should develop towards caring for the well-being of the people and focusing on the overall development of humanity.[5] Adhering to Marxist theory as guidance provides a scientific understanding tool and correct value guidance for the development of Chinese international law, laying the foundation for its development. Under the guidance of Marxist theory, international law with Chinese characteristics has always focused on human survival and development, emphasized the interests of all humanity, and emphasized the construction of multilateral international relations characterized by peace, stability, mutual tolerance, green development, and win-win cooperation.[6] Secondly, international law with Chinese characteristics is guided by Xi Jinping's thought on the rule of law.[7] Xi Jinping's thought on the rule of law is the latest achievement of Marxist legal theory in China and an important ideological guide for constructing international law with Chinese characteristics. It scientifically addresses the theoretical, institutional, and practical issues of building the rule of law with Chinese characteristics and profoundly interprets the democratization and legalization of international political and economic relations in the context of the profound changes unseen in a century.[8] It also requires the construction of a world of enduring peace, universal security, common prosperity, openness, inclusiveness, cleanliness, and beauty, which is an important guiding ideology for China's participation in international governance, the construction of a new type of

---

中国学派前途) [*The Growth of Chinese Consciousness and Prospect of a Chinese School in the Construction of China's International Relations Theory*], Guoji guancha (国际观察) [International Review], Jan. 5, 2017, at 38.

5 Wang Cungang (王存刚), *Makesi Zhuyi Guoji Guanxi Lilun yu Shishi Jujin de Pinge ji Dangxia Yiyi* (马克思主义国际关系理论与时俱进的品格及当下意义) [*The Keeping-Pace-with-the-Times Character of Marxist International Relations Theory and Its Contemporary Significance*], Ouzhou Yanjiu (欧洲研究) [Chinese Journal of European Studies], June 15, 2018, at 116.

6 He Zhipeng & Wei Xiaoxu, *Marxist View of International Law Reform from China's Perspective, in* Law Reforms Around the World: Perspectives from National and International Law 182, 185 (Asif H. Qureshi ed., 2023).

7 Jing Huang & Yan Shao, *Research on Xi Jinping Thought on the Rule of Law on the Coordinated Promotion of Domestic and Foreign-Related Rule of Law*, Studies in Law and Justice, Nov. 4, 2022, at 30.

8 *See* Xiao Yongping, *The New Stage of Comprehensively Advancing the Rule of Law in China: Promoting the Coordination of National and International Rule of Law*, 1 Wuhan University International Law Review 3, 21–22 (2021).

international relations, and the international legal order. Xi Jinping's thought on the rule of law provides direction and guidance for building international law with Chinese characteristics.[9] One of the important contents of Xi Jinping's thought on the rule of law is to coordinate the domestic rule of law and the rule of law concerning foreign affairs.[10] It clarifies the logical relationship among the international rule of law, the rule of law concerning foreign affairs, and the domestic rule of law. By taking the rule of law concerning foreign affairs as a bridge, it realizes positive interaction between the international rule of law and the domestic rule of law and constructs a systematic framework for the development of international law with Chinese characteristics.[11] Thirdly, international law with Chinese characteristics embodies Chinese cultural concepts and forms international governance theories with Chinese wisdom, providing new value measurements for international governance.[12] The development history of more than five thousand years of Chinese civilization has nurtured profound Chinese culture. Chinese civilization involves various cultural fields such as ideology, morality, political concepts, value pursuits, personality cultivation, and social ideals, forming a unique cultural discourse system that can provide diverse value guidance for constructing the international law knowledge system.[13] The construction of international law with Chinese characteristics has always adhered to the combination with Chinese traditional culture, integrating the concepts of "common governance for the world," "people-oriented," and "harmony" in Chinese traditional culture with international governance,[14] exporting values from Chinese traditional culture, strengthening China's international influence from the perspective of values, enhancing China's international discourse power, and creating a more friendly international environment for China's survival and development in the international community. Adhering to the extraction of new theories of international

9 Xiaobo Dong & Jie Guo, *Global Initiatives of Chinese Rule of Law Path, in* Chinese Rule of Law Path and Cultivation of Foreign-Related Rule of Law Talents 93, 113 (2024).

10 Huang & Shao, *supra* note 7, at 29.

11 *See generally* Xiao, *supra* note 8, at 3–4, 25.

12 Xuetong Yan, *Chinese Values vs. Liberalism: What Ideology Will Shape the International Normative Order?*, 11 The Chinese Journal of International Politics 1, 9 (2018).

13 Zeng Huaqun (曾华群), *Guanyu Guoji Fa "Guoji Huayu Tixi" de Sikao* (关于国际法"国际话语体系"的思考) [*On the International Discourse System of International Law*], Guoji Jingji Fa Xuekan (国际经济法学刊) [Journal of International Economic Law], July 2, 2021, at 26.

14 *See* Wang Youming, *The EU's Global Governance Versus China's Harmonious World*, ari 133/2010, *in* Elcano Royal Institute (2010).

governance from China's traditional culture also provides a continuous source of innovation for the development of international law.[15]

Currently, China is actively developing international law with Chinese characteristics and has achieved significant progress. Firstly, China has preliminarily formulated a theory of international law with Chinese characteristics, with "a community of shared future for mankind" as its core.[16] This theory serves as a crucial basis for China's international discourse power and provides important guidance for China's participation in international governance.[17] It enables China to confidently address questions related to China, the world, humanity, and the era in the future. Since the 18th National Congress of the Communist Party of China, General Secretary Xi Jinping has made important remarks on international law topics, emphasizing China's active interpretation of the concept of Chinese characteristics in foreign-related rule of law and the construction of a theoretical system of foreign-related rule of law with Chinese characteristics.[18] Under General Secretary Xi Jinping's guidance, China has further expanded its traditional international law theory centered on the Five Principles of Peaceful Coexistence,[19] forming a new era of Chinese international law theory with "a community of shared future for mankind" at its core. The concept of "a community of shared future for mankind" emphasizes values of cooperation, mutual benefit, equality, and consultation, calling for States to seek common ground while reserving differences and to develop together on the basis of mutual respect and reasonable concern for the interests of other States.[20] This concept serves as the theoretical foundation for China's participation in global governance, and China has interpreted it in

15 Li Zhaojie, *Legacy of Modern Chinese History: Its Relevance to the Chinese Perspective of the Contemporary International Legal Order*, 5 Singapore Journal of International & Comparative Law 314, 325–26 (2001).

16 Zhang Hui, *Building a Community of Shared Future for Mankind: China's Vision of the International System in the New Era*, 1 Wuhan University International Law Review 27, 28 (2021).

17 Zhang Hui, *A Community of Shared Future for Mankind – The Contemporary Development of the Social Foundations Theory of International Law*, Social Sciences in China, Mar. 7, 2019 at 187.

18 Huo Zhengxin, *Creating an Extraterritorial Application System of Chinese Law: From the Perspective of Advancing the Rule of Law in Domestic and Foreign-Related Affairs in a Coordinated Manner*, 18 Frontiers of Law in China 531, 532 (2023).

19 Wei Leijie (魏磊杰), *Xin Shidai Zhongguo Guoji Fa Guan de Lilun Goucheng yu Duoyuan Shijian* (新时代中国国际法观的理论构成与多元实践) [*Theoretical Composition and Pluralistic Practice of China's View of International Law in the New Era*], Xueshu Yuekan (学术月刊) [Academic Monthly], June 20, 2022, at 110.

20 Chang Yen-Chiang, *On Legal Implementation Approaches Toward a Maritime Community with a Shared Future*, China Legal Science, Mar. 19, 2020, at 5.

various legal instruments, forming a series of international governance concepts with Chinese characteristics, such as the Belt and Road Initiative and the concept of a maritime community with a shared future in ocean governance.[21]

Secondly, China attaches great importance to international law education and has gradually constructed and developed a discipline of international law with Chinese characteristics. Xi Jinping's thought on the rule of law requires the cultivation of a high-quality legal team with both morality and talent. Under the aforementioned guidance, the training of talents in foreign-related rule of law is an important part of China's development of international law with Chinese characteristics.[22] In the past, international law was a sub-discipline of law mainly divided into three branches: public international law, private international law, and international economic law.[23] With the development of international law with Chinese characteristics, the content of the discipline has gradually been enriched and improved, forming a discipline system consisting of public international law, private international law, international economic law, international commercial law, international dispute resolution law, and international legal history.[24] The academic research system and talent training mechanisms of universities have been further improved, and the training of talents in the foreign-related rule of law has become more systematic and specialized.[25] In the future, China will continue to build the discipline of international law with Chinese characteristics, strongly support the establishment

---

21 *See generally* Qian Jinyu, *A Community with a Shared Future for Human Beings in the Vision of Modernization of Global Governance: China's Expression and Practice*, 17 Journal of Human Rights 402 (2018).

22 Ma Huaide (马怀德), *Jiaqiang Shewai Fazhi Rencai Peiyang* (加强涉外法治人才培养) [*Strengthening the Training of Foreign-Related Legal Personnel*], Hongqi Wengao (红旗文稿) [Red Flag Manuscript], Jan. 2, 2024, http://www.qstheory.cn/dukan/hqwg/2024-01/02/c_1130051192.htm.

23 Yang Zewei (杨泽伟), *Xin Shidai Zhongguo Guoji Fa Xueke Tixi de Jianshe* (新时代中国国际法学科体系的构建) [*The Construction of Discipline System for China's International Law in New Era*], Wuhandaxue Xuebao Zhexue Shehuikexue Ban (武汉大学学报(哲学社会科学版)) [Journal of Wuhan University (Philosophy & Social Sciences Edition)], Jan. 2, 2024, at 22.

24 Xiao Yongping (肖永平), *Shenke Bawo Shijie Da Bianju Tuijin Guoji Fa Yanjiu* (深刻把握世界大变局推进国际法研究) [*Deepen the Study of International Law Based on Major Changes in the World*], Renmin Ribao (人民日报) [People's Daily], July 20, 2020, *reprinted in* Qiushi.com, http://www.qstheory.cn/llwx/2020-07/20/c_1126259311.htm.

25 *Han Yonghong* (韩永红)，*Tan Weiying* (覃伟英)，*Mian Xiang "YiDai YiLu" Xuqiu de Shewai Fazhi Rencai Peiyang – Xianzhuang yu Zhanwang* (面向"一带一路"需求的涉外法治人才培养——现状与展望)[*Cultivation of Foreign-Related Legal Talents for The "Belt and Road" Demand: Current Situation and Prospects*], ZhongGuo FaXue JiaoYu YanJiu (中国法学教育研究)[China Legal Education Research], Oct. 17, 2019, at 88.

of relevant disciplines in universities, strengthen reforms in training modes, and cultivate high-level talents at the doctoral and master's levels. China will encourage universities to enhance the training of talent in the foreign-related rule of law for different legal domains and states, systematically design and implement special programs for training talents in the foreign-related rule of law, and strengthen the training of professional talents in international law, foreign-related law, and specific state laws.[26] China will also encourage talents in the foreign-related rule of law to participate in international exchanges and learnings and support outstanding Chinese arbitration talents in engaging in exchanges, appointments, and internships in international organizations or well-known international arbitration institutions.[27]

Additionally, China has explored a path of international law development with Chinese characteristics. On one hand, China has begun to adopt a holistic and systematic perspective on the development of international law. Previously, China tended to consider the development of international law in isolation.[28] In 2020, Xi Jinping's thought on the rule of law explicitly proposed the need to coordinate the promotion of the domestic rule of law and the foreign-related rule of law.[29] Under the guidance of Xi Jinping's thought on the rule of law, China has adopted a holistic perspective on the development of international law. China has introduced the emerging concept of "foreign-related rule of law," which closely links the domestic rule of law with the international rule of law. From a holistic perspective, China is taking a more open and inclusive approach to domestic and international laws, strengthening the foreign-related elements of China's domestic law, and incorporating

26 Du Huanfang (杜焕芳), *Quanmian Ba Wo Shewai Fazhi Rencai Peiyang de Fangwei, Yaosu he Weidu* (全面把握涉外法治人才培养的方位 要素和维度) [*Comprehensively Grasp the Orientation, Elements, and Dimensions of Cultivating Foreign-Related Legal Talents*], Fazhi Ribao (法治日报) [Legal Daily], May 24, 2023, *reprinted in* Ministry of Justice of the People's Republic of China, https://www.chinalaw.gov.cn/pub/sfbgw/zwgkztzl/xxxcgcxjpfzsx/fzsxllqy/202305/t20230524_479457.html.

27 Du Chengming (杜承铭) & Ke Jingjia (柯静嘉), *Lun Shewai Fazhi Rencai Guojihua Peiyang Moshi zhi Chuangxin* (论涉外法治人才国际化培养模式之创新) [*An Innovative Approach to Cultivating Legal Talents With International Horizon in China*], Xiandai Daxue Jiaoyu (现代大学教育) [Modern University Education], Jan. 20, 2017, at 86.

28 Huang Yao (黄瑶) & Lin Zhaoran (林兆然), *Zhongguo Guoji Gongfa Yanjiu Sishinian: Licheng, Jingyan yu Zhanwang* (中国国际公法研究四十年：历程、经验与展望) [*Forty Years of Research of International Public Law in China: Historical Process, Experience and Prospective*], Fa Xue (法学) [Law Science], Oct. 20, 2018, at 25.

29 Huang Jin, *Coordinate Rule of Law Efforts in Both Domestic and Foreign-Related Matters*, Social Sciences in China, Apr. 2, 2024, at 72.

relevant content from existing international law into domestic law to avoid conflicts between domestic and international laws in practical application.[30]

On the other hand, China is actively pursuing a transformation of its role in international governance. The transformation from a participant in global governance to a leader in global governance is an important aspect of China's development of foreign-related rule of law.[31] In the past, China's international legal knowledge system mainly mirrored Western international legal theories and ideas.[32] Currently, China is paying more attention to the innovation of major theories in international law. By exploring international law theories with Chinese characteristics, style, and demeanor, China aims to represent itself to the world and provide answers from a Chinese perspective.[33]

2 What Has Been Your Country's Contribution to the Development of International Law?

China has made significant contributions to the innovative development of international law. Firstly, at the theoretical level, China has formed a series of new theories of international governance with the core concept of a community with a shared future for mankind, providing new perspectives and solutions for addressing global governance challenges amid unprecedented changes.[34] For a long time, China has put forward many original theories regarding international governance. In the early days of the People's Republic of China, China proposed the "Five Principles of Peaceful Coexistence," which emphasizes that States should respect each other's sovereignty and territorial integrity, refrain from aggression, refrain from interference in each other's internal affairs, equality and mutual benefit, and peaceful coexistence in

30 Gu Zuxue, *International Law as the Law of Domestic Governance: China's Propositions and Institutional Practice*, Social Sciences in China, July 26, 2017, at 158.

31 Dong & Guo, *supra* note 9, at 93–113.

32 He Zhipeng (何志鹏), *Zhongguo Zizhu Zhishi Tixi Jiangou de Guojifa Xue Weidu* (中国自主知识体系建构的国际法学维度) [*The International Law Dimension of Building China's Autonomous Knowledge System*], Zhengfa Luntan (政法论坛) [Tribune of Political Science and Law], May 7, 2024, at 30.

33 Deng Lie (邓烈), *"Zhongguo Xuepai" yu Zhongguo Guoji Fa Lilun de Zhengti Xing Chuangxin* ("中国学派" 与中国国际法理论的整体性创新) [*"Chinese School" and Integral Innovation of Chinese International Law Theory*], Fa Xue Pinglun (法学评论) [Law Review], July 13, 2022, at 35.

34 Qian, *supra* note 21, at 402.

international relations.[35] This principle has been absorbed by the basic principles of international law and has been affirmed and improved in subsequent exchanges and interactions among States. In the early 21st century, China combined traditional Chinese civilization with the theory of a "Harmonious World," which provided a new value orientation for the development of international law, emphasizing the coordinated progress among different civilizations globally.[36] Later, the "Five Principles of Peaceful Coexistence," formed a new era of Chinese international law theory with the "community with a shared future for mankind" as its core. Under the guidance of the concept of a community with a shared future for mankind, China actively establishes communities with a shared future with neighboring developing countries, promotes the establishment of a new type of international relations, and advances the establishment of a new international political and economic order.[37] China has also interpreted the concept of a "community with a shared future for mankind" in various fields, forming a series of international governance concepts with Chinese characteristics.[38] In response to the poverty issue existing in the international community, China has proposed the concept of "common prosperity for all."[39] Based on the economic interests of small and weak States globally, China's concept of "common prosperity for all" emphasizes cooperation as the keyword, aiming to break through the technological barriers faced by developing countries and reshape a healthy and orderly economic order through technical assistance and economic cooperation, thus achieving common prosperity among States.[40] Energy governance is currently an important issue faced by international governance. In response to global energy issues, China, under the

35 Jia Guide, *New China and International Law: Practice and Contribution in 70 Years*, 18 Chinese Journal of International Law 727, 727 (2019).

36 He Zhipeng (何志鹏), *Cong "Heping yu Fazhan" dao "Hexie Fazhan": Guojifa Jiazhi Guan de Yanjin yu Zhongguo Lichang Tiaoshi* (从"和平与发展"到"和谐发展"一国际法价值观的演进与中国立场调适) [*From "Peace and Development" to "Harmonious Development": The Innovation of Mega-Value in International Law and the Position of China*], Jilin Daxue Sheuil Kexue Xuebao (吉林大学社会科学学报) [Jilin University Journal of Social Sciences], July 24, 2011, at 118.

37 Xiao Xi & Men Honghua, *China's New Strategy for Dealing with Global Governance Crisis and Reform, in* Chinese Diplomacy in the New Era 117 (2021).

38 Feng Junqiang, *Study on the Practical Path of Building a Community with a Shared Future for Mankind*, 5 International Journal of Frontiers in Sociology 75, 75 (2023).

39 Jiangxing Yu, Jianan Ge, Yueqian Xu, & Biao Huang, *Debating China's Common Prosperity with Evidence from Policy Practice*, Journal of Chinese Governance, 1, 2–4 (2025).

40 Zhao Xiaochun, *In Pursuit of a Community of Shared Future: China's Global Activism in Perspective*, 4 China Quarterly of International Strategic Studies, 23, 28 (2018).

guidance of the concept of a community with a shared future for mankind,[41] has formulated Xi Jinping's new era energy concept, which embodies the concepts of international cooperation and sustainable development emphasized by the community with a shared future for mankind.[42] At the international level, it emphasizes promoting international energy cooperation on the premise of safeguarding national energy security and constructing a dual-cycle energy system and an international circulation system. At the same time, it is necessary to attach importance to the role of the "rule of law" in ensuring energy security, deepen the legal guarantees for energy cooperation under the "Belt and Road Initiative", reconstruct international energy trading rules, and form a perfect governance framework around global energy.[43]

In the face of the dilemma of global ocean governance, China has further proposed the concept of a maritime community with a shared future based on the concept of a community with a shared future for mankind.[44] The concept of a maritime community with a shared future can be specifically interpreted as a community of shared interests, shared values, and a shared future for the oceans. China, therefore, advocates conducting ocean governance based on the values of peace, development, fairness, freedom, and democracy.[45] Furthermore, to ensure the orderly and standardized development of ocean governance, China believes that a sound legal framework should be established at the international level to clarify the responsibilities of each State in ocean governance, resort to legal means to resolve disputes between States over ocean governance, and ensure the long-term operation of mechanisms for ocean governance cooperation.[46]

Secondly, China has actively translated its new concepts of international governance, such as the community of shared future for mankind, into tangible practices, yielding substantial results. Among these endeavors, the most

41 Feng, *supra* note 38.

42 Pingkuo Liu & Zhaohui Hei, *Strategic Analysis and Framework Design on International Cooperation for Energy Transition: A Perspective from China*, 8 Energy Reports 2601 (2022).

43 Kaho Yu, *Energy Cooperation Under the Belt and Road Initiative: Implications for Global Energy Governance*, 20 Journal of World Investment & Trade 243, 257–58 (2019).

44 Chang, *supra* note 20, at 12.

45 Weibin Zhang, Yen-Chiang Chang & Liangfu Zhang, *An Ocean Community with a Shared Future: Conference Report*, Marine Policy, Feb. 19, 2020, at 1, 1.

46 Meng Li & Yen-Chiang Chang, *Legal Order in the World's Oceans – UN Convention on the Law of the Sea*, 36 International Journal of Marine and Coastal Law 697, 701 (2021) (book review).

prominent is the "Belt and Road Initiative" proposed by China in 2013.[47] The joint construction of the "Belt and Road Initiative" represents China's proposal for global open cooperation, improvement of the global economic governance system, promotion of global common development and prosperity, and the advancement of the building of a community with a shared future for mankind.[48] It also constitutes a significant contribution to upholding multilateralism and international cooperation. Since the inception of the "Belt and Road Initiative", China has signed over 200 cooperation agreements with more than 150 States and over 30 international organizations,[49] resulting in over 3,000 cooperation projects and triggering investment nearing trillions of US dollars.[50] The Belt and Road projects have become the largest-scale international cooperation platform. As 2023 marked the tenth anniversary of the "Belt and Road Initiative," China will continue to advance its construction.[51] While focusing on the development prospects in traditional areas such as economics and trade, production capacity, energy, and transportation, China will also pay attention to new fields such as finance, agriculture, poverty alleviation, green and low-carbon development, healthcare, and digital innovation. China will

47 Gong Hongliu, *The Belt and Road Initiative (BRI): A China-Specific Approach for Global Governance*, 8 Journal of wto and China 36, 36 (2018).

48 Ruan Zongze, *The Belt and Road Initiative Is Shaping a Shared 21st Century*, 76 China International Studies 5, 5 (2019) (China).

49 Yan Fujing (严赋憬) & Chen Weiwei (陈炜伟), *Woguo Yi yu 152 Ge Guojia, 32 Ge Guoji Zuzhi Qianshu Gongjian "Yi Dai Yi Lu" Hezuo Wenjian* (我国已与*152*个国家、*32*个国际组织签署共建"一带一路"合作文件) [*China has Signed Cooperation Documents for the Joint Construction of the Belt and Road Initiative with 152 Countries and 32 International Organizations*], Xin Hua She (新华社) [Xinhua News Agency] Aug. 24, 2023, *reprinted in* Zhonghua Renmin Gongheguo Zhongyang Renmin Zhengfu (中华人民共和国中央人民政府) [The State Council the People's Republic of China], https://www.gov.cn/lianbo/bumen/202308/content_6899977.htm.

50 Du Haitao (杜海涛), Li Xiang (李翔) & Luo Shanshan (罗珊珊), *Gongtong Ba Zhe Tiao Zaofu Shijie de Xingfu Zhi Lu Pu de Geng Kuan Geng Yuan – Xi Jinping Zongshuji Guanyu Gongjian "Yi Dai Yi Lu" Zhongyao Lunshu Zongshu* (共同把这条造福世界的幸福之路铺得更宽更远 - 习近平总书记关于共建"一带一路"重要论述综述) [*Jointly Widen and Extend This Road of Happiness Benefiting the World – A Summary of General Secretary Xi Jinping's Important Expositions on Jointly Building the "Belt and Road" Initiative*], Renmin Ribao (人民日报) [People's Daily] Oct. 16, 2023, *reprinted in* Zhonghua Renmin Gongheguo Zhongyang Renmin Zhengfu (中华人民共和国中央人民政府) [The State Council the People's Republic of China], https://www.gov.cn/yaowen/liebiao/202310/content_6909316.htm.

51 Zhang Li (张丽), *"Yi Dai Yi Lu" Changyi Shi Zhounian Huigu yu Zhanwang* ("一带一路"倡议十周年回顾与展望) [*Review and Prospect of the 10th Anniversary of the "Belt and Road" Initiative*], Dui Wai Jing Mao (对外经贸) [Foreign Economic Relations & Trade], Apr. 30, 2024, at 23.

strengthen cooperation with other States to build a community of cooperation and mutual achievements.

Another notable contribution from China is the establishment of the International Mediation Institute.[52] In recent years, there has been an increasing demand for mediation in the international community. However, there is currently no intergovernmental international organization dedicated to mediation.[53] International disputes are still mainly resolved through litigation, arbitration, etc., which cannot fully meet international demand.[54] China has responded to the development and demand for international mediation by drafting and reaching a joint declaration with like-minded States to jointly establish the International Mediation Institute, which specializes in providing mediation services and offering friendly, flexible, economical, and convenient solutions for various international disputes. In 2022, China signed an agreement with the Hong Kong Special Administrative Region Government to specify the establishment of the preparatory office of the International Mediation Institute in the Hong Kong Special Administrative Region.[55] In the future, negotiations will be organized among governments on issues such as the establishment of international conventions for the International Mediation Institute.

Thirdly, China attaches great importance to the construction of international legal norms.[56] As an important member of the international community, China consistently respects and adheres to international law, abides by recognized international law and basic norms of international relations, fully considers relevant international treaties and conventions in its domestic legislation, and actively fulfills its international obligations. China consistently and resolutely upholds the international legal system with the purposes and

52 Tian Feilong (田飞龙), *Zhongguoshi Xiandaihua yu Heping Fazhan Daolu de Zhidu Tansuo* (中国式现代化与和平发展道路的制度探索) [*Institutional Exploration of China's Modernization and Peaceful Development Path*], Zhong Tianfu Xinlun (中天府新论) [New Horizons from Tianfu], May 5, 2023, at 34.

53 Vassilena Gashparova, *Towards Institutionalizing International Mediation*, 28 Lex Electronica 317, 336 (2023).

54 August Reinisch, *The Proliferation of International Dispute Settlement Mechanisms: The Threat of Fragmentation vs. the Promise of a More Effective System? Some Reflections from the Perspective of Investment Arbitration, in* International Law between Universalism and Fragmentation 107 (Isabelle Buffard et al., eds., 2008).

55 Sun Jin & Ji Xiaoxue, *Faqi Jianli Guoji Tiaojie Yuan: Beijing Jichu ji Jinzhan* (发起建立国际调解院：背景、基础及进展) [*Establishing the International Organization for Mediation: Context, Basis and Progress*], Guojifa Yanjiu (国际法研究) [Chinese Review of International Law], Nov. 15, 2023, at 4.

56 Kong & Ping, *supra* note 2, at 163.

principles of the United Nations Charter[57] at its core,[58] serving as a recognized builder of world peace, contributor to global development, and defender of international order. While firmly upholding existing international legal norms, China, guided by the vision of a community with a shared future for mankind, actively participates in international governance with a more proactive stance, actively exploring research areas, translating Chinese theories into practical rules, and directly influencing global governance.[59] On one hand, under the guidance of the concept of a community with a shared future for mankind, China actively participates in the reform of international rules. In the era of globalization, economic exchanges among States are becoming increasingly interconnected. China, relying on platforms such as the World Trade Organization (WTO), actively contributes to the formulation of rules in multilateral settings, actively initiates and participates in negotiations on regional economic and trade agreements, and makes outstanding contributions to the formation and development of bilateral and regional economic and trade rules.[60] In terms of quantity, China has signed over twenty-two free trade agreements,[61] and in terms of quality, China-initiated international economic and trade rules have also been qualitatively improved.[62] For example, the Comprehensive Agreement on Investment between China and the EU,[63] completed on December 30, 2020, has moved away from the traditional emphasis

57 U.N. Charter (opened for signature on June 26, 1945, and entered into force on October 24, 1945).

58 Jia, *supra* note 35.

59 *See* Yun-han Chu, *A Reformist, Not a Revisionist: The Emerging Global Role of China, in* The Decline of the Western-Centric World and the Emerging New Global Order: Contending Views 186, 190–200 (Yun-han Chu & Yongnian Zheng eds., 2021).

60 *See* Qingjiang Kong & Li Chen, *Will China Redefine International Trade Norms?*, 16 Asian Journal of wto & International Health Law and Policy 219, 231 (2021).

61 Xu Lingyuan (徐令缘), *Zhongguo Yi Yu 29 Ge Guo Jia He Diqu Qianshuo 22 Ge Zifei Xie Ding – Yi Gao Shuiping Kaifang Cujin Huli Gongying* (中国已与29个国家和地区签署22个自贸协定——以高水平开放促进互利共赢) [*China Has Signed 22 Free Trade Agreements with 29 Countries and Regions – Promoting Mutual Benefit and Win-Win Results with High-Level Opening Up*], Renmin Ribao Haiwai Ban (人民日报海外版) [People's Daily Overseas Edition] Apr. 11, 2024, *reprinted in* Zhonghua Renmin Gongheguo Zhongyang Renmin Zhengfu (中华人民共和国中央人民政府) [The State Council the People's Republic of China], https://www.gov.cn/yaowen/liebiao/202404/content_6944500.htm.

62 Nie Xinwei (聂新伟), *Zhidu Xing Kaifang: Lishi Luoji, Lilun Luoji Yu Shijian Luoji* (制度型开放：历史逻辑、理论逻辑与实践逻辑) [*Opening-up Based on Institutions: Logics of History, Theory and Practice*], Caijing Zhiku (财经智库) [Financial Minds], Mar. 10, 2022, at 97.

63 Cristina Elena Popa Tache, *The EU-China Road to the Comprehensive Agreement on Investment*, 12 Juridical Tribune 476, 478 (2022).

on protecting foreign investment in bilateral investment protection agreements, incorporating content promoting investment openness, fairness, and sustainable development, making it a comprehensive and inclusive bilateral investment protection agreement including investment liberalization goals.[64] At the same time, China is also concerned about the crises facing the operation of the WTO. In 2020, China and some WTO members, such as the EU, reached the "Multi-party Interim Appeal Arbitration Arrangement"[65] in response to the crisis of the WTO Appellate Body's paralysis, meeting the appeal needs of WTO members and maintaining the operation of the WTO dispute settlement mechanism. China actively focuses on WTO reform issues, issuing position papers on "China's Position Paper on WTO Reform"[66] and "China's Proposals on WTO Reform,"[67] providing Chinese wisdom for WTO reform.

On the other hand, China also pays close attention to international legislation in emerging fields. Currently, in international relations practice and inter-state competition, there is a trend of expanding from traditional terrestrial areas to new domains such as the oceans, polar regions, outer space, and cyberspace.[68] The lack of norms and fragmentation in governance in emerging fields greatly hinder the deepening of international governance processes. China pays close attention to these emerging fields and is deeply involved in studying and participating in the establishment of rules in new areas. Among them, the formulation and implementation of international law of the sea is

64 Gao Yunsheng & Sun Lu, *Accord Global d'Investissement Chine-UE et Ouverture de Haut Niveau de la Chine* [*China-EU Comprehensive Investment Agreement and China's High Level Opening Up*], 2 ETUDES FRANCAISES [FRENCH STUDIES] 100, 107 (2023) (China).

65 *Zhongguo Yu Oumeng Deng Chengyuan Xiang Shimao Zuzhi Tongbao Duofang Linshi Shangsu Zhongcai Anpai* (中国与欧盟等成员向世贸组织通报多方临时上诉仲裁安排) [*China, the EU and Other Members Inform the WTO of the Multilateral Interim Appellate Arbitration Arrangement*], ZHONGHUA RENMIN GONGHEGUO SHANGWU BU (中华人民共和国商务部) [MINISTRY OF COMMERCE OF THE PEOPLE'S REPUBLIC OF CHINA] (Apr. 30, 2020, 7:59 PM), http://m.mofcom.gov.cn/article/ae/ai/202004/20200402961036.shtml.

66 *See Zhongguo Guanyu Shimao Zuzhi Gaige de Lichang Wenjian* (中国关于世贸组织改革的立场文件) [*China's Position Paper on WTO Reform*], ZHONGHUA RENMIN GONGHEGUO SHANGWU BU (中华人民共和国商务部) [MINISTRY OF COMMERCE OF THE PEOPLE'S REPUBLIC OF CHINA] (Dec. 17, 2018, 6:39 PM), http://m.mofcom.gov.cn/article/jiguanzx/201812/20181202817611.shtml.

67 *See Zhongguo Guanyu Shimao Zuzhi Gaige De Jianyi Wenjian* (中国关于世贸组织改革的建议文件) [*China's Proposal Document on WTO Reform*], ZHONGHUA RENMIN GONGHEGUO SHANGWU BU (中华人民共和国商务部) [MINISTRY OF COMMERCE OF THE PEOPLE'S REPUBLIC OF CHINA] (May 15, 2019 4:28 PM), http://images.mofcom.gov.cn/sms/201905/20190514094326062.pdf.

68 Xiao, *supra* note 24.

currently a key concern globally.[69] China responds to this call, actively participates in the institutional construction of the Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction (BBNJ Agreement),[70] and proposes constructive suggestions for the establishment of the BBNJ Agreement. For example, the concept of a community with a shared future for mankind advocated by China aligns with the purposes and principles of capacity building and marine technology transfer under the BBNJ Agreement. During the negotiation process of the BBNJ Agreement, guided by the concept of a community with a shared future for mankind, China played an important role in the negotiations of the BBNJ Agreement, and China's voice was heard by the world.[71]

As the status of rules in cyberspace continues to rise, China also attaches great importance to cyber governance. China proposes the initiative to build a community with a shared future in cyberspace.[72] In 2020, China submitted the "Global Data Security Initiative"[73] to the United Nations General Assembly, advocating that all States should be committed to maintaining a peaceful, secure, open, cooperative, and orderly cyberspace, respecting national

69 Jia, *supra* note 35, at 727.

70 Intergovernmental Conference on an International Legally Binding Instrument Under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction, *Agreement Under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction*, U.N. Doc. A/CONF.232/2023/4 (June 19, 2023).

71 Bai Jiayu (白佳玉) & Wang Yi (王怡), *BBNJ Xie Ding Zhong Neng Li Jian She He Hai Yang Ji Shu Zhuan Rang Gui Fan de Shi Yong – Jian Lun Ren Lei Ming Yun Gong Tong Ti Li Nian Xia De Zhong Guo Yin Ying* (*BBNJ* 协定中能力建设和海洋技术转让规范的适用——兼论人类命运共同体理念下的中国因应) [*The Application of the Capacity-Building and the Transfer of Marine Technology Norms in the BBNJ Agreement: An Inspiration for China Under the Vision of a Community with a Shared Future for Mankind*], Wuda Guojifa Pinglun (武大国际法评论) [Wuhan University International Law Review], Nov. 30, 2023, at 35.

72 Xia Liping (夏立平), *Goujian Wangluo Kongjian Mingyun Gongtongti: Yiyi, Neirong yu Yingxiang* (构建网络空间命运共同体：意义、内容与影响) [*Building a Community of Shared Future in Cyberspace: Significance, Content and Impact*], 10 Renmin Luntan Xueshu Qianyan (人民论坛·学术前沿) [Frontiers] May. 31, 2023, at 94.

73 *Quan Qiu Shu Ju An Quan Chang Yi* (全球数据安全倡议) [*Global Data Security Initiative*], Xin Hua She (新华社) [Xinhua News Agency] Sep. 08, 2020, *reprinted in* Zhonghua Renmin Gongheguo Zhongyang Renmin Zhengfu (中华人民共和国中央人民政府) [The State Council the People's Republic of China], https://www.gov.cn/xinwen/2020-09/08/content_5541579.htm.

sovereignty in cyberspace, and advocating for the application of international law in cyber governance within the framework of the United Nations.[74] Other emerging domains, such as polar regions and outer space, are generally considered as the common heritage of mankind at the international level.[75] China pays high attention to the international governance of polar regions and outer space and explicitly states that the new domains, such as outer space and polar regions, are of significant national security importance in its domestic legislation. Regarding the international governance of polar regions and outer space, China continues to be guided by the concept of a community with a shared future for mankind, advocating that States around the world should actively engage in international exchanges and cooperation on the basis of mutual respect, equality, and mutual benefit, peacefully utilizing outer space, international seabed areas, and polar regions to increase the well-being of all mankind.[76]

---

74 Ji Yenan (嵇叶楠), Hu Zhengkun (胡正坤) & Guo Feng (郭丰), *Cong《Quanqiu Shuju Anquan Changyi》Kan Zhong Guo Zai Quanqiu Shuju Anquan Yu Zhili Lingyu de Lichang he Jucuo* (从《全球数据安全倡议》看中国在全球数据安全与治理领域的立场和举措) [*China's Stance and Measures in Global Data Security and Governance from the Perspective of the Global Data Security Initiative*], Zhongguo Xinxi Anquan (中国信息安全) [China Information Security], May 5, 2021, at 33. (China).

75 *See* Carol R. Buxton, *Property in Outer Space: The Common Heritage of Mankind Principle vs. the First in Time, First in Right, Rule of Property*, 69 Journal of Air Law & Commerce 689, 699 (explaining that the Outer Space Treaty and the Moon Treaty contains common heritage of mankind language) (2004); *But cf.* Sanjay Chaturvedi, *Ocean Governance and the Polar Regions: Geopolitics, Law, and Sustainability*, 15 Ocean Yearbook 475, 520 (2001) (explaining that countries have different perspectives on polar regions, in that some argue for territorial claims while others argue for it to be common heritage of mankind).

76 *Xieshou Goujian Renlei Mingyun Gongtongti: Zhongguo de Changyi yu Xingdong, Zhonghua Renmin Gongheguo Guowuyuan Xinwen Bangongshi* (携手构建人类命运共同体：中国的倡议与行动，中华人民共和国国务院新闻办公室) [*Working Together to Build a Community with a Shared Future for Mankind: China's Initiatives and Actions, Information Office of the State Council of the People's Republic of China*], Xin Hua She (新华社) [Xinhua News Agency] Sep. 26, 2023, *reprinted in* Zhonghua Renmin Gongheguo Zhongyang Renmin Zhengfu (中华人民共和国中央人民政府) [The State Council the People's Republic of China], https://www.gov.cn/zhengce/202309/content_6906335.htm.

Asian Journal of Law and Society (2025), **12**, 109–144
doi:10.1017/als.2025.7

RESEARCH ARTICLE

China's Path to Modernization and Legal Pluralism: Transplants and the Belt and Road Initiative

Davide Giacomo Zoppolato[1,2] and Paolo Davide Farah[2,3]

[1]Department of Geology and Geography, West Virginia University, Morgantown, USA, [2]gLAWcal - Global Law Initiatives for Sustainable Development, Essex, UK and [3]West Virginia University, Rockefeller School of Policy and Politics, Morgantown, USA

Corresponding author: Davide Giacomo Zoppolato; Email: davide.zoppolato@zpl-lex.com

Abstract

Beginning with the opening-up reforms of Deng Xiaoping, the Chinese government has treated law as a central tool for regulating the economy and guiding institutional transformation. Over the decades, since 1949, China's path to modernization has been marked by profound, experimental transformations that selectively combined foreign expertise with Chinese foundations. A key feature of this process has been China's strategic adoption and adaptation of legal transplants. While initially a recipient of foreign legal models, China is now increasingly exporting its own approaches through the Belt and Road Initiative (BRI). This article examines how China's engagement in shaping the legal and regulatory frameworks of host countries under the BRI differs from traditional models of legal transplants. Rather than imposing, China draws on its historical experience to adopt a pragmatic, adaptive strategy defined by three core characteristics: the combination of Chinese and Western practices; an emphasis on voluntariness tempered by asymmetrical power relations; and a prioritization of policy objectives over autonomous legal principles. While this strategy raises concerns about legal fragmentation and institutional coherence, it also fosters a space for legal pluralism, offering an alternative to the homogenization typically associated with Global North legal transplants.

Keywords: Belt and Road Initiative; legal transplants; global governance; legal development; legal pluralism; China

1. Introduction

Since its establishment on 1 October 1949, the People's Republic of China has undergone profound, radical, and experimental transformations alongside a unique modernization process.

Best described by the concept "with Chinese characteristics" (中国特色—*zhongguo tese*) the country successfully transitioned from a non-market, low-income economy to a highly industrialized one. Throughout its history, China has drawn on foreign expertise and experiences to combine various development models into a new, hybrid one. However, the political and legal institutions responsible for constructing this unique path have emphasized the importance of preserving Chinese foundations while incorporating "Western" knowledge (中体西用 – *zhongti xiyong*). The uniqueness of China's economic, legal, and political models, as well as its modernization process, is a subject of extensive debate both domestically and internationally (Hu et al., 2021; Franceschini and Loubere,

© The Author(s), 2025. Published by Cambridge University Press on behalf of Asian Journal of Law and Society. This is an Open Access article, distributed under the terms of the Creative Commons Attribution licence (https://creativecommons.org/licenses/by/4.0/), which permits unrestricted re-use, distribution, and reproduction in any medium, provided the original work is properly cited.

https://doi.org/10.1017/als.2025.7 Published online by Cambridge University Press

2022). China has experimented with numerous, and often seemingly contradictory, reforms across every facet of state organization and in the relationship between citizens and the ruling Communist Party of China (CPC). One critical aspect of these debates is the role of legal reforms in the country. To achieve its goal of modernizing and developing its legal system, China strategically adopted foreign legal concepts, knowledge, and practices. China's approach to legal transplants is rooted in its history of selectively adapting foreign legal concepts (Potter, 2004). This process involves identifying key aspects of foreign legal frameworks, borrowing legal elements and institutional models from other jurisdictions, and then adapting and modifying them to align with local socio-political priorities, historical contexts, and governance structures.

Comparative legal scholars have extensively examined transplants in the commercial sphere, encompassing areas such as trade, investment, arbitration, taxation, and intellectual property rights (Clarke, 2006; Gao, 2011; He, 2020). Similarly, significant attention has been devoted to China's efforts to strengthen its legal framework in the realm of socio-economic and cultural rights while also addressing its shortcomings in this area (Peerenboom, 2004; Potter, 2006; Farah, 2016; Pils, 2017). China's experience with legal transplants has garnered considerable attention in comparative law, with scholars exploring how the country has adopted and adapted foreign legal models to suit its domestic needs.

By contrast, far less attention has been directed towards understanding how these experiences of legal transplants are now shaping China's role in influencing legal developments in the Global South. This gap in the scholarship is significant, as China's evolving legal strategies and frameworks have begun to impact countries in the Global South, particularly through mechanisms such as trade agreements, infrastructure projects, and legal cooperation initiatives. This is particularly relevant since the launch of the Belt and Road Initiative (BRI) and China's more proactive and open attitude in challenging global governance (Rolland, 2017; Hameiri and Jones, 2018). With the BRI, China is not just a passive recipient of legal transplants but is increasingly positioning itself as an exporter of its own legal and governance models. By applying a similar methodology as both a recipient and a provider of legal transplants, China demonstrates a pragmatic and strategic approach to legal globalization. This dual role further solidifies its position as a key player in the evolving global legal landscape, where it not only borrows and adapts but also innovates and influences legal norms worldwide. Understanding this process offers valuable insights into how legal systems evolve in response to the shifting dynamics of power, influence, and collaboration in the international arena. This perspective sheds light on how China's engagement with legal development in the Global South is reshaping the global legal order and advancing an alternative vision of legal globalization.

Chinese law and other traditionally neglected non-Anglo-American and non-European legal systems have often been considered premodern or, as infamously pointed out, not "plausible rivals" of the Western legal system (Watson, 1993). Only recently has the traditionally Western-centric field of comparative law given increased attention to the role of emerging economies and Global South countries.

This research focuses on the BRI to examine the extent to which China's own experience in dealing with legal transplants from the Global North has shaped the BRI's implementation, particularly in terms of legal reforms and the diffusion of legal norms in the Global South and beyond.

To achieve this, we explore in Section 2 China's historical engagement with foreign legal models, emphasizing how its unique approach to legal transplants, characterized by selective adaptation and integration, has shaped its legal development. In Section 3, we examine legal transplants in the context of globalization, situating the BRI within this framework. We highlight how the rise of emerging economies and countries in the Global South is bringing the importance of South–South legal cooperation to the forefront. This serves to contextualize the study and underscore how the dominance of the "Western

https://doi.org/10.1017/als.2025.7 Published online by Cambridge University Press

model of law" is no longer the primary factor shaping countries' legal frameworks. New actors are now shaping the ideological debate on managing globalization and using law as a tool to achieve it, leading to diverse legal approaches and the rise of legal pluralism. This shift highlights a growing reconsideration of the importance of legal reforms and a move away from reliance on Western-style social and economic reform models.

As a case study, we focus on China and the highly debated BRI to illustrate how China's legal transplants challenge legal imperialism by drawing on its national experiences and fostering tailored cooperation rather than imposing foreign legal models. Section 4 builds on this by reviewing how China historically engaged with foreign legal models, often imposed upon it, and developed an approach that prioritizes national considerations, shaping its current legal strategies under the BRI. To do so, we analyse two core areas, free trade and the rule of law, to gain insights into how China's experiences have shaped its approach to promoting legal reforms and legal cooperation under the BRI. In Section 5, we identify key factors relevant to understanding how China's own legal experience with transplants influences the implementation of the BRI. We identify three factors central to the transplants promoted under the BRI, reflecting China's distinct legal transplants: (1) combining Chinese and Western practices, (2) voluntariness, and (3) prioritizing policy over law. Drawing from its historical experience as a recipient of legal transplants and its evolving domestic political and legal landscape, China has developed a unique legal approach. This approach is now being actively disseminated through enhanced cooperation under the BRI, which serves as a prominent example of state-directed circulation of legal models that fosters legal pluralism. Lastly, in Section 6, we reflect on the potential risks of China's legal approach under the BRI, particularly the possibility of replicating authoritarian practices in partner countries. While China's model offers a much-needed alternative to Western legal imperialism, it also prompts significant questions about its long-term impact on governance and legal developments across the Global South.

2. China's selective adaptation in legal transplants

In examining the role of law in China, legal scholars have explored the influence of traditional culture, legal history, and ideology on the relationship between citizens and the state (Li, 1996; Bell, 2010). Other studies, grounded in ancient China and traditional Chinese law, demonstrate how cultural aspects like hierarchy, conservativism, and patriarchal approach have informed legal developments in the country (Katz, 2008; Simon, 2013). Historical developments from the communist period have been extensively examined in the literature, with studies exploring and situating Chinese law within a longer trajectory of reforms and development. Leng draws a parallel between the dual legal framework of traditional Chinese law and its evolution into the legal landscape of modern China. In traditional Chinese society, *Fa* (positive law) represented formal, codified laws and regulations enforced by the state, while *Li* (moral code) embodied informal societal norms, ethics, and customs, often rooted in Confucian philosophy (Leng, 1977). Together, *Fa* and *Li* complemented each other to create a balanced system for maintaining social order and regulating behaviour. Leng argues that this duality persists in modern China, even as the country has adopted a more formal legal system in line with contemporary state governance. During the Mao era, for instance, formal legal codes were often downplayed in favour of societal models rooted in moral and ideological values, such as collectivism and loyalty to the Communist Party. Similarly, contemporary China exhibits a coexistence of legal and societal models, which include cultural norms, moral principles, and informal mechanisms of dispute resolution.

https://doi.org/10.1017/als.2025.7 Published online by Cambridge University Press

This highlights a distinctive feature of China's legal tradition: the mix of formal legal mechanisms with broader moral and social frameworks to achieve governance and harmony. Leng's observation underscores how the legacy of traditional Chinese law continues to influence the dynamics of legal and societal interactions in China today.

However, the Maoist period is mostly treated as a rupture in this tradition, marked by legal nihilism and the predominance of informalism over formalism, with law having little to no impact on the advancement of Chinese society, and following the rule of man rather than the rule of law (Lo, 1995; Keith, 2013; Leese and Engman, 2018). Despite this, significant legal developments during this period informed China's legal system (Liebman and Milhaupt, 2016; Clarke, 2022) and supported the subsequent opening-up reforms, where Deng Xiaoping and the CPC found in "law" an important ally for the construction and regulation of the socialist market economy (Lubman, 1999). Comparative legal scholars have shown that China employs laws and regulations as tools of governance primarily to legitimize and strengthen CPC power (Shue and Thornton, 2017), rather than to promote and protect directly liberal values (Minzner, 2011; Liebman, 2014). Others like Seppanen found how social stability and economic development replaced, during the post-reform period, the ideological dogmatism of Marxism-Leninism and Mao Zedong thought as sources of legitimization for the CPC (Seppanen, 2016, p. 25), thereby requiring a robust legal framework. From the 1980s, China also stepped up international cooperation with Global North countries to improve and reform its legal system.

Throughout its history, China always ensured that foreign legal knowledge and institutions seamlessly integrated into its domestic legal system, creating a tailored framework that bolstered its state-controlled market economy and centralized political structure. Supporters of legal transplants from the Global North often point to their practical benefits for Global South countries, such as accelerating legal development, fostering international compatibility, and providing a foundation for economic modernization and governance. Critics, however, underscore the challenges of adapting foreign legal concepts to local cultural, political, and social contexts, arguing that such transplants may not fully integrate or function effectively in their new environment.

The concept of legal transplant has been predominantly discussed in the context of Western legal institutions, often used as a powerful metaphor for explaining the historical evolution and globalization of legal systems. This metaphor underscores the influence of Western legal traditions, such as civil law and common law, on shaping modern legal frameworks in non-Western countries. In China's case, adopting foreign legal elements has been part of its broader strategy to integrate into the global economy and international legal order while balancing its unique legal traditions and political priorities. China's experience with legal transplants has garnered considerable attention in the literature, with scholars in comparative law exploring how the country has adopted and adapted foreign legal models to suit its domestic needs. With China's deeper integration into the international community, scholars of comparative law began to examine how its commitments under international, economic, and WTO law influenced its domestic legal system and reforms. The comparative law perspective focused primarily on comparing foreign legal systems with Chinese law without considering how China's international commitments shaped its legal framework. Conversely, those who focused on China's obligations under international law, or under WTO law, tended to neglect how these commitments were integrated into the Chinese legal system and the role of foreign legal transplants in shaping China's implementation of these international responsibilities. These two dimensions—China's adaptation of foreign legal models and its obligations under international law—highlight distinct yet interconnected perspectives in understanding the evolution of, in general, a country's legal framework and specifically China's legal framework (Farah, 2016). Scholars in comparative law have increasingly recognized

https://doi.org/10.1017/als.2025.7 Published online by Cambridge University Press

the value of examining both dimensions, an approach that has been brought together under the umbrella of "comparative international law" (Roberts et al., 2015; Siems, 2023).

This approach effectively illustrates that legal transplants are not simply the adoption of foreign laws for the sake of imitation; rather, they encompass an international dimension, where a country's legal framework both influences and is influenced by its global standing and its need to fulfil its international obligations. This integration occurs not in isolation but through the adaptation of foreign legal norms that align with the country's broader economic, political, and social priorities. For example, China's accession to the WTO required significant legal reforms, particularly in areas like intellectual property protection, dispute resolution mechanisms, and trade-related legal practices (Farah, 2006; Farah and Cima, 2010; Shaffer and Gao, 2018; Hillman, 2023). In these areas, China selectively adapted legal norms from Western legal systems while modifying them to suit its domestic context. These legal transplants were not mere adoptions but rather adjusted to comply with China's economic model and its need to maintain control over key sectors while fulfilling its international obligations under WTO rules.

Furthermore, China's engagement with international environmental law, particularly in the context of the Paris Agreement (Farah, 2016; Farah and Cima, 2016), has also demonstrated the influence of foreign legal models (Beyer, 2006; Yang and Percival, 2009; Jia, 2019). In implementing climate change commitments, China has drawn on international frameworks and legal principles from other countries to craft domestic policies that balance global environmental goals with China's unique political and economic conditions (Deng and Farah, 2020; Deng, Farah and Wang, 2015). For instance, the country has implemented aspects of market-driven environmental regulation, such as carbon trading systems, inspired by practices in the EU, while maintaining a strong state role in environmental governance. This selective adaptation reflects China's approach to legal transplants, where foreign norms are not only absorbed but also reshaped to fit the domestic context, ensuring the country's international commitments are met while retaining its sovereignty over economic and political decisions.

In these ways, legal transplants, through the lenses of both international and comparative law, play a crucial role in shaping China's approach to fulfilling its international obligations, allowing the country to maintain its legal and economic priorities while engaging with global legal standards. This process of selective adaptation demonstrates how legal transplants are not static imports but dynamic tools through which countries navigate the complexities of globalization and legal cooperation. This dynamic is evident in studies like Erie and Do (2021), who examine the case of Special Economic Zones (SEZs) in Vietnam, highlighting how China's legal transplants remain in their early stages of development. As they note, "Chinese law has not gained traction as a source of legal transplant in recipient states, but it may do so in the future" "(Erie and Do, 2021). Despite this limited influence to date, we argue in the remainder of this article that China's legal transplants are emerging as a crucial yet underexplored area of research. Like other countries in the Global South, China's approach to exporting and promoting its legal models often involves promoting alternatives to Western-centric legal norms, offering a blend of formal legal structures and flexible, pragmatic practices that align with the specific needs and contexts of partner nations without direct references to human rights or ecological considerations (Zoppolato and Jiang, 2023).

China's legal influence is now increasingly visible in areas such as commercial law, arbitration practices, intellectual property regimes, and regulatory frameworks, reflecting a broader strategy of fostering legal and economic partnerships with other countries, particularly in the Global South. It is important to highlight how China's legal influence is not about replicating its domestic legal system. Instead, it involves a selective adaptation of legal norms and practices that resonate with shared developmental challenges and geopolitical interests, carefully tailored to meet the specific needs and contexts of partner

https://doi.org/10.1017/als.2025.7 Published online by Cambridge University Press

countries. This selective approach underscores a duality in China's legal engagement: while it remains an active recipient of global legal influences, it simultaneously acts as an exporter of its own legal models. Interestingly, this process of legal transplant mirrors what China itself has done as a recipient of transplants, but with substantial differences, which we are going to examine. When exporting its legal models to countries in the Global South, China employs a similar strategy of pre-emptive and anticipatory adaptation. The legal transplants it offers are pre-framed and selectively adjusted to better suit the socio-economic realities and governance challenges of the recipient countries. This "reverse coin" phenomenon highlights how China's outward legal engagement mirrors the inward processes it has used to absorb and reshape foreign legal ideas. This anticipatory adaptation reduces the burden on recipient nations to undertake extensive modifications, potentially making these transplants more accessible and appealing to their legal systems.

However, this raises an important question: will recipient countries accept these Chinese-transplanted legal frameworks as they are, or will they seek to modify them even further? The answer may depend on the relative strength of these nations in navigating their relationships with China. Historically, China, as a strong economic and geopolitical player, adapted foreign legal transplants to its own system without significant fear of external repercussions from the US, Europe, Japan, Russia, or other countries. Its economic independence and political leverage afforded it the autonomy to selectively integrate and reinterpret foreign laws without undue external pressure.

In contrast, the recipient nations in the Global South often rely heavily on Chinese investments, partnerships under the BRI, and institutional frameworks involving Chinese state-owned enterprises. This economic dependence could limit their ability to modify the Chinese legal transplants extensively, as they may fear jeopardizing their strategic relationships with China. Unlike China's position in the global order when it was the recipient, these nations might face constraints that influence how far they can tailor the provided legal frameworks to meet their specific needs.

This dynamic underscores a potential asymmetry in the transplantation process. While China's earlier adaptations were driven by its ability to assert control and autonomy, the recipient nations may find themselves in a more constrained position—raising important questions about agency, sovereignty, new forms of imperialism in the South–South relations and the balance of power in legal globalization. Exploring how recipient countries navigate and engage with China's legal influence is key to understanding the broader implications of China's dual role as both a recipient and provider of legal transplants and its impact on the evolving global legal order.

3. Legal transplants in a global context

Legal transplant, since its first formulation in the 1970s by Alan Watson, a legal historian specializing in Roman law, has captured significant attention in academia, particularly in the field of comparative law (Watson, 1993). Watson approaches the concept from a legal history perspective where:

> legal rules do not develop directly from the particular circumstances of the state in question which relate to the rules but are borrowed from elsewhere, and that often factors other than the high quality of the legal rules themselves or their precise fitness for the borrowing state decide the choice (Watson, 2001, p. 127).

Immediately after the publication of *Legal Transplants: An Approach to Comparative Law*, the concept faced significant criticism and was discredited for its highly Eurocentric approach and its lack of attention to local conditions and culture (Cairns, 2014, p. 643). Despite these

https://doi.org/10.1017/als.2025.7 Published online by Cambridge University Press

criticisms, the notion of legal transplant played a crucial role in sparking important debates on the need to understand the circulation of laws and institutions globally, as well as the relationships between different legal systems.

Over time, scholars have revisited and expanded upon the idea of legal transplants to address its initial shortcomings, advocating for a more nuanced and context-sensitive understanding of the phenomenon. This includes recognizing that legal norms and institutions are not simply "imported" or "exported" in a uniform manner but are instead adapted, negotiated, and transformed within local settings. The interaction between transplanted laws and indigenous legal traditions often creates hybrid systems that reflect the complexities of globalization and the diversity of socio-political contexts. This evolution has led to the emergence of concepts such as "legal pluralism" and "comparative international law," which highlight the coexistence of multiple legal systems and the interplay between global and local forces in shaping legal development (Berman, 2009; Roberts et al., 2015). It also led comparative scholars like Sacco (2007) to explore how legal norms are shaped not only by written laws but also by cultural beliefs, social expectations, and everyday practices—giving rise to concepts rooted in legal anthropology.

Rather than treating transplanted norms as static or uniformly applied, legal anthropology explores how legal transplants interact with indigenous customs, beliefs, and power structures, shedding light on the processes of adaptation, resistance, and transformation. Through the lens of legal anthropology, the hybrid systems that emerge from legal transplants are not viewed merely as anomalies or imperfect copies but as expressions of local agency and creativity in the face of global influences (Carvalho, 2019). This perspective emphasizes that law is not a static or universal construct but a fluid and evolving phenomenon shaped by the lived realities of communities. By bridging the gap between legal pluralism and socio-cultural analysis, legal anthropology enriches our understanding of how law functions as both an instrument of change and a site of negotiation within diverse and interconnected societies. For example, the rejection of legal concepts and instruments originating from international law or the legal systems of other countries, as examined through the lens of comparative law, often stems from deeply rooted anthropological underpinnings. This phenomenon highlights how the cultural, social, and historical foundations of a society shape its legal identity and determine the acceptance or rejection of foreign legal norms. Legal anthropology plays a critical role in understanding these dynamics, as it explores how law is intrinsically tied to a society's values, traditions, and lived experiences (Nafziger, 2017). The refusal to adopt external legal frameworks may arise from perceived incompatibilities with indigenous legal traditions or from a desire to preserve cultural sovereignty in the face of globalization and legal imperialism. This process underscores the importance of viewing law not merely as a set of abstract rules but as a culturally embedded institution that evolves in response to specific socio-political contexts.

As a tool of comparative law, legal transplant is both historically contingent and context-specific, yet it reflects broader political and economic patterns that characterize international relations. Law has often been employed as a mechanism to promote economic integration and align Global South countries with the core principles of the neoliberal international economic order. Over time, the process of legal transplantation has served not only as a conduit for economic reforms but also as a means of exerting ideological influence (Whitman, 2009). As we explore in the remainder of this section, legal cooperation and reforms have consistently been shaped by, and closely tied to, the various stages and phases of economic globalization, reflecting the shifting dynamics of power, trade, and governance on a global scale.

Following the Second World War, the international community's primary objective was to use multilateralism as a means to prevent conflicts and foster cooperation, culminating in the establishment of the Bretton Woods System. This period saw the creation of key

https://doi.org/10.1017/als.2025.7 Published online by Cambridge University Press

international organizations aimed at driving economic reconstruction and building a rules-based international order that could mitigate conflicts and promote collaboration, even among nations with divergent economic and political models (Acharya, 2017; Bordo, 2017; Igwe, 2018). During this time, legal transplants and reforms were predominantly implemented at the multilateral level through global governance institutions. These institutions viewed law as a neutral and technical instrument capable of constraining authoritarian power while simultaneously promoting economic development. This perspective was particularly evident in the work undertaken under the General Agreement on Tariffs and Trade (GATT), which aimed to reduce trade barriers and lower transaction costs to facilitate global economic integration (Baldwin, 2016, p. 69). By positioning legal frameworks as instruments of liberalization, international organizations aimed to create a level playing field that could encourage market-driven growth and discourage protectionist policies. In this context, legal transplants, often from the West, were seen as essential for embedding the principles of free trade, market competition, and transparency into the legal and regulatory systems of developing countries. These legal reforms, while grounded in a globalized vision of economic progress, also served to reinforce the broader political objective of stabilizing the post-war international system, where law was viewed not only as a tool for facilitating economic cooperation but also as a means to promote peace and political stability through predictable and fair legal frameworks.

In parallel with multilateral efforts focused on consensus-building and cooperation, which led to the ratification of major international treaties, US leadership promoted a more unilateral and less neutral use of legal reforms, linking them directly to economic development. During the early stages of the Law and Development movement in the 1960s, law was viewed as a tool to create a conducive environment for economic growth, particularly in recently decolonized countries (Rose, 1998; Davis and Trebilcock, 2008). Legal reforms and the establishment of legal institutions were seen as urgent not to promote a common consensus but to align Global South countries with the legal and political vision of the US, which prioritized the protection of property rights, laws serving the economy, and professionalization. This vision of liberal legalism was based on the assumption that postcolonial states would naturally adopt the US model due to its perceived efficiency and capacity to stimulate economic growth. Implemented through state-affiliated programmes and funding from donor organizations, legal transplants often overlooked cultural specificities and were instrumental in preserving the power and extractive practices of the West (Mattei and Nader, 2008; Kayaoglu, 2010). These transplants frequently imposed legal reforms on countries, rather than allowing them to be adopted organically as part of a longer term, context-sensitive process. An example of this imposition can be seen in the introduction of the civil law systems in many countries in Latin America and Africa during the post-colonial period (Joireman, 2001; Davis and Trebilcock, 2008). In addition, during the 1980s and 1990s, many African nations adopted Western-style legal frameworks as part of structural adjustment programmes, pushed by international financial institutions such as the World Bank and the International Monetary Fund. These reforms, often aimed at creating more market-friendly environments, did not account for the complex local legal traditions, leading to a disconnection between the imposed laws and the lived experiences of local populations (Miller, 2003). The result was a legal system that, in many instances, lacked legitimacy or practical effectiveness, as it failed to align with the socio-political realities of the countries in question.

In the earlier period, private corporations were not the major drivers of legal reforms and changes. However, from the 1980s onwards, the internationalization of Global North companies, coupled with the influence of neoliberal economic policies such as deregulation, privatization of state assets in the Global South, and a shift in focus from trade to investments, changed this dynamic. These changes necessitated extensive legal

https://doi.org/10.1017/als.2025.7 Published online by Cambridge University Press

reforms, primarily aimed at safeguarding the property rights of Global North corporations (Gill, 1995). As a result, countries, particularly those recently decolonized and the ones in the Global South, embarked on sweeping reforms of their national legal systems.

These reforms sought to attract foreign corporations, improve economic and human rights rankings, and meet conditions increasingly tied to receiving aid and technical cooperation in the development field. Such alignment is evident in the creation of rankings designed to strengthen the legal frameworks of Global South countries, aligning them with neoliberal and Western values and rhetoric, such as free trade and the rule of law (Doshi, Kelley and Simmons, 2019). Many legal assistance and capacity-building projects have focused on corporate law, funded by multilateral and regional organizations as well as the national governments of Global North countries. This resulted in what has been referred to as a "new era of codification" (Zimmermann and Reimann, 2006, p. 256). Alongside state-funded initiatives, multinational corporations also played an increasingly prominent role in legal transplants during this period. Driven by the need to establish uniform codes of conduct and operational standards in developing countries, these corporations exerted significant influence over the imposition of legal reforms. Prioritizing corporate interests and the protection of property rights, multinational corporations contributed to the "non-political creation of law," shaping legal frameworks to better align with their business objectives and ensuring legal structures that facilitated their operations across borders (Galgano, 1995, p. 109).

Similarly, the drive for alignment and harmonization with a single legal model, albeit in a more collaborative and region-focused manner, was evident in Europe during the early stages of EU integration. In this context, law was viewed as a critical tool for establishing a cohesive and unified economic space, and later, a political one. Legal transplants played a key role in harmonizing laws across EU member states, helping to create a common legal framework that facilitated economic cooperation and political integration (Augenstein, 2012). This process, while involving more collaboration than the top-down models seen in the Global South, still reflected an effort to standardize and align diverse legal systems under a single overarching legal order. But the contentious elements of legal transplants have also appeared between the US and the EU. For example, as regards the role of legal transplants in harmonizing laws across EU member states, the implementation of EU's Competition Law, particularly Articles 101 and 102 of the Treaty on the Functioning of the European Union (TFEU), prohibits anti-competitive agreements and abuses of dominant positions. These laws were transplanted from the US antitrust model, which had its own unique context based on the economic and political conditions in the US (Beltrametti, 2015). Some critics argue that the application of these laws in EU member states is problematic, as the economic and industrial landscapes in Europe are quite different from those in the US (Kalintiri, 2025). For example, the EU's more extensive state intervention and the importance of social welfare policies are not fully compatible with the more market-oriented US approach to competition law. This has led to debates over whether EU competition law is too rigid and overly influenced by an American model that may not always align with European priorities of social cohesion and industrial policy. Another example of contentious legal transplants involves the adoption of corporate governance rules within EU member states, especially the introduction of the "Anglo-Saxon" shareholder primacy model of corporate governance in the early 2000s (Cabrelli and Siems, 2015). This model, which prioritizes shareholder value maximization, was heavily influenced by US practices and was seen by many as an imposition on the European corporate landscape. Critics argue that this approach clashes with the traditionally more stakeholder-oriented corporate governance models found in countries like Germany and France, where employee interests, social responsibility, and long-term stability have historically played a more significant role (Mélon, 2019). The push for a uniform model of corporate governance across the EU has sparked debates on whether such legal

https://doi.org/10.1017/als.2025.7 Published online by Cambridge University Press

transplants may undermine national economic traditions and lead to a loss of diverse approaches to corporate regulation in Europe. These examples highlight how legal transplants can sometimes lead to tensions and disagreements within the EU and even between the EU and the US, two industrialized countries and both in the Global North, particularly when transplanted laws do not fully align with local traditions, economic realities, or political priorities.

More recently, a shift has occurred, often referred to as the "Brussels effect," in which the regulatory influence of the EU has extended beyond its borders, impacting countries like the US. (Bradford, 2020). While technically not a legal transplant, this phenomenon suggests that EU regulatory activism is forcing—or at least strongly influencing—external actors, including the US, to align with its legal frameworks. The EU's influence has been particularly prominent in areas such as data protection, artificial intelligence, and mandatory sustainability reporting requirements for corporations. These developments suggest that while legal transplants flowed from the US to the EU, particularly since the 1990s, the tide may be turning, with the EU now playing a leading role in shaping global regulatory standards.

Alongside the EU's increasingly prominent role in global legal developments, the rise of South–South cooperation marked a reorientation in perspective on the significance of Western legal reforms and the circulation of legal models in the Global South, as many countries began prioritizing regionally tailored approaches and shared developmental goals. These nations are now approaching Western-style legal reforms with greater caution, learning from the mistakes of their Western counterparts, who often imposed reforms without considering the sovereignty and unique legal and political contexts of the host countries. As the world transitions from a unipolar system dominated by the Washington Consensus to a multipolar one, no single country can impose its economic, legal, and political vision on others (Barnett and Duvall, 2004). This transition towards multipolarity in the 21st century highlights the need for diverse, context-sensitive approaches to development and legal reforms. A prime example of this change is the China-led BRI.

On 7 September 2013, Chinese President Xi Jinping, in a speech at Nazarbayev University, Astana, Kazakhstan, called for the creation of a Silk Road Economic Belt with the specific objective of enhancing and deepening economic, political, and security ties between China and Central Asia. The idea of re-establishing the Silk Road is not new and did not start under Xi Jinping: it can be traced back to references made by both Jiang Zemin in 2001 and Hu Jintao with the concept of peripheral diplomacy (Zheng, 2010).

The BRI can be seen as an extension and culmination of economic, political, and cultural policies that have defined China's opening to the international community. As we argue in this article, by focusing on connectivity, the BRI serves as a platform through which Chinese legal models and institutions can be more widely disseminated and promoted. Under the BRI, we are increasingly witnessing interactions between different legal models, fostering an environment where multiple sources of law coexist, interact, evolve, and adapt to the national conditions of host countries, making the BRI an excellent example of legal pluralism (Tamanaha, 2004; Berman, 2009; Melissaris, 2016). China achieves this by drawing on its experiences with legal transplants and creating a space within the BRI where not only Global North but also Chinese legal models can circulate. To understand legal transplants under the BRI, we will now review two cases —free trade and the rule of law —that illustrate how China has engaged with legal transplants from the Global North. By examining these two cases, we can gain insights into how these experiences are shaping the ways in which China promotes legal reforms and cooperation under the BRI.

https://doi.org/10.1017/als.2025.7 Published online by Cambridge University Press

4. China's experience with legal transplants

4.1. Free trade and legal reforms: the neoliberal agenda

Free trade has been the defining feature of much of the work done on legal reforms since the end of the Second World War. The second half of the 20th century was marked by a significant consensus—both theoretical and practical—on advancing free trade, largely due to its perceived connection with personal freedom and democracy. Austrian economist Friedrich Hayek, a key figure in the formation of neoliberalism, famously argued that: "The system of private property is the most important guarantee of freedom, not only for those who own property, but scarcely less for those who do not" (Hayek, 2014). His ideas emphasized that the free market, protected by strong property rights, was the most effective way to safeguard individual freedoms and promote democratic governance.

Hayek's views, along with those of other economists like Milton Friedman, became central to the shaping of economic policies in the post-war era. The rise of neoliberalism, especially during the 1970s and 1980s, ushered in a paradigm where free markets were seen not only as the most efficient method of economic organization but also as the foundation for a more just and democratic society. Neoliberal policies advocated for deregulation, privatization, and a diminished role for the state in economic affairs, a transformation that profoundly influenced both national and international legal frameworks. In the realm of policy and law, several neoliberal experts played a significant role in promoting these ideas, particularly through their influence on global institutions such as the World Bank and the International Monetary Fund (IMF).

The influence of neoliberal economic thought, particularly as expressed by the Chicago School of Economics, which advocates for privatization, trade liberalization, and deregulation as prerequisites for economic growth, became prominent during the mid-1970s. This ideology played a key role in shaping the economic policies of the Global North and, by extension, significantly influenced the development agendas of newly independent nations in the Global South. Legal reforms were often seen as a necessary and key complement to these policies (Glinavos, 2008; Krever, 2016). In the 1980s and 1990s, numerous countries in the Global South were encouraged—often under pressure from international financial institutions—to adopt legal frameworks that promoted free market principles. These legal reforms, which included protections for property rights, the removal of trade barriers, and the restructuring of state-owned enterprises, are a clear example of legal transplants driven by external economic and political agendas originating in the Global North.

4.1.1. Legal reforms in the global south

Experts from the Global North, particularly those affiliated with international organizations like the World Bank, the IMF, and various UN agencies, were directly involved in drafting civil codes for newly independent states in the Global South. Legal reforms emerged as a central strategy among postcolonial states seeking to assert sovreign modernity, enhance their attractiveness to international capital, and catalyze domestic economic development. However, the legal frameworks they adopted were heavily influenced by Western models, which were thought to be more conducive to promoting free trade and economic growth (DeLisle, 1999; Murillo, 2001)—often with little regard for local legal traditions or institutional realities.

In many cases, the adoption of these legal codes was framed as part of a broader effort to ensure that newly independent states could participate in the global market. These legal reforms were seen as necessary to align local legal systems with the requirements of international trade, investment, and commerce. For example, the creation of modern contract law, the protection of intellectual property rights, and the implementation of

https://doi.org/10.1017/als.2025.7 Published online by Cambridge University Press

transparent regulatory frameworks were all seen as essential for integrating these countries into the global economy.

In some cases, this process was led by Global North external experts, who were tasked with helping draft civil codes that would reflect neoliberal principles. These experts often advocated for legal systems that would ensure the primacy of private property, enforce contracts, and provide legal certainty for investors. This emphasis on legal certainty and the protection of private property was seen as a means of creating an environment conducive to foreign investment and free trade.

The Third World Approaches to International Law (TWAIL) perspective offers a critical lens through which to view these legal reforms and transplants (Okafor, 2005; Eslava and Pahuja, 2011). From this perspective, the imposition of legal systems aligned with neoliberal principles is often seen as a form of legal imperialism (Chimni, 2006). These efforts are criticized for prioritizing the interests of the Global North, multinational corporations, and foreign investors over the specific socio-economic, cultural, and environmental needs of newly independent states in the Global South. By focusing on property rights, free trade, and investor protections, these reforms often neglected or actively undermined the rights of indigenous peoples, traditional knowledge systems (Farah and Tremolada, 2015), and the complex relationships between communities and their natural environment.

One glaring critique from TWAIL scholars is that these legal transplants frequently failed to account for the importance of indigenous traditions and customary laws (Fukurai, 2018). For example, the focus on protecting intellectual property rights often clashes with the communal ownership of traditional knowledge and genetic resources practised by many indigenous communities. The emphasis on private property and individualism disrupts long-standing communal land tenure systems, marginalizing indigenous groups and threatening their cultural heritage. Such practices are seen as part of a broader pattern of exploitation, where the natural resources and knowledge of the Global South are commodified and appropriated by actors in the Global North.

A clear example of these tensions is the long-delayed adoption of the World Intellectual Property Organization (WIPO) *Treaty on the Intellectual Property, Genetic Resources and Associated Traditional Knowledge*, which was finally adopted after more than 25 years of negotiations in 2024. This treaty aims to safeguard the rights of indigenous peoples and local communities by addressing the misappropriation and exploitation of their knowledge and resources. The protracted timeline and resistance to adopting this treaty underscore the inconsistencies and reluctance of many Global North countries to recognize and adapt to the legal and cultural particularities of the Global South. This delay also reflects broader power imbalances in international legal systems, where the priorities of wealthier nations often overshadow the needs and rights of developing countries.

Similarly, the protection of farmers' rights has emerged as another contentious issue. Global intellectual property regimes, such as those advocated under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), prioritize the rights of seed companies and biotech corporations, often to the detriment of small farmers in the Global South (Farah and Prityi, 2022). These regimes restrict traditional seed-saving practices and push farmers towards dependence on patented seeds and agricultural inputs, exacerbating economic inequities and threatening food sovereignty. TWAIL scholars argue that these legal frameworks fail to consider the unique socio-economic realities of farming communities in the Global South (and often also in regions of the Global North), where agriculture and the environment are deeply intertwined with cultural traditions and community livelihoods (Humby, 2016).

Moreover, the broader emphasis on integrating the Global South into the global market often sidelines alternative development models rooted in sustainability and community well-being. Legal reforms focused on facilitating free trade and investment frequently

https://doi.org/10.1017/als.2025.7 Published online by Cambridge University Press

undermine environmental protections, local governance structures, and holistic approaches to development. For instance, many of these reforms prioritize extractive industries over the preservation of ecosystems and community-based resource management, perpetuating a cycle of environmental degradation and socio-economic marginalization.

By privileging the interests of the Global North and multinational corporations, these systems often perpetuate inequalities and undermine the agency of Global South countries. In response, new forms of South–South legal cooperation and solidarity have begun to emerge, challenging dominant Global North legal paradigms and proposing alternative frameworks. The adoption in 2024 of the *Treaty on the Intellectual Property, Genetic Resources and Associated Traditional Knowledge*, along with ongoing debates over farmers' rights, traditional knowledge (Farah and Tremolada, 2014), and more just approaches to development, exemplify efforts for a more inclusive and equitable international legal framework, one that respects the diversity and particularities of the Global South while addressing the historical legacies of imperialism and exploitation.

4.1.2. China's role in the neoliberal global order

Since the opening-up reforms initiated by Deng Xiaoping in the late 1970s, numerous external projects and initiatives have aimed to promote free trade within the national economy as a preliminary step to align China with Western liberal values. In the early stages of its economic transformation, China implemented a series of legal and policy reforms designed to attract foreign investment and integrate the country into the global market. These reforms included the establishment of SEZs that offered favourable conditions for foreign investors and the introduction of market-oriented policies (Chaisse, 2019).

International experts played a significant role in advising on the legal frameworks necessary to support this transformation. The legal system underwent substantial changes, with new laws governing foreign trade, intellectual property, and commercial contracts, even more following China's accession and integration into the WTO (Farah, 2006; Farah and Cima, 2010). These reforms were intended not only to facilitate China's integration into the global economy but also to demonstrate its commitment to the principles of free trade and market liberalism. While China's approach to legal reforms and trade liberalization has diverged from the strict neoliberal model in some respects, particularly with regard to state involvement in strategic sectors of the economy, the influence of neoliberalism can still be seen in the country's legal and economic policies.

The term 与国际接轨 (*yu guoji jiegui*) literally translates to "aligning with international practices" or "connecting with international standards." It is commonly used in China to refer to efforts to harmonize domestic systems, policies, and practices with globally recognized norms, rules, and standards, particularly in areas such as trade, law, governance, and industry.

This idea of aligning the country with international practices and rules, particularly in the context of the global economy, has been a central feature of Chinese policy since Deng Xiaoping's leadership.

This alignment, especially during the first decade of reforms, was widely supported by the US political and business establishment, which hoped to encourage China's deeper integration into the global economic system (Coker, 2015, pp. 37–38).

The effort to align with international practices and rules can also be interpreted as an instance of the theoretical acceptance of legal transplants within the Chinese economic realm. The term 与国际接轨 (*yu guoji jiegui*) first appeared in the 人民日报 (People's Daily) in a 1992 editorial, which described the reforms undertaken in the Pudong area and the opening of the first foreign trading enterprise in the Shanghai Waigaoqiao Free Trade

https://doi.org/10.1017/als.2025.7 Published online by Cambridge University Press

Zone (上海外高桥保税区). Throughout the decade from 1990 to 2000, this concept of aligning with international practices appeared numerous times in People's Daily, highlighting the country's progress in advancing its economic sector. The term was often associated with the development of specific industries such as construction, energy, and manufacturing. These references served to underscore China's commitment to aligning its domestic industries with global standards and practices, reflecting its broader intention to become fully integrated within the global economy. This alignment was not only a marker of economic modernization but also a signal to international partners of China's readiness to participate as a significant player in the global market. The term itself carries the connotation of modernization and integration, emphasizing a desire to meet international expectations and facilitate cooperation with the global community. By adopting elements of international legal and economic frameworks, China sought to modernize its legal systems and enhance its ability to engage in global trade and investment. This selective adaptation reflects both a pragmatic approach to achieving economic development and a broader strategy for navigating the complexities of global governance.

As Seppanen notes, "progressive mainstream position in this debate was to endorse the notion of legal transplants as a theoretically sound concept, and to argue that transplants from capitalist societies were a necessary and valuable part of China's modernization process" (Seppanen, 2016, p. 20).

However, the process of "aligning with international practices" is not without challenges. Critics have pointed out that aligning with international standards can sometimes conflict with domestic interests or cultural practices. Additionally, there is ongoing debate about whether such alignment benefits all stakeholders equally or if it primarily serves the interests of elites and multinational corporations.

Building on these challenges, the TWAIL perspective, as briefly described above, offers a critical lens on the process of "aligning with international practices" and its implications for China and other countries in the Global South. TWAIL scholars argue that the alignment with international standards, particularly those rooted in neoliberal economic frameworks, often reinforces the power dynamics that favour the Global North, multinational corporations, and international institutions. From this perspective, the adoption of international legal norms can marginalize local practices and traditions, leading to a form of legal and cultural imperialism.

For China, this issue is particularly salient in areas such as traditional knowledge and Chinese traditional medicine (Bodeker, 2003). While there is an international push for the protection of intellectual property, including the promotion of patents and copyrights, this approach can conflict with China's long-standing practices of communal knowledge-sharing, particularly in indigenous medicine and agricultural practices. Chinese traditional medicine, which is based on centuries-old knowledge passed down through generations, often lacks formal recognition under international intellectual property laws, which are designed around Western models of individual ownership. The increasing influence of global intellectual property regimes has led to concerns about the misappropriation of Chinese traditional knowledge by foreign corporations without fair compensation or respect for the cultural significance of such knowledge (Huang and Shen, 2021).

Moreover, the broader process of aligning with international standards has implications for other areas of the Global South, where local practices and systems of governance often clash with externally imposed legal frameworks. In many cases, the harmonization of local laws with international norms ignores the specific socio-cultural and anthropological contexts and needs of these countries, reinforcing a system where the values and priorities of the Global North are upheld at the expense of the Global South. This dynamic exacerbates existing inequalities and undermines the autonomy of countries in the Global South to shape their legal systems according to their unique cultural,

https://doi.org/10.1017/als.2025.7 Published online by Cambridge University Press

economic, and social realities. From a TWAIL perspective, the ongoing struggle over the protection of traditional knowledge, the regulation of natural resources, and the recognition of indigenous rights are emblematic of the broader issues of legal transplants and their impact on the sovereignty and cultural integrity of Global South nations.

Wide-ranging legal transplants were implemented in the 1990s, including the creation and strengthening of intellectual property rights, enhancements in transparency and customs regulations, reforms in foreign investment laws, and the overall modernization of business law. The decade-long negotiations for China's accession to the WTO played a key role in driving these reforms, with countries from the Global North mandating adherence to several legal changes. There is no doubt that China significantly improved the environment for foreign enterprises, both qualitatively and quantitatively (Farah, 2006; Mavroidis and Janow, 2017; Shaffer and Gao, 2018). However, what is particularly interesting to analyse is how these legal transplants were consistently mediated by national conditions, often leading to contradictory outcomes.

An example of these contradictory outcomes is the reform process of state-owned enterprises (SOEs). Although the WTO addresses state interference in the market under both the GATT and other agreements such as the SCM, SOEs remain a central component of China's political system and are clearly under the direction of the CPC. While SOEs have been restructured under corporate law and, to varying degrees, have been treated on an equal footing with private enterprises, state control and direction have actually increased in recent years, rather than gradually reducing in line with free trade principles (Lardy, 2018; Farah and Zoppolato, 2022). Public ownership has never been questioned internally, even though the CPC champions free trade and globalization externally. As recently emphasized by CPC's General Secretary Xi Jinping, "The dominant position of public ownership and the leading role of the state-owned economy cannot be faltered. This is an institutional guarantee to ensure that the people of all ethnic groups in our country share the fruits of development. It is also an important guarantee for consolidating the party's ruling position and adhering to my country's socialist system" (Xi, 2015). Xi Jinping's statement highlights the enduring importance of public ownership and state control in China's economic and political framework. By emphasizing that public ownership should remain dominant and the state-owned economy should continue to play a leading role, Xi reinforces the idea that the government, rather than private corporations or market forces, should guide the country's economic direction. This perspective contrasts with the neoliberal economic model championed by many Western nations, where market forces and private ownership are seen as central to prosperity.

The phrase "institutional guarantee" suggests that public ownership and the state's leadership in the economy are not just policy choices but fundamental components of China's political system. Xi argues that these principles are necessary for ensuring that economic development benefits all Chinese citizens, particularly across the country's diverse ethnic groups. In this context, public ownership is framed as a mechanism for equitable development, ensuring that wealth and resources are more widely distributed, rather than being concentrated in the hands of a few private owners or multinational corporations.

At the same time, Xi's remarks point to the political significance of maintaining state control. The "leading role of the state-owned economy" is also an "important guarantee for consolidating the party's ruling position." This means that economic power is intertwined with political power. By controlling key sectors of the economy, such as energy, banking, and telecommunications, the CPC can maintain its authority and influence over the country's governance. The control of these vital industries helps secure the party's legitimacy and ability to shape the direction of national policy.

For example, the state's control over critical industries such as energy and transportation allows the CPC to maintain stability and manage the economy in a way

https://doi.org/10.1017/als.2025.7 Published online by Cambridge University Press

that aligns with its long-term strategic goals. In contrast to the free-market approach in capitalist economies, where private companies can dominate key sectors, China's approach ensures that SOEs serve both economic and political purposes.

Xi's statement also reinforces China's commitment to its socialist roots, contrasting with the market-oriented policies promoted by international organizations like the IMF and World Bank. While China has engaged in global economic reforms and legal transplants to align with international standards, Xi's emphasis on public ownership signals that these reforms will be adapted to fit China's political and economic system, rather than fully embracing a Western-style capitalist model.

This focus on public ownership and state control has profound implications for China's global role. For example, while China has embraced foreign investment and trade, it remains cautious about opening up its most strategic sectors to private or foreign ownership even with evident or possible violations of the WTO agreements and principles. This can be seen in industries like telecommunications, where large SOEs dominate the market, and in efforts to protect China's technological infrastructure from foreign competition. These policies reflect a broader vision of economic development where state intervention is crucial for ensuring both political stability and equitable economic growth, reinforcing the idea that economic liberalization does not necessarily entail abandoning the principles of socialism and state control.

While alignment with foreign institutions could be seen in several pieces of legislation, the national legal framework has not been disrupted or fully altered by this reception. Instead, it has been selective, formal, and limited to areas necessary for boosting economic and social development. Their transplanting of free trade principles did not diminish the role of the CPC, which continues to control key aspects of the economy. WTO obligations have been implemented, but primarily through selective adaptation to improve the national system, rather than a wholehearted embrace of free trade (Farah, 2006, p. 304). Legal transplants have not produced the expected effects (Clarke, 2006). Rather than being excluded from the multilateral trading regime, China has adhered to the system while simultaneously challenging core assumptions of the WTO. It has used the system to advance interests that might appear to fall outside the scope of free trade in its neoliberal sense (Gao, 2011). This experience highlights China's nuanced approach to adopting free trade principles, ensuring full participation in the global economy while strategically leveraging legal transplants to support its internal policies and avoiding the wholesale imposition of external models.

First, China integrated aspects of Western free trade practices—emphasizing the power of market forces to drive economic growth—into its own unique system, which prioritizes state oversight and control over the economy's trajectory. This blend underscores the importance China places on maintaining public ownership as a cornerstone of its socialist framework, even within a market-oriented global environment.

Second, China's approach to market liberalization has been pragmatic and gradual, selectively opening sectors that align with its developmental goals while retaining strict control over strategic industries such as energy, telecommunications, and media. These sectors are managed by the state apparatus, reflecting their importance for national security and broader economic stability. This selective liberalization enables China to participate in global trade while safeguarding its sovereignty and long-term interests.

Third, China's perspective on free trade differs fundamentally from that of Western legal systems, which often emphasize the creation of immutable rights that prioritize individual freedoms. In contrast, China treats free trade as a policy tool to serve collective interests, emphasizing societal and national benefits over individual rights. This divergence highlights the distinction between law and policy in China's governance, where legal frameworks are adapted to support overarching state objectives rather than constraining them.

https://doi.org/10.1017/als.2025.7 Published online by Cambridge University Press

Through this approach, China demonstrates how legal transplants and free trade principles can be selectively and strategically applied to advance national development while maintaining control over critical elements of governance and economic planning.

4.2. Socialist rule of law with Chinese characteristics

The second example to examine China's experience with legal transplants is the concept of the rule of law. The widely discussed amendment to the Chinese legal framework in 1999, driven by major organizations and Global North countries, incorporated the concept of the rule of law. Article 5 of the *Chinese Constitution* was amended to state: "The People's Republic of China governs the country according to law and makes it a socialist country under rule of law."

The translation of the term "rule of law" in Chinese, 法治 (*fazhi*), or as it appears in the Constitution 依法治国 (*yifazhiguo*), is open to various interpretations, ranging from "rule of law" "rule by law" to "rule the country according to the law." Legal scholars have described the rule of law in China as implementing a thin or formal version of the concept, primarily as a means of formally complying with the requests of the international community (Backer, 2006; Minzner, 2011). Chinese scholars, on the other hand, consistently discuss the concept within the framework of "socialist rule of law with Chinese characteristics"—a Sinicized version of the rule of law distinct from the international concept (Wang and Li, 2007; Xu, 2019).

When examining the rule of law as a form of legal transplant, it is crucial to highlight China's functional and pragmatic approach to this concept, which is now widely employed to reinforce the leadership of the CPC (Liebman, 2014; Fu, 2017).

As emphasized by Jiang Zemin prior to the enshrinement of the concept in the constitution, the implementation of the rule of law "means that the broad masses of the people are under the leadership of the party and governed in accordance with the Constitution and laws" (*Speech at the End of the Lecture on Legal System by Central Leading Comrades Held by the Central Committee of the Communist Party of China*, 1996).

This broader goal was upheld throughout subsequent leadership transitions, which not only continued to emphasize the rule of law but also adapted it to better align with China's unique context. During the 2014 Fourth Plenary Session, the CPC Central Committee issued the "Decision Concerning Some Major Questions in Comprehensively Advancing the Rule of law." In China's interpretation, the rule of law emphasizes accountability and transparency (Li, 2018). While these two components are central to the international concept of the rule of law, they were specifically chosen because they can be effectively integrated into China's governance model. The rule of law in this context has been utilized as a tool to strengthen the CPC's leadership and control over its members, rather than as a mechanism to steer the country towards a liberal form of governance—something the CPC has never intended, even when incorporating the concept into the Constitution. This emphasis on control is rooted in the necessity for new mechanisms of accountability within the party itself. As Liebman noted, this enhanced control serves as "a strategy for pre-empting the development of vertical accountability, particularly by non-state actors, which could lead to broader democratic challenges" (Liebman, 2011).

In terms of accountability, the concept has primarily been implemented through administrative remedies and anticorruption campaigns targeting lower levels of bureaucracy (Ma and Wang, 2018). The CPC's history is marked by periodic changes in party organization and supervision, a trend that has continued under Xi Jinping's leadership. Since the Fourth Plenary Session of the Eighteenth CPC Central Committee in 2012, the idea of a "socialist rule of law with Chinese characteristics" has become central to the nation's governance framework.

https://doi.org/10.1017/als.2025.7 Published online by Cambridge University Press

The concept of the "socialist rule of law with Chinese characteristics" is not merely a theoretical framework; it is actively implemented through a range of practical and legal measures designed to support the CPC governance priorities. One of the most prominent manifestations of the socialist rule of law is the CPC's anti-corruption campaigns, particularly under Xi Jinping's leadership. These campaigns target officials at all levels, from high-ranking "tigers" to low-level "flies." For example, the investigation and prosecution of high-profile figures such as Zhou Yongkang, a former member of the Politburo Standing Committee, demonstrated the use of legal mechanisms to discipline party officials while reinforcing internal accountability within the party (Feng, 2016). Additionally, the 2015 *China's Administrative Litigation Law* allows citizens to sue government agencies for specific violations, but these cases are carefully controlled to ensure they do not challenge the broader authority of the state. For instance, citizens may file lawsuits over land use or environmental violations, but the outcomes are often designed to address specific grievances without undermining the CPC's overall governance (Haibo, 2010). Another example is the social credit system, a nationwide initiative, which reflects the application of the rule of law with Chinese characteristics by combining legal, administrative, and technological tools to enforce societal norms. This system tracks individual and corporate behaviour, rewarding compliance with laws and regulations while punishing violations through restrictions on travel, business operations, or credit access.

Moreover, the CPC has prioritized legal education campaigns to promote awareness of laws and regulations among the public. However, these campaigns also emphasize the role of the law in supporting socialist values and the leadership of the CPC. For instance, the annual "Constitution Day" celebrations often include speeches and activities that highlight the integration of the rule of law with socialism.

It is extremely important that the phrase "socialist rule of law" was also included in the Chinese Constitution, particularly in Article 5, which provides a legal foundation for this concept. The Constitution states that "the People's Republic of China governs the country according to law and makes it a socialist country under the rule of law," explicitly tying legal governance to socialist principles (The State Council of the People's Republic of China, 2018).

Expanding the powers of the National Supervisory Commission, a state body responsible for overseeing anti-corruption efforts, this law integrated party disciplinary mechanisms with state institutions, exemplifying how legal structures are designed to enhance CPC control and accountability. The *2014 Environmental Protection Law of the People's Republic of China* strengthened mechanisms for holding local governments and businesses accountable for environmental violations. However, the law also reinforced the state's control over environmental activism by regulating the activities of non-governmental organizations and limiting their ability to challenge government policies. The *2017 Cybersecurity Law of the People's Republic of China* imposed strict regulations on internet usage, requiring companies to store data domestically and censor content deemed harmful to social stability. While framed as a legal measure to protect national security and social order, it also serves to consolidate state control over information and suppress dissent, aligning with the CPC's priorities. In the field of judicial reforms, pilot programmes have been held, such as the introduction of circuit courts and judicial accountability systems, which have aimed to improve efficiency and reduce corruption within the judiciary. However, these reforms are implemented under the premise that the judiciary remains subordinate to the party's leadership, ensuring that courts function as tools of governance rather than independent arbiters.

China has made impressive strides in transparency in making laws and case law publicly accessible—arguably surpassing some major Global North countries in openness and ease of access. Since 2009, judicial transparency has been significantly advanced through efforts

https://doi.org/10.1017/als.2025.7 Published online by Cambridge University Press

by the Supreme People's Court, which has made millions of cases available to the public via user-friendly platforms. This digitization and widespread availability of court judgements have the potential to greatly enhance transparency and provide valuable insights into Chinese law and practices. However, effectively analysing and interpreting this wealth of information requires the development of novel computational research methods like Text as Data techniques (Liebman et al., 2020; Stern et al., 2020). Transparency in China is not limited to case law; it also extends to politically sensitive areas such as party regulations, which have traditionally been hidden from scrutiny (Seppanen, 2019). The emphasis on the rule of law has resulted in a significant increase in published data, making notable progress. In some respects, this openness even exceeds that of many democracies, where the internal workings of political parties remain opaque, and accountability is frequently more formal than substantive.

One notable example of increased transparency is the publication of the *2015 Regulations on the Work of the Central Committees of the Communist Party of China*. These regulations outline the principles, responsibilities, and procedures governing the activities of the central committees, providing clearer guidance on intra-party governance. By making these documents publicly accessible, the CPC has allowed scholars, practitioners, and the general public to better understand the mechanisms and decision-making processes within the party.

Another significant step is the publication of the *2018 Regulations of the Communist Party of China on Disciplinary Actions,* which detail the standards of conduct expected from party members and the disciplinary measures for violations. Previously, such regulations were largely confidential and implemented without external scrutiny. Now, their availability has increased accountability by enabling both party members and external observers to track the enforcement of these rules and the consistency of disciplinary actions.

The *2019 Regulations on Strengthening Supervision of Leading Cadres* provide another example. These regulations focus on curbing abuses of power by senior officials and ensuring that they adhere to party policies and ethical standards. By publishing these rules, the CPC aims to strengthen its internal governance and address corruption concerns. Public access to these regulations has also enhanced transparency and allowed for broader discussions about their implementation.

Lastly, the *2020 United Front Work Regulations of the Communist Party of China,* which govern the party's engagement with non-communist groups and organizations, have also been made public. These regulations clarify the scope and boundaries of the party's influence over civil society, addressing concerns about overreach. Their publication marks a transition towards a more structured and transparent approach to managing relations with external stakeholders.

This growing openness in party regulations underscores a significant change in China's governance model. While the primary objective remains strengthening the party's control, the publication of these documents reflects a broader commitment to rule-based governance and improved accountability, setting a notable example in the realm of political transparency.

China's version of the rule of law has not only shaped its domestic legal landscape but is also increasingly influencing how the country interacts with the legal and regulatory frameworks of other nations. Central to this approach is the strategic use of law to govern conduct, maintain control, and guide society in the direction defined by the state. By adapting and integrating legal transplants to fit its specific socio-political and cultural characteristics, the concept of the rule of law has become a cornerstone for understanding China's legal system. This adaptation demonstrates that, while the socialist rule of law with Chinese characteristics may initially seem highly country- and context-specific, its application extends far beyond ideological confines. On the one hand, it offers positive implications, such as increased accountability for officials managing *res publica* and a focus

https://doi.org/10.1017/als.2025.7 Published online by Cambridge University Press

on collective well-being. On the other hand, it raises concerns over the centralization of power and the potential erosion of individual human rights.

China's model showcases a pragmatic approach where legal norms are tailored to support governance priorities. For instance, laws governing corporate governance and environmental regulation have been introduced with an emphasis on compliance and alignment with state goals, influencing global regulatory practices in trade and investment. However, this model also reflects a prioritization of state stability over individual liberties, a dynamic that has drawn international criticism. Ultimately, China's interpretation of the rule of law underscores its dual function: as a tool for internal governance and as an instrument for projecting influence in the global legal order. This duality raises important questions about the balance between state control and individual freedoms, as well as the evolving role of law in a multipolar world.

China's experience with legal transplants in the context of the rule of law mirrors its approach to free trade, revealing notable patterns. First, China has selectively integrated specific elements of the international rule of law into its legal system while ensuring these aspects remain subordinated to the overarching objectives of the CPC. Second, the modifications to its legal framework are implemented on a voluntary and pragmatic basis, with a focus on reinforcing party supremacy rather than introducing liberal values. Third, the socialist rule of law with Chinese characteristics serves as a dynamic policy framework, guiding legal developments and reforms in line with shifting priorities. While varying levels of implementation of the rule of law exist across different areas of positive law, China's legal system is inherently flexible. Laws are not rigid but are designed to adapt to policy demands rather than dictate them. For example, the accountability of party officials is not uniformly applied but varies according to political priorities. High-profile cases such as those of former Politburo members Bo Xilai and Sun Zhengcai illustrate this selective enforcement. Both individuals, perceived as misaligned with Xi Jinping's leadership, faced targeted investigations, whereas others in similar positions did not undergo scrutiny. This flexibility underscores the instrumental nature of law in China, where legal frameworks are shaped to serve state objectives rather than adhere to universal principles. In Section 5, we identify three critical factors that illustrate how China's approach to legal transplants is influencing its broader legal reforms and shaping its engagement with the BRI.

5. The Belt and Road Initiative: a container of legal transplants?

As observed in Section 4, central to the incorporation of foreign institutions and legal transplants in China has been the emphasis on preserving and asserting core Chinese characteristics. From the outset, foreign legal concepts have been reinterpreted through the lens of China's unique cultural and social factors, avoiding the imposition or uncritical adoption of external legal models. This deliberate approach reflects a broader strategy to adapt and localize foreign knowledge while safeguarding national identity and governance priorities. China's reworking of Western legal institutions has also allowed it to sidestep some of the challenges faced by the Global North that have often promoted a universal and standardized view of law. By refraining from imposing or externally dictating legal reforms, China underscores the importance of contextualized legal development. Under the BRI, this approach has evolved into a broader narrative: China positions its socio-economic and cultural development model as a credible alternative for other countries to consider and potentially emulate. This strategy emphasizes partnership and respect for local circumstances rather than top-down prescriptions, thereby enhancing the appeal of China's legal and developmental frameworks on the global stage. The BRI represents a broader effort by China to offer an alternative framework for international development

https://doi.org/10.1017/als.2025.7 Published online by Cambridge University Press

and modernity, showcasing that the country's unique path can be followed or emulated. Although not explicitly stated, this initiative implicitly advocates for a vision of the law distinct from the neoliberal and Global North legal model. Legal transplants under the BRI not only reflect China's distinctive approach but also serve to promote its underlying values and principles. In the remainder of this section, we explore three core characteristics that shape legal transplants within the BRI, which are closely tied to China's domestic experience with adapting foreign legal concepts.

5.1. "Combining Chinese and Western practices"

Since at least the Wuxu reform, China has extensively relied on foreign expertise to enhance its highly bureaucratic and centralized system of governance with the aim of modernizing the nation. A popular slogan from the late Qing empire encapsulated this approach: "keep the Chinese foundations while using Western knowledge" (中体西用—*zhongti xiyong*). However, the adoption and adaptation of "barbarian" legal institutions were carefully mediated by the unique circumstances of national development. As Sun Zhongshan famously remarked, "Our youths are constantly trying to learn everything the West has to teach, but what is newest in the West has existed in China for thousands of years" (Sun, 2011, p. 36).

Under his "Program of National Reconstruction: The Three Stages of Revolution" (1918), Sun Zhongshan envisioned a constitutional form of governance (宪政) as the final stage of the revolution, preceded by stratocracy (军政) and a period of political tutelage (训政). The period of political tutelage, formalized by the *Provisional Constitution for the Period of Political Tutelage of the Republic of China* (中华民国训政时期约法) in 1931, established key features that significantly influenced the subsequent constitutional development of the country. These features included the Three Principles, the Five-Power constitutional idea, the one-party dictatorship (Article 72), bureaucratic capitalism over strategic resources (官僚资本) (Article 33), and judicial review controlled by the leading party (Article 85). These elements reflect a selective adaptation of foreign legal models, implemented in China as part of its exposure and engagement with external systems while maintaining its distinctive political and ideological characteristics.

To preserve Chinese foundations—today represented by the *core socialist values* (社会主义核心价值观 – *shehui zhuhi gaixin jiazhiguan*)—the process of legal transplantation itself has been subject to scrutiny and redefinition (Sun, 2013; Liu, 2014; Gow, 2016). Rather than a straightforward transplantation or adaptation, what occurred in China was a complex and often fragmented mimesis of external experiences, aimed at crafting new institutions. In this process, there is neither a clear donor nor recipient within the legal system. Notably, even during the Republican period, legal institutions were implemented from a diverse and inconsistent array of sources.

Legal influences ranged from the Soviet Union and Japan to continental Europe models (notably Italy, France, and Switzerland) to even the US. This eclectic approach to structuring the national legal system underscores the rapid circulation of legal ideas and demonstrates that "the history of a legal system is largely a history of legal materials borrowed from other legal systems" (Monateri, 2008). Such historical experiences highlight the dynamic and non-linear nature of legal development in China, where external influences are constantly reinterpreted to align with domestic priorities and cultural values.

While certain legal materials are adopted through transplantation, others are deemed incompatible with *core socialist values* and remain off-limits. This selective borrowing suggests that to understand the factors shaping the adaptation of the legal transplants, it is essential to examine the key tenets of liberalism. China has undergone numerous, and at times seemingly contradictory, reforms touching every aspect of state organization and

https://doi.org/10.1017/als.2025.7 Published online by Cambridge University Press

the relationship between citizens and the ruling party. The enduring tension between the *rule of man* (unconstrained power) and the *rule of law* (institutional constraints on power) has been a defining feature of the modernization of China's legal system and remains highly relevant today (Zhang, 2014). Since the reform and opening-up period, the international community has consistently exerted pressure to promote liberal values in China. However, many of the legal transplants introduced with this aim have failed to achieve the desired outcomes. Understanding the factors driving legal changes in China can provide valuable insights into why these transplants have not functioned as anticipated by external observers. This analysis also sheds light on the broader dynamics of legal reform, where domestic priorities often outweigh external expectations, leading to outcomes that reflect China's unique socio-political context.

Legal institutions, particularly in the past, were often circulated as instruments of power or as mechanisms to safeguard the rights of invaders unfamiliar with local laws and cultural practices. In this context, the extraterritorial clauses established in post-Opium War institutions in China offer valuable insights into the actors driving legal transplants. These actors primarily included nation-states and the legal elites within those states. The purpose of such transplants was not to foster mutual understanding or adaptation but to ensure the supremacy and dominance of the donor state over the recipient. The legal frameworks imposed during this period served to entrench the power of foreign actors, often at the expense of local sovereignty and legal traditions. As mentioned before, this dynamic underscores the asymmetrical nature of historical legal transplants, which were tools of imperialism and control rather than genuine legal exchange.

Reflecting on the Westernization process, particularly during the brief Republican period, legal transplants often proved to be devoid of substantive meaning for Chinese citizens (Ruskola, 2013, p. 66). Extraterritoriality emerged as the preferred mechanism employed by foreign governments to ensure special treatment for foreigners and to pre-empt potential conflicts between Chinese nationals and non-Chinese individuals. Interestingly, even when China found itself in the role of a "colonizer," it relied heavily on local laws and regulations to reinforce formal adherence and compliance. Legal equality was only marginally enforced, reflecting a strategic use of existing legal frameworks rather than a wholesale imposition of new systems (Heuschert, 1998). This selective engagement with local legal traditions highlights the nuanced and pragmatic approach China has historically taken towards the use and adaptation of legal institutions.

Similarly, significant differences in the application of laws within China have historically depended on one's ethnicity. This duality also stemmed from the fact that Western legal culture, which played a key role in fostering the rapprochement between China and the West (Zhang, 2014), was always filtered through the lens of China's national development. This pragmatism can be observed in the way China has tailored foreign legal frameworks, laws, and regulations to align with its socio-political realities and developmental priorities.

During the late Qing Dynasty, China faced increasing pressure to modernize its legal system. Influenced by the German Civil Code and Japanese legal reforms, the Qing government embarked on codification projects, including the *Da Qing Lü Li* (大清律例). However, while borrowing structural elements and legal categories from these foreign systems, the Qing maintained a Confucian moral foundation (Farah, 2008), ensuring that imported concepts such as individual rights were balanced with communal obligations. This combination reflected a pragmatic adaptation that prioritized societal harmony over the individualistic tendencies of Western models. The codification process was not a wholesale import but a selective integration aimed at maintaining stability and governance within a Confucian societal framework.

Under the Republic of China and the Civil Code of 1929–30, legal reformers drew from multiple sources, including the German Civil Code, the Swiss Civil Code, and Japanese law,

https://doi.org/10.1017/als.2025.7 Published online by Cambridge University Press

to create a modern civil code. This code introduced concepts like property rights and contract law but adapted them to fit China's agrarian economy and traditional societal structures. For instance, familial property arrangements and customary practices were integrated into the framework, ensuring broader acceptability among the population. The reformers recognized the importance of maintaining continuity with existing practices while modernizing the legal system to support economic and social transitions.

During the 1950s, land reform laws were implemented to redistribute land from landlords to peasants. This initiative was based on socialist principles but adapted to the specific conditions of rural China. For example, rather than imposing a uniform national framework, local revolutionary committees had significant discretion in implementing policies. This allowed them to account for regional variations in land ownership patterns and social dynamics. The approach balanced ideological goals with the practical realities of China's vast and diverse rural landscape, ensuring smoother implementation and reducing resistance.

China's legal reforms during the reform and opening-up period showcase pragmatism on a larger scale. For instance, the establishment of SEZs like Shenzhen introduced laws that deviated from the national framework to attract foreign investment. The SEZs adopted international standards in trade, taxation, and dispute resolution, while still operating under the overarching socialist framework. The SEZs allowed China to experiment with capitalist principles in localized areas, mitigating risks while gradually integrating successful practices into the broader economy (Zheng et al., 2016).

In recent decades, China has incorporated aspects of international environmental law into its domestic framework, such as the Environmental Protection Law. While aligning with global norms like the precautionary principle, the law retains a strong focus on centralized enforcement and the role of state-led initiatives, reflecting China's governance model. Programmes such as the National Emissions Trading System (ETS) combine market mechanisms with state oversight to address environmental challenges. The integration of international norms with domestic enforcement strategies ensures that reforms are feasible within China's political and institutional structure.

Under the BRI and China's new period of transnational legal engagement, it has signed numerous bilateral agreements and memoranda of understanding that incorporate international arbitration norms. However, China often emphasizes "soft law" mechanisms and non-binding agreements, reflecting a preference for flexibility and consensus-building. For instance, Chinese investment contracts often incorporate both local laws and clauses for arbitration under international frameworks like UNCITRAL. This dual approach ensures adaptability to different legal systems while protecting China's strategic interests in its international engagements.

China's pragmatic approach to legal adaptation involves tailoring foreign frameworks to align with its unique socio-political and cultural context. Whether by selectively incorporating elements of foreign legal codes, experimenting with localized reforms, or blending international norms with domestic governance priorities, China demonstrates a nuanced strategy that balances modernization with stability. This approach underscores China's capacity to absorb external influences without losing sight of its foundational values and developmental objectives.

Under the BRI, a similar pattern emerges, where Western knowledge is integrated with Chinese approaches, resulting in the creation of new institutions that draw from both systems. A notable example is the establishment of the China International Commercial Court (CICC). Created by the Supreme People's Court in 2018, the CICC represents a significant step in China's institutional evolution, marking the first time the country has developed a mechanism specifically targeting external actors. The CICC provides a forum for resolving international disputes, reflecting China's efforts to protect legal influence

https://doi.org/10.1017/als.2025.7 Published online by Cambridge University Press

and address issues with profound geopolitical implications (Cai and Godwin, 2019; Erie, 2019; Chaisse and Qian, 2021).

Regarding its scope, the *Provisions of the Supreme People's Court on Several Issues Regarding the Establishment of the International Commercial Court 2018* specify that the CICC accepts first-instance major international commercial cases involving disputes exceeding over 300 million yuan, cases of significant national impact, arbitration-related matters (Art 2), and disputes involving foreign parties, foreign locations, or cross-border issues (Art 3). Despite its international orientation, Article 4 mandates that the court's eight judges must be Chinese nationals, with the qualifications of extensive experience in international law and proficiency in both Chinese and English.

A particularly notable provision for the scope of this discussion is how the CICC integrates Western and Chinese practices under its terms of reference. Article 11 establishes a "one-stop" international commercial dispute resolution mechanism that combines mediation, arbitration, and litigation within a unified framework. While Western courts often encourage these methods, they typically treat them as distinct processes with separate procedural mechanisms. In contrast, the CICC merges and integrates these steps, offering a streamlined approach. As Shan and Feng have noted, this reflects China's specific vision of the law, deeply rooted in its national conditions. The CICC embodies an innovative "Chinese approach" to international commercial dispute resolution, representing a unique blend of global practices and domestic legal principles (Bell, 2010; Shan and Feng, 2022). Mediation and the pursuit of amicable solutions have been highlighted as key distinctions between Western legal systems, which are often more judgement-focused, and China, as well as the broader East, which tends to emphasize mediation and dispute avoidance—a tradition deeply rooted in Confucianism (Bell, 2010). The integration of different procedural phases within the CICC reflects this cultural and legal philosophy, allowing both parties and judges to rely on mediation throughout the proceedings. This emphasis is further reinforced by the CICC's explicit authority to issue a conciliation statement based on a mediation agreement, which, once signed by the parties, carries the same legal effect as a judgement. In contrast, Western courts typically require mediation agreements to undergo court approval before they are enforceable as judgements. The CICC's streamlined approach eliminates this step, enhancing efficiency and aligning with its broader objectives. As Erie observes, the CICC, though designed as a fast, business oriented, and digitally advanced resolution mechanism for companies operating under the BRI, ultimately functions as a "court of limited jurisdiction built within the existing hierarchy of PRC courts" (Erie, 2019). This duality underscores its pragmatic design: while globally oriented, it remains firmly grounded in China's domestic legal framework and traditions.

While there is typically a tendency to bypass court proceedings in large-scale cross-border trade and investment, favouring arbitration mechanisms, the combination of Chinese and Western practices within the CICC has resulted in a legal innovation that holds promise for enhancing transparency, democratic control, and accountability in large commercial disputes. However, the anticipated improvements in these areas have been somewhat underwhelming. As of this writing, the court's website has published only seven arbitration awards, two judgements, and zero mediation awards or projects. Furthermore, the use of the CICC has been limited, partly due to the hesitancy of foreign enterprises to move away from arbitration, which is often associated with greater confidentiality. More broadly, when it comes to legal transplants, the fusion of Western and Chinese practices, along with their underlying perspectives, is likely to be a significant feature of growing legal pluralism, particularly in the Global South. Rather than focusing on conflicts between legal models or the often-insurmountable challenges of reconciling foundational differences, this blend could foster greater diversity in legal reforms. However, the combination of radically different legal models may also undermine consistency and

https://doi.org/10.1017/als.2025.7 Published online by Cambridge University Press

certainty in the law, potentially leading to a negative outcome. The risk of unduly broadening the legal framework due to selective adoption—what is often termed "cherry-picking"—as well as the interference of politics within the legal system, could further complicate the legal landscape. This is further explored in Section 5.2.

5.2. Voluntariness

The second characteristic that informs legal transplants under the BRI is directly connected to China's experience with legal transplants. The imposition of transplants from developed countries, which was particularly prevalent during the colonial period, appears to have diminished for several reasons, not only in developing countries but also within the legal systems of the donor countries themselves. Economic globalization has led to an evolution in the actors responsible for legal transplants, moving from state to non-state actors. This shift reflects broader changes in the relationships among national states and the growing interconnections driven by economic globalization. On one hand, global governance institutions have promoted a vision of the world focused on increasing profitability, often at the expense of the traditional power dynamics rooted in the Westphalian model of state sovereignty.

In this context, transplanting legal institutions like the rule of law and private property often serves to reinforce neoliberal economic priorities and uphold the ideological dominance of the Global North. Regardless of cultural or national origins, what matters under this framework is adherence to the key tenets of neoliberalism, which prioritize profit-making for Global North countries and the protection of their investments. This approach exemplifies what Miller describes as an "externally dictated transplant," wherein "a foreign individual, entity, or government mandates the adoption of a foreign legal model as a precondition for conducting business or granting a measure of political autonomy to the dominated country" (Miller, 2003, p. 847). While less overtly violent than the imposition of the colonial period, this method still reflects an underlying presumption of the superiority of the Western legal culture over that of the host country. In contrast, China's approach to legal transplants diverges significantly from such coercive practices. Instead, China emphasizes building external relations based on the Five Principles of Peaceful Coexistence (和平共处五项原则), which prioritize mutual respect for sovereignty, non-aggression, non-interference, equality, mutual benefit, and peaceful coexistence (Ma and Thakur, 2004; Zhang, 2018). Non-interventionism, a cornerstone of the Five Principles of Peaceful Coexistence, has been central to China's approach to law, except in cases where its sovereignty is perceived to be under threat, such as territorial claims.

Under the BRI, non-interventionism shapes the framework for legal transplants, emphasizing voluntariness rather than imposition as a defining characteristic. Chinese scholars argue that China's modernization path is deeply rooted in its unique circumstances, evolving in ways that are "appropriate for China's national conditions, adapting to different development stages, and making full use of the superiority of the socialist system" (Hu et al., 2021, p. 30). For the CPC, imposing China's legal model on other countries with vastly different national conditions is neither desirable nor strategically advantageous. Such impositions would infringe upon the sovereignty of other nations and risk fostering a negative perception of China as a neo-imperial power, contradicting its self-image as a non-interventionist actor. Compared to the US and the EU, this deliberate non-imposition has significant implications for legal pluralism under the BRI. Unlike Western models, which often accompany economic and political engagement with prescriptive legal frameworks, China's legal transplants under the BRI are voluntary, fostering a more collaborative and non-coercive approach to legal integration. The transplant involves specific features or characteristics of an institution rather than the

https://doi.org/10.1017/als.2025.7 Published online by Cambridge University Press

institution or its overarching ideology. This approach allows the borrowing country to selectively adopt only those elements that align with its unique circumstances, avoiding any imposition of ideology. Such flexibility expands the geographical reach of the transplant, minimizes disruptions to existing systems, and reduces the risk of rejection. Even countries that do not share the same values as the PRC can still benefit by integrating innovations from the Chinese legal system or adopting specific tools to manage or guide citizen behaviour. However, as with the combination of Western and Chinese practices, the voluntary nature of this approach may pose challenges to legal certainty and consistency. By encouraging selective adoption, the process risks further fragmenting an already diverse legal landscape. The cherry-picking nature of these transplants can result in uneven application and enforcement of laws, creating a patchwork of legal standards. Such inconsistency could lead to varying outcomes depending on the jurisdiction or the entities involved, undermining the predictability and reliability of the legal system in countries that voluntarily implement elements of China's legal institutions. This issue is further compounded by the potential disconnect between the stated goal of promoting connectivity and the actual implementation, which may amount to little more than rhetorical commitments. As explored in the context of the final characteristic informing transplants—where policy is often prioritized over law—this inconsistency could have even more serious implications for the legal framework.

5.3. Policy ahead of the law

China's legal system has long been characterized by the use of law as a tool of governance, underpinned by the principle that policy precedes law. This foundational approach reflects a key distinction from Western legal traditions, where law often functions as an independent framework for regulating society. A pivotal moment in this ideological divergence can be traced back to 1978, with Deng Xiaoping's landmark speech, "*Emancipate the Mind, Seek Truth from Facts and Unite as One in Looking to the Future.*" Deng emphasized the critical role of strengthening the legal system, stating, "*In order to protect the people's democracy, the legal system must be strengthened*" (为了保障人民民主，必须加强法制). Rather than focusing on law as an end in itself, Deng articulated a vision where legal reforms were inherently tied to achieving broader policy objectives. This integration of law and policy reflects the Chinese governance model, where the legal system is designed to align with and facilitate overarching socio-economic and political goals, rather than striving for an abstract notion of legal perfection (Zhen and Li, 2003; Lin, 2012; Yang, 2022). This approach has continued to shape the evolution of China's legal framework, distinguishing it from systems where law functions autonomously from policy considerations.

The ultimate aim of the reform in this context is the strengthening of the legal system, with positive laws (法律) and local regulations (法规) serving as tools to address the gaps within an incomplete or imperfect system (不 完 备). Keith highlights the changes in Chinese politics following Deng Xiaoping's leadership and the Tiananmen incident, noting that "Party policy was not only a priori to law, but, in the absence of law, policy acquired the role and status of law." (Keith, 1991, p. 110). This distinction between policy (政策) and law (法律) is a fundamental characteristic of legal transplants under the BRI.

The Chinese understanding of the law is deeply influenced by Marxist theories, particularly Lenin's perspectives on the role of law. Within this framework, law is seen as a tool to achieve policy objectives, which serve as the *core* (核心) and *soul* (灵魂) of the legal system. Policies are designed to fulfil the collective interests of society, but their articulation and implementation are ultimately determined by the CPC. Unlike in Western legal systems, where laws often operate autonomously and independently of policy, in China, policies are highly standardized, authoritative, and regulated. Instances of deviation

https://doi.org/10.1017/als.2025.7 Published online by Cambridge University Press

or non-compliance tend to occur more frequently with laws rather than with the overarching goals encapsulated in policies. In this context, policies are seen as guiding instruments with clear objectives, while laws function as flexible mechanisms to operationalize and achieve these aims. This dynamic has significant implications for the adoption and adaptation of Chinese legal principles in other jurisdictions under the BRI framework.

Chinese scholars identify two major attributes of policy that distinguish it from law: timeliness (时效性) and correctness (正误). Timeliness refers to the contingent and situational nature of policy. Policies are designed to address specific material problems, such as regulating foreign relations or managing economic challenges. They are enacted for a defined period and may be adjusted or replaced based on appraisal and evaluation by the authority that implemented them. This flexibility allows policies to adapt dynamically to changing circumstances and priorities, making them responsive tools for governance.

Correctness is the second defining attribute of Chinese policy. Unlike the legal positivist tradition, where the moral or practical value of a law is considered irrelevant to its validity, Chinese policy operates on the assumption that its enactment is inherently correct, given the historical conditions at the time. This perspective assumes that policies are formulated based on careful analysis of current realities and collective needs, rendering them fundamentally aligned with the interests of society.

These two attributes of timeliness and correctness highlight the pragmatic and goal-oriented nature of policy in the Chinese context, distinguishing it sharply from the static and value-neutral principles often associated with law. This distinction plays a critical role in understanding the relationship between policy and law within China's governance model, particularly in contexts such as the BRI, where policies often guide the implementation and adaptation of legal frameworks.

In addition to timeliness and correctness, it is relevant to mention the importance of expressiveness (表述性) that refers to how policies are expressed or articulated, possibly highlighting their communicative function or transparency. While timeliness and correctness focus on the practical and ideological aspects of policy, expressiveness refers to how policies are articulated and communicated by the authorities. Unlike laws, which are codified and designed to provide clear, general, and lasting rules, policies emphasize the articulation of specific goals and directives in response to immediate needs or objectives. The expressiveness (表述性) of the policy highlights its role as a vehicle for conveying the intentions and priorities of the governing body, particularly the CPC. Policies are crafted in a way that ensures their goals and purposes are understood not only by government officials but also by the general population and stakeholders. This characteristic underscores the dynamic and goal-oriented nature of policy, where clarity of intent is prioritized over rigid legal formalism. In contrast to law, which often requires interpretation by judicial systems, policy relies on its ability to directly communicate actionable objectives and guide behaviour in specific contexts.

By combining expressiveness, timeliness, and correctness, Chinese policy serves as a flexible and pragmatic governance tool that adapts to changing circumstances while maintaining alignment with the overarching objectives of the CPC. This unique interplay between policy and law reflects the Chinese legal system's focus on governance and collective objectives, as opposed to the legal positivist tradition predominant in Western systems.

Policy changes in China are rarely abrupt; instead, they are gradual and contingent upon the assessment and evaluation of specific circumstances. Even in instances of strong criticism of a prior policy—such as the Great Cultural Revolution—the critique focused not on the inherent correctness of the policy itself but on a misrepresentation of reality by the CPC at that time. As the 1981 *Resolution on Certain Questions in the History of Our Party since the Founding of the People's Republic of China* states, the errors of that period "represent

https://doi.org/10.1017/als.2025.7 Published online by Cambridge University Press

an entirely erroneous appraisal of the prevailing class relations and political situation in the Party and state. [. . .] In the last analysis, from a long-term historical point of view the mistakes and setbacks of our Party were only temporary" (*Guanyu jianguo yilai dang de ruogan lishi wenti de jueyi [Resolution on certain questions in the history of our Party since the founding of the People's Republic of China]*, 1981). This highlights the Party's enduring emphasis on the correctness of its policies as a fundamental principle of its work. An illustrative example can be found in the context of the COVID-19 containment policy. Both the CPC leadership and state media, such as the *Renmin Ribao* (*People's Daily*), consistently underscored the policy's alignment with the principles of being "correct, scientific and effective" (正确的、科学的、有效的). The framing of policy in these terms reinforces the idea that its correctness is not only a guiding tenet but also a tool to legitimize governance decisions, even in the face of challenges or evolving circumstances (*Zhongguo de fangkong zhengce kexue youxiao [China's prevention and control policies are scientific and effective]*, 2023). Under the BRI, the preference for policy as the soul of the law becomes evident, often taking precedence over strictly legal considerations. Beyond the physical construction projects commonly referred to in Chinese as 建设 ("construction"), the policy planning and vision behind the initiative are of paramount importance. Although first proposed in 2013, the BRI gained specific content and prominence both within the CPC leadership and the international community in 2015 with the release of the "*Vision and Actions on Jointly Building Silk Road Economic Belt and 21st-Century Maritime Silk Road*" (Vision). The involvement of key ministries—Commerce, Foreign Affairs, and the National Development and Reform Commission—in drafting the Vision reflects a shift in perspective regarding the BRI's role, priorities and nature. This policy document identified three core components as its backbone: foreign relations, trade and investment, and development. The BRI is a clear continuation of China's integration into the global economy, representing both the global projection of China's developmental model and the culmination of the economic reforms initiated by Deng Xiaoping (Vogel, 2011). From a conceptual standpoint, the BRI reflects China's broader approach of combining long-term policy vision with flexible implementation to achieve strategic objectives on a global scale.

Rather than prioritizing legal cooperation, one of the five key goals of the BRI is *policy coordination*, described as "an important guarantee for implementing the Initiative." This concept underscores the importance of collaborative efforts, where "countries along the Belt and Road may fully coordinate their economic development strategies and policies, develop plans and measures for regional cooperation, negotiate to resolve cooperation-related issues, and jointly provide policy support for implementing practical cooperation and large-scale projects" (Vision, § IV). The emphasis on policy coordination over legal cooperation and reform has significant implications for legal transplants under the BRI. By prioritizing policy harmonization, the framework encourages flexibility and adaptability, but it may also result in inconsistencies in the adoption and enforcement of legal standards. This approach reflects the broader Chinese governance philosophy, where policies serve as the foundation for achieving strategic goals, while legal reforms are secondary to the overarching objectives outlined in policy frameworks. To achieve policy coordination, China has extensively relied on Memoranda of Understanding (MOUs) and other non-binding agreements, which are instrumental in advancing this goal. Wang examines the BRI from a legal perspective and highlights how the use of soft law instruments, such as MOUs and performance agreements, leads to what he describes as "minimal legalization," resulting in a lack of overall effectiveness (Wang, 2021). Within the BRI framework, policy coordination is pursued through multilevel and multilateral dialogues at the regional level while negotiating bilaterally for the concrete implementation of projects (Farah and Rossi, 2011). In both instances, legal dimensions are deprioritized in favour of political and policy-driven approaches.

https://doi.org/10.1017/als.2025.7 Published online by Cambridge University Press

Examples of regional policy coordination include the Forum on China-Africa Cooperation (FOCAC) with Africa (Shelton, 2016; Omolo, 2022), the China-CEEC (Central and Eastern European Countries) Cooperation with Eastern Europe (Auer and Stiegler, 2017; Zuokui, 2017), and initiatives involving MENA countries (Zoppolato and Jiang, 2023). These regional meetings often serve as platforms for China to outline its commitments in broad terms. For instance, the 2018 Beijing Declaration, adopted during a FOCAC summit, introduced eight major initiatives and included a pledge of $60 billion from China to bolster Sino-African cooperation. However, the declaration lacked details regarding the allocation of funds across initiatives, the role of other China-led institutions in financing, and the establishment of monitoring or transparency mechanisms.

Substantive policy coordination, however, tends to occur not at the regional level but bilaterally and on a project-specific basis, with a political rather than legal orientation. The enforceable legal dimensions are typically confined to performance contracts between Chinese companies—whether state-owned or private entities—and host-country entities. These contracts are often confidential, as they involve private commercial arrangements. Despite the creation of institutions like the CICC to handle disputes, most contracts avoid resolution through such institutions. Instead, they adhere to international contract practices, with arbitration commonly conducted in globally recognized tribunals. Second, within the framework of the BRI, the instrumentalization of law often manifests as the subordination of legal frameworks and reforms to specific policy objectives, rather than a commitment to upholding fundamental legal principles. The approach enables laws to be adapted and interpreted to align with shifting circumstances and the power dynamics involved, effectively prioritizing political and economic goals over the rule of law. Such an approach can have significant consequences, particularly in the context of legal transplants from China, where legal standards may be circumvented to facilitate economic projects, potentially undermining legal protections.

The prioritization of political and economic considerations is particularly pronounced when Chinese legal transplants are involved. While adopting Chinese legal standards and practices can expedite project completion, it often comes at the expense of legal safeguards. This is evident in the frequent relaxation of environmental and labour protections—practices reminiscent of the extractive and neocolonial operations historically associated with Global North corporations in the Global South. However, a unique aspect of China's approach is the exceptional treatment afforded to Chinese enterprises operating abroad, which can place them outside the standard rule of law. For instance, to achieve ambitious policy objectives, such as the construction of a massive dam involving multiple stakeholders, China's pragmatic view of law may encourage host countries to bypass their systems of legal guarantees. This enables them to secure Chinese funding and meet policy goals, even if doing so compromises established legal standards. Such practices illustrate the tension between China's policy-driven legal framework and the broader global expectations for transparency, accountability, and adherence to the rule of law. Third, even when host countries are neither compelled nor coerced into adopting China's legal practices, this prioritization of the political over the juridical in the BRI framework can inadvertently lead to the replication of some of China's authoritarian practices. While in China these practices are partially balanced by the country's unique political framework —including intraparty competition, accountability mechanisms for CPC members, ideological constraints, and international scrutiny—the same checks and balances are often absent when host countries adopt elements of the Chinese model of governance. This dynamic has raised concerns about democratic backsliding in countries engaging closely with China. For instance, in the context of Pakistan, Hasan Karrar highlights how Chinese involvement has contributed to the weakening of normative legal and administrative structures, exacerbating governance challenges and undermining democratic principles (Karrar, 2022).

https://doi.org/10.1017/als.2025.7 Published online by Cambridge University Press

6. Conclusions

Chinese involvement in shaping the legal regulatory frameworks of host countries differs significantly from initiatives such as the US with the Law and Development Movement or the EU's promotion of rule of law through technical cooperation projects. Unlike these more direct approaches, China's engagement is shaped by its own experiences as a recipient of legal transplants and reflects a more pragmatic and adaptive strategy.

To understand how China's practices under the BRI are informed by its history with legal transplants, this article highlights three core characteristics of its approach.

The first characteristic is the need to move beyond the narrow perspective that law is a singular phenomenon rooted exclusively in Western traditions. China has long embraced the integration of foreign knowledge and practices into its legal and political systems. Historically, it has drawn extensively on "foreign" experiences from the West, applying a system of cross-contamination across various domains, including the legal field. This synthesis of Western and indigenous practices has fostered a form of legal pluralism that allows diverse legal models to co-exist within China. While this pluralism enables flexibility and innovation, it also carries potential drawbacks. The blending of fundamentally different legal traditions may undermine the consistency and predictability of the legal system, as well as the effectiveness of the institutions it creates. While this hybrid approach has served China's domestic needs, its export under the BRI raises questions about its applicability and implications for host countries, particularly regarding the adaptability and coherence of transplanted legal frameworks.

The second characteristic of China's approach to legal transplants is its emphasis on voluntariness, allowing host countries to decide independently whether and how to adopt legal frameworks. Drawing from its own experience as a recipient of legal transplants, China prioritizes non-interference with the legal systems of host countries, offering significant flexibility in how they choose to adapt or reject China's legal models. This mirrors China's own selective adaptation of Western legal concepts, reflecting a pragmatic approach to legal integration. However, under the BRI, such voluntariness is mediated by two critical factors. First, the presence of uneven power dynamics means that while transplants are not overtly imposed, they are often subtly encouraged or "nudged" through economic and political incentives. Second, the selective nature of these legal transplants can result in inconsistent application and enforcement of laws. This cherry-picking approach may lead to a fragmented legal landscape, where similar issues are resolved differently across jurisdictions or stakeholders, undermining the predictability and uniformity of legal standards. Such variability poses challenges for governance, institutional coherence, and the effectiveness of legal frameworks in the host countries.

The third key characteristic is the prioritization of policy over law, where legal transplants are designed to achieve specific policy objectives rather than uphold autonomous legal principles. In contrast to the Western tradition, which, under the influence of legal positivism, often seeks to separate politics from law, China's approach inherently combines the two. Within the BRI framework, this prioritization can, even unintentionally, promote the politicization of law, potentially leading to the replication of certain authoritarian practices from China's governance model in host countries.

However, it is essential to recognize that the BRI also creates a unique space for legal and institutional interaction. Unlike the unilateral imposition of Global North legal models, China's approach under the BRI embraces legal pluralism. Legal institutions and frameworks are not simply transplanted but are adapted to the national conditions and contexts of host countries. This fosters a dynamic exchange where multiple and diverse legal traditions can coexist, interact, and evolve. Such diversity offers a counterpoint to the homogenization often associated with the imposition of neoliberal legal frameworks, contributing to a richer and more inclusive global legal landscape.

https://doi.org/10.1017/als.2025.7 Published online by Cambridge University Press

References

Acharya, A. (2017). 'Global governance in a multiplex world', *Robert Schuman Centre for Advanced Studies Working Paper*, 29. Available at: https://cadmus.eui.eu/bitstream/handle/1814/46849/RSCAS_2017_29.pdf (Accessed: 25 February 2025).

Auer, S. and Stiegler, T. (2017). 'CEEC–China: Whose norms, whose values?', in Song, W. (ed.) *China's relations with Central and Eastern Europe*. London: Routledge, pp. 83–100.

Augenstein, D. (2012). *Integration through law revisited: The making of the European polity* [Preprint]. Available at: https://www.researchgate.net/profile/Daniel-Augenstein/publication/320245834_Integration_Through_Law/links/5b2bdc5b4585150d23c183d0/Integration-Through-Law.pdf (Accessed: 28 June 2024).

Backer, L. C. (2006). 'The rule of law, the Chinese Communist Party, and ideological campaigns: Sange Daibiao (the Three Represents), socialist rule of law, and modern Chinese constitutionalism', *Journal of Transnational Law & Contemporary Problems*, 16(1), pp. 101–174.

Baldwin, R. E. (2016). *The great convergence: Information technology and the new globalization*. Cambridge, MA: Harvard University Press.

Barnett, M. and Duvall, R. (eds) (2004). *Power in global governance*. Cambridge: Cambridge University Press.

Bell, D. A. (ed) (2010). *Confucian political ethics*. Princeton, NJ: Princeton University Press.

Beltrametti, S. (2015). 'Capturing the transplant: US antitrust law in the European Union', *Vanderbilt Journal of Transnational Law*, 48(5), pp. 1147–1190.

Berman, P. S. (2009). 'The new legal pluralism', *Annual Review of Law and Social Science*, 5(5), pp. 225–242.

Beyer, S. (2006). 'Environmental law and policy in the People's Republic of China', *Chinese Journal of International Law*, 5(1), pp. 185–211.

Bodeker, G. (2003). 'Traditional medical knowledge, intellectual property rights & (and) benefit sharing', *Cardozo International & Comparative Law Review*, 11, pp. 785–814.

Bordo, M. D. (2017). *The operation and demise of the Bretton Woods system; 1958 to 1971*. Available at: https://www.nber.org/papers/w23189 (Accessed: 28 June 2024).

Bradford, A. (2020). *The Brussels effect: How the European Union rules the world*. Oxford: Oxford University Press.

Cabrelli, D. and Siems, M. (2015). 'Convergence, legal origins, and transplants in comparative corporate law: A case-based and quantitative analysis', *The American Journal of Comparative Law*, 63(1), pp. 109–154.

Cai, W. and Godwin, A. (2019). 'Challenges and opportunities for the China International Commercial Court', *International & Comparative Law Quarterly*, 68(4), pp. 869–902.

Cairns, J. (2014). 'Watson, Walton, and the history of legal transplants', *Georgia Journal of International & Comparative Law*, 41(3), pp. 637–696.

Carvalho, J. (2019). 'Law, language, and knowledge: Legal transplants from a cultural perspective', *German Law Journal*, 20(1), pp. 21–45.

Chaisse, J. (ed) (2019). *China's international investment strategy: Bilateral, regional, and global law and policy*. Oxford: Oxford University Press.

Chaisse, J. and Qian, X. (2021). 'Conservative innovation: The ambiguities of the China International Commercial Court', *AJLS Unbound*, 115, pp. 17–21.

Chimni, B. S. (2006). 'Third world approaches to international law: A manifesto', *International Community Law Review*, 8, pp. 3–27.

Clarke, D. C. (2006). 'Lost in translation? Corporate legal transplants in China'. *GWU Law School Public Law Research Paper*, 1–20.

Clarke, D. C. (2022). 'Order and law in China', *University of Illinois Law Review*, 2022(2), pp. 541–596.

Coker, C. (2015). *The improbable war: China, the United States and the continuing logic of great power conflict*. Oxford: Oxford University Press.

Communist Party of China (CPC). (2015). *Regulations on the Work of the Central Committees of the Communist Party of China*. Available at: http://www.xinhuanet.com/politics/2015-10/28/c_11169743121.htm (Accessed: 1 January 2025).

Communist Party of China (CPC). (2018). *Regulations of the Communist Party of China on Disciplinary Actions*. Available at: https://www.chinalawtranslate.com/en/2018-chinese-communist-party-disciplinary-regulations/ (Accessed: 1 January 2025).

Communist Party of China (CPC). (2019). *Regulations on Strengthening Supervision of Leading Cadres*. Available at: http://www.xinhuanet.com/english/2019-09/04/c_138365722.htm (Accessed: 1 January 2025).

Communist Party of China (CPC). (2020). *United Front Work Regulations of the Communist Party of China*. Available at: https://en.tsinghua-tj.org/news/4249.html (Accessed: 1 January 2025).

Davis, K. E. and Trebilcock, M.J. (2008). 'The relationship between law and development: Optimists versus skeptics', *The American Journal of Comparative Law*, 56(4), pp. 895–946.

DeLisle, J. (1999). 'Lex Americana: United States legal assistance, American legal models, and legal change in the post-communist world and beyond', *University of Pennsylvania Journal of International Law*, 20(2), pp. 179–308.

https://doi.org/10.1017/als.2025.7 Published online by Cambridge University Press

Deng, H. and Farah, P. D. (2020). 'China's energy policies and strategies for climate change and energy security', *Journal of World Energy Law & Business*, 13(2), pp. 141–156.
Deng, H., Farah, P. D. and Wang, A. (2015). 'China's role and contribution in the global governance of climate change: Institutional adjustments for carbon tax introduction, collection and management in China', *Journal of World Energy Law & Business*, 8(6), pp. 581–599.
Doshi, R., Kelley, J. G. and Simmons, B. A. (2019). 'The power of ranking: The ease of doing business indicator and global regulatory behavior', *International Organization*, 73(3), pp. 611–643.
Erie, M. S. (2019). *Update on the China International Commercial Court*. Available at: https://opiniojuris.org/2019/05/13/update-on-the-china-international-commercial-court%EF%BB%BF/ (Accessed: 25 February 2025).
Erie, M. S. and Do, H. H. (2021). 'Law and development minus legal transplants: The example of China in Vietnam', *Asian Journal of Law and Society*, 8(2), pp. 372–401.
Eslava, L. and Pahuja, S. (2011). 'Between resistance and reform: TWAIL and the universality of international law Special Issue: Third world approaches to international law', *Trade, Law and Development*, 3(1), pp. 103–130.
European Union (EU). (2016). Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation). *Official Journal of the European Union*, L119, pp. 1–88. Available at: https://eur-lex.europa.eu/eli/reg/2016/679/oj/eng (Accessed: 1 January 2025).
European Union (EU). (2024). Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending certain Union legislative acts (Artificial Intelligence Act). *Official Journal of the European Union*, L257, pp. 1–278. Available at: https://eur-lex.europa.eu/eli/reg/2024/1689/oj/eng (Accessed: 1 January 2025).
Farah, P. D. (2006). 'Five years of China's WTO membership: EU and US perspectives about China's compliance with transparency commitments and the transitional review mechanism', *Legal Issues of Economic Integration Kluwer Law International*, 33(3), pp. 263–304.
Farah, P. D. (2008). 'L'influenza della concezione confuciana sulla costruzione del sistema giuridico e politico cinese [The influence of Confucianism on the construction of the Chinese political and juridical system]', in Bombelli, G. and Montanari, B. (eds) *Identita europea e politiche migratorie*. Milan: Vita e pensiero, pp. 193–226.
Farah, P. D. (2016). 'Trade and progress: the case of China', *Columbia Journal of Asian Law*, 30(1), pp. 51–112.
Farah, P. D. and Cima, E. (2010). 'China's participation in the World Trade Organization: Trade in goods, services, intellectual property rights and transparency issues', in Martinez, A. L-T. (ed.) *El comercio con China: Oportunidades empresariales, incertidumbres jurídicas*. Valencia: Editorial Tirant le Blanch, pp. 83–121.
Farah, P. D. and Cima, E. (eds) (2016). *China's influence on non-trade concerns in international economic law*. London; New York: Routledge (Global Law and Sustainable Development).
Farah, P. D. and Prityi, M. (2022). 'When John Locke meets Lao Tzu: the relationship between intellectual property, biodiversity and indigenous knowledge and the implications for food security', *Duke Environment Law & Policy Forum*, 33, pp. 77–112.
Farah, P. D. and Rossi, P. (2011). 'National energy policies and energy security in the context of climate change and global environmental risks: A theoretical framework for reconciling domestic and international law through a multiscalar and multilevel approach,' European Energy *& Environmental Law Review*, 6, pp. 232–244.
Farah, P. D. and Tremolada, R. (2014). 'Desirability of commodification of intangible cultural heritage: The unsatisfying role of IPRs', *Transnational Dispute Management (Special Issue)*, 11(2), pp. 1–13.
Farah, P. D. and Tremolada, R. (2015). 'Conflict between intellectual property rights and human rights: A case study on intangible cultural heritage', *Oregon Law Review*, 94(1), pp. 125–178.
Farah, P. D. and Zoppolato, D. G. (2022). 'Public ownership and the WTO In a post-Covid-19 era: From trade disputes to a "social" function', *West Virginia Law Review*, 125(2), pp. 644–688.
Feng, C. (2016). 'China's socialist rule of law: A critical appraisal of the relationship between the Communist Party and comprehensive law reform'. in Garrick, J. and Bennett, Y. C. (eds) *China's socialist rule of law reforms under Xi Jinping*. London: Routledge, pp. 45–58.
Franceschini, I. and Loubere, N. (2022). *Global China as method*. Cambridge: Cambridge University Press.
Fu, H. (2017). 'China's striking anticorruption adventure: A political journey toward the rule of law?', in Chen, W. (ed.) *The Beijing consensus?*. Cambridge: Cambridge University Press, pp. 249–274.
Fukurai, H. (2018). 'Fourth World Approaches to International Law (FWAIL) and Asia's indigenous struggles and quests for recognition under international law', *Asian Journal of Law and Society*, 5(1), pp. 221–231.
Galgano, F. (1995). 'The new Lex Mercatoria', *Comparative Law*, 2(1), pp. 99–110.
Gao, S. H. (2011). 'China's ascent in global trade governance: From rule taker to rule shaker and, maybe rule maker?', in Birkbeck, C. D. (ed.) *Making global trade governance work for development*. Cambridge: Cambridge University Press, pp. 153–180.
Gill, S. (1995). 'Globalisation, market civilisation, and disciplinary neoliberalism', *Millennium*, 24(3), pp. 399–423.

https://doi.org/10.1017/als.2025.7 Published online by Cambridge University Press

Glinavos, I. (2008). 'Neoliberal law: Unintended consequences of market-friendly law reforms', *Third World Quarterly*, 29(6), pp. 1087–1099.
Gow, M. (2016). 'The core socialist values of the Chinese dream: towards a Chinese integral state', *Critical Asian Studies*, 49(1), pp. 92–116.
Guanyu jianguo yilai dang de ruogan lishi wenti de jueyi [Resolution on certain questions in the history of our Party since the founding of the People's Republic of China] (1981). Available at: https://www.gov.cn/test/2008-06/23/content_1024934.htm (Accessed: 25 February 2025).
Haibo, H. (2010). 'Litigations without a ruling: The predicament of administrative law in China', *Tsinghua China Law Review*, 3, pp. 258–281.
Hameiri, S. and Jones, L. (2018). 'China challenges global governance? Chinese international development finance and the AIIB', *International Affairs*, 94(3), pp. 573–593.
Hayek, F. A. (2014). *The road to serfdom*. London: Routledge.
He, T. (2020). 'Transplanting fair use in China? History, impediments and the future', *Journal of Law, Technology, and Policy*, 2, pp. 359–409.
Heuschert, D. (1998). 'Legal pluralism in the Qing empire: Manchu legislation for the Mongols', *The International History Review*, 20(2), pp. 310–324.
Hillman, J. (2023). 'What role for the WTO in disciplining China's state-dominated economy?', *Journal of International Economic Law*, 26(3), pp. 614–618.
Hu, A., Yan, Y., Xiao, T. and Liu, S. (2021). *2050 China: becoming a great modern socialist country*. Singapore: Springer. Available at: https://link.springer.com/book/10.1007/978-981-15-9833-3
Huang, H. and Shen, W. (2021). 'On the legal protection for the security of intellectual property rights of traditionally Chinese medicine knowledge', *China Legal Science*, 9(5), pp. 30–60.
Humby, T.-L. (2016). 'Evaluating the value of TWAIL, environmental justice, and decolonization discourses as framing lenses for international environmental law', *Transnational Law and Contemporary Problems*, 26(2), pp. 317–342.
Igwe, I. O. (2018). 'History of the international economy: The Bretton Woods system and its impact on the economic development of developing countries', *Athens Journal of Law*, 4(2), pp. 105–126.
Jia, G. (2019). 'New China and international law: practice and contribution in 70 years', *Chinese Journal of International Law*, 18(4), pp. 727–750.
Joireman, S. F. (2001). 'Inherited legal systems and effective rule of law: Africa and the colonial legacy', *The Journal of Modern African Studies*, 39(4), pp. 571–596.
Kalintiri, A. (2025). 'EU antitrust law's resilience: the good, the bad, and the ugly', *Yearbook of European Law*. Available at: https://doi.org/10.1093/yel/yeae009 (Accessed: 25 February 2025).
Karrar, H. H. (2022). 'The geopolitics of infrastructure and securitisation in a postcolony frontier space', *Antipode*, 54(5), pp. 1386–1406.
Katz, P. R. (2008). *Divine justice: Religion and the development of Chinese legal culture*. London: Routledge.
Kayaoglu, T. (2010). *Legal imperialism: Sovereignty and extraterritoriality in Japan, the Ottoman Empire, and China*. Cambridge; New York: Cambridge University Press.
Keith, R. C. (1991). 'Chinese politics and the new theory of "Rule of Law"', *The China Quarterly*, 125, pp. 109–118.
Keith, R. C. (2013). 'China's legal system', *Monash University Law Review*, 39(3), pp. 934–941.
Krever, T. (2016). 'Law, development, and political closure under neoliberalism', in Brabazon, H. (ed.) *Neoliberal legality: Understanding the role of law in the neoliberal project*. London: Routledge, pp. 34–54.
Lardy, N. R. (2018). *The state strikes back: The end of economic reform in China?* Washington, DC: Peterson Institute for International Economics.
Leese, D. and Engman, P. (eds) (2018). *Victims, perpetrators, and the role of law in Maoist China: A case-study approach*. Berlin, Boston, MA: De Gruyter Oldenbourg.
Leng, S.-C. (1977). 'The role of law in the People's Republic of China as reflecting Mao Tse-Tung's influence', *The Journal of Criminal Law and Criminology*, 68(3), pp. 356–373.
Li, L. (2018). 'Ruling the country by law and promoting the modernization of state governance', in Li, L. (ed.) *The Chinese road of the rule of law*. Singapore: Springer, pp. 221–247.
Li, W. (1996). 'Philosophical influences on contemporary Chinese Law', *Indiana International & Comparative Law Review*, 6(2), pp. 327–336.
Liebman, B. (2014). 'Legal reform: China's law-stability paradox', *Daedalus*, 143(2), pp. 96–109.
Liebman, B., Roberts, M. E., Stern, R. E. and Wang, A. Z. (2020). 'Mass digitization of Chinese court decisions: How to use text as data in the field of Chinese law', *Journal of Law and Courts*, 8(2), pp. 177–201.
Liebman, B. L. (2011). 'The media and the courts: towards competitive supervision?', *The China Quarterly*, 208, pp. 833–850.
Liebman, B. L. and Milhaupt, C. J. (eds) (2016). *Regulating the visible hand? The institutional implications of Chinese state capitalism*. Oxford, New York: Oxford University Press.

https://doi.org/10.1017/als.2025.7 Published online by Cambridge University Press

Lin, S. (2012). 'Minzhu yu Minsheng: Renmin minzhu de zhongguo luoji [Democracy and people's livelihood: The Chinese logic of people's democracy]', *Journal of Peking University (Philosophy and Social Sciences)*, 1, pp. 114–124.
Liu, Y. (2014). 'Zhuoli peiyu he jianxing shehuizhuyi hexin jiazhiguan [Make a concerted effort to cultivate and practice the core socialist values]', *Qiushi*, 2(5), pp. 3–6.
Lo, C. W. (1995). *China's legal awakening: Legal theory and criminal justice in Deng's era*. Hong Kong: Hong Kong University Press.
Lubman, S. B. (1999). *Bird in a cage: Legal reform in China after Mao*. Redwood City: Stanford University Press.
Ma, H. and Wang, J. (2018). *Building a government based on the rule of law: History and development*. Singapore: Springer.
Ma, J. and Thakur, R. (2004). 'The five principles of peaceful coexistence: Basic norms of contemporary international relations', *World Affairs: The Journal of International Issues*, 8(4), pp. 30–34.
Mattei, U. and Nader, L. (2008). *Plunder: When the rule of law is illegal*. Oxford: Wiley-Blackwell.
Mavroidis, P. C. and Janow, M. E. (2017). 'Free markets, state involvement, and the WTO: Chinese state-owned enterprises in the ring', *World Trade Review*, 16(4), pp. 571–581.
Melissaris, E. (2016). *Ubiquitous law: Legal theory and the space for legal pluralism*. London: Routledge.
Mélon, L. (2019). *Shareholder primacy and global business: Re-clothing the EU corporate law*. New York: Routledge.
Miller, J. M. (2003). 'A typology of legal transplants: using sociology, legal history and Argentine examples to explain the transplant process', *The American Journal of Comparative Law*, 51(4), pp. 839–885.
Minzner, C. F. (2011). 'China's turn against law', *The American Journal of Comparative Law*, 59(4), pp. 935–984.
Monateri, P. G. (2008). 'The "weak law": contaminations and legal cultures (borrowing of legal and political forms)', *SSRN Electronic Journal* [Preprint]. Available at: https://doi.org/10.2139/ssrn.1300298 (Accessed: 25 February 2025).
Murillo, M. L. (2001). 'The evolution of codification in the civil law legal systems: Towards decodification and recodification focus on: economies in transition', *Journal of Transnational Law & Policy*, 11(1), pp. 163–182.
Nafziger, J.A. (2017). *Comparative law and anthropology*. Cheltenham: Edward Elgar Publishing.
National People's Congress of the People's Republic of China. (1982). *Constitution of the People's Republic of China*. Available at: https://english.www.gov.cn/archive/lawsregulations/201911/20/content_WS5ed8856ec6d0b3f0e9499913.html (Accessed: 1 January 2025).
National People's Congress of the People's Republic of China. (1989). *Administrative Litigation Law of the People's Republic of China*. Available at: http://www.npc.gov.cn/zgrdw/englishnpc/Law/2007-12/12/content_1383912.htm (Accessed: 1 January 2025).
National People's Congress of the People's Republic of China. (2014). *Environmental Protection Law of the People's Republic of China*. Available at: http://www.asianlii.org/cn/legis/cen/laws/eplotproc564/ (Accessed: 1 January 2025).
National People's Congress of the People's Republic of China. (2017). *Cybersecurity Law of the People's Republic of China*. Available at: https://chinacopyrightandmedia.wordpress.com/2015/07/06/cybersecurity-law-of-the-peoples-republic-of-china-draft/ (Accessed: 1 January 2025).
Okafor, O. (2005). 'Newness, imperialism, and international legal reform in our time: A Twail perspective', *Osgoode Hall Law Journal*, 43(1), pp. 171–191.
Omolo, L. A. (2022). 'Assessing China–Africa relations under the Forum for China–Africa Cooperation (FOCAC)(2000–2019)', *Africa Review*, 15(1), pp. 24–42.
Peerenboom, R. P. (ed) (2004). *Asian discourses of rule of law: Theories and implementation of rule of law in twelve Asian countries, France, and the U.S*. New York: Routledge.
Pils, E. (2017). *Human rights in China: A social practice in the shadows of authoritarianism*. Cambridge: Polity Press.
Potter, P. B. (2004). 'Legal reform in China: institutions, culture, and selective adaptation', *Law & Social Inquiry*, 29(2), pp. 465–495.
Potter, P. B. (2006). 'Selective adaptation and institutional capacity: perspectives on human rights in China', *International Journal*, 61(2), pp. 389–407.
Roberts, A., Stephan, P. B., Verdier, P.-H. and Versteeg, M. (2015). 'Comparative international law: Framing the field', *American Journal of International Law*, 109(3), pp. 467–474.
Rolland, N. (2017). *China's Eurasian century? Political and strategic implications of the Belt and Road Initiative*. Seattle: National Bureau of Asian Research.
Rose, C. V. (1998). 'The new law and development movement in the post-cold war era: A Vietnam case study', *Law & Society Review*, 32(1), pp. 93–138.
Ruskola, T. (2013). *Legal orientalism: China, the United States, and modern law*. Cambridge, MA: Harvard University Press.
Sacco, R. (2007). *Antropologia giuridica: Contributo ad una macrostoria del diritto*. Bologna: Il Mulino.
Seppanen, S. (2016). *Ideological conflict and the rule of law in contemporary China: Useful paradoxes*. Cambridge: Cambridge University Press.

https://doi.org/10.1017/als.2025.7 Published online by Cambridge University Press

Seppanen, S. (2019). 'Interrogating illiberalism through Chinese communist party regulations', *Cornell International Law Journal*, 52(2), pp. 267–311.
Shaffer, G. and Gao, H. (2018). 'China's rise: How it took on the U.S. at the WTO', *University of Illinois Law Review*, 1, pp. 115–184.
Shan, W. and Feng, Y. (2022). 'The China International Commercial Court: Towards an integrated dispute resolution system', *Asia Pacific Law Review*, 29(1), pp. 107–128.
Shelton, G. (2016). 'The FOCAC process and Sino-African strategic partnership', *China Quarterly of International Strategic Studies*, 2(2), pp. 259–276.
Shue, V. and Thornton, P. M. (eds) (2017). *To govern China: Evolving practices of power*. Cambridge: Cambridge University Press.
Siems, M. (2023). *Comparative international law: state of the art*. Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4587948 (Accessed: 17 January 2025).
Simon, K. W. (2013). *Civil society in China: The legal framework from ancient times to the "new reform era"*. New York: Oxford University Press.
Speech at the End of the Lecture on Legal System by Central Leading Comrades Held by the Central Committee of the Communist Party of China. (1996). Available at: http://www.npc.gov.cn/zgrdw/npc/xinwen/2003-07/03/content_316496.htm (Accessed: 25 February 2025).
Stern, R. E., Liebman, B. L., Roberts, M. and Wang, A. Z. (2020). 'Automating fairness? Artificial intelligence in the Chinese courts', *Columbia Journal of Transnational Law*, 59(3), pp. 515–553.
Sun, X. (2013). 'Lun shehuizhuyi hexin jiazhiguan jiqi peiyu [On core socialist values and their cultivation]', *Journal of the Party School of the Central Committee of the C.P.C.(Chinese Academy of Governance)*, 2, pp. 14–19.
Sun, Y.-S. (2011). *The three principles of the people – San Min Chu I*. Translated by Price, F. W. Vancouver: Soul Care Publishing.
Supreme People's Court of the People's Republic of China. (2018). *Provisions of the Supreme People's Court on several issues regarding the establishment of the International Commercial Court*. Available at: https://cicc.court.gov.cn/html/1/219/193/424/12481.html (Accessed: 1 January 2025).
Tamanaha, B. Z. (2004). *On the rule of law: History, politics, theory*. New York: Cambridge University Press.
The State Council of the People's Republic of China. (2018). *The National Supervision Law*. Available at: https://www.gov.cn/xinwen/2018-03/26/content_5277463.htm (Accessed: 25 February 2025).
Vogel, E. F. (2011). *Deng Xiaoping and the transformation of China*. Cambridge, MA, London: Belknap Press: An Imprint of Harvard University Press.
Wang, H, (2021). 'The Belt and Road Initiative agreements: Characteristics, rationale, and challenges', *World Trade Review*, 20(3), pp. 282–305.
Wang, Z. and Li, Z. (2007). 'Human rights and the rule of law in contemporary China', in Costa, P. and Zolo, D. (eds) *The rule of law: History, theory and criticism*. Singapore: Springer, pp. 647–670.
Watson, A. (1993). *Legal transplants: An approach to comparative law*. Athens: University of Georgia Press.
Watson, A. (2001). *Society and legal change*. Philadelphia, PA: Temple University Press.
Whitman, J. Q. (2009). 'Western legal imperialism: Thinking about the deep historical roots', *Theoretical Inquiries in Law*, 10(2), pp. 305–332.
World Intellectual Property Organization (WIPO). (2024). *Treaty on the intellectual property, genetic resources and associated traditional knowledge*. Available at: https://www.wipo.int/edocs/mdocs/tk/en/gratk_dc/gratk_dc_7.pdf (Accessed: 1 January 2025).
Xi, J. (2015). *Xi Jinping: The governance of China Volume 1*. Shanghai: Shanghai Press.
Xu, L. (2019). 'The changing perspectives of Chinese law: Socialist rule of law, emerging case law and the Belt and Road Initiative', *The Chinese Journal of Global Governance*, 5(2), pp. 153–175.
Yang, H. (2022). 'Legitimating the belt and road initiative: Evidence from Chinese official rhetoric.' *Third World Quarterly*, 43(4), pp. 823–845.
Yang, T. and Percival, R. V. (2009). 'The emergence of global environmental law', *Ecology Law Quarterly*, 36, pp. 615–664.
Zhang, B. (2018). 'Changes in diplomatic philosophy in the course of China's growth since 1949—the shift from a revolutionary and national perspective to a developmental and global outlook', *Social Sciences in China*, 39(2), pp. 133–152.
Zhang, J. (2014). *The tradition and modern transition of Chinese law*. Berlin: Springer Berlin Heidelberg.
Zhen, X. and Li, Q. (2003). 'Yi dangnei minzhu tuijin renmin minzhu [Promoting people's democracy through intra-party democracy]', *Lingdao Wencui*, 9, pp. 12–18.
Zheng, G., Barbieri, E., Tommaso, M. R. D. and Zhang, L. (2016). 'Development zones and local economic growth: Zooming in on the Chinese case', *China Economic Review*, 38, pp. 238–249.
Zheng, R. (2010). 'Creating a peaceful and stable neighboring environment', *China International Studies*, 2, pp. 4–24.

https://doi.org/10.1017/als.2025.7 Published online by Cambridge University Press

Zhongguo de fangkong zhengce kexue youxiao [China's *Prevention* and *Control Policies Are Scientific* and *Effective*]. (2023). Available at: https://www.theorychina.org.cn/c/2023-01-06/1458352.shtml (Accessed: 25 February 2025).

Zimmermann, R. and Reimann, M. (eds) (2006). *The Oxford handbook of comparative law*. Oxford: Oxford University Press.

Zoppolato, D.G. and Jiang, S. (2023). 'China-MENA energy cooperation under the Belt and Road Initiative: Megaprojects, economic planning, and a pragmatic approach to the "green" transition'. *The Journal of World Energy Law & Business*, 16(2), pp. 143–159.

Zuokui, L. (2017). 'China-CEEC cooperation: China's building of a new type of international relations.' *Croatian International Relations Review*, 23(78), pp. 19–34.

Cite this article: Zoppolato DG and Farah PD (2025). China's Path to Modernization and Legal Pluralism: Transplants and the Belt and Road Initiative. *Asian Journal of Law and Society* **12**, 109–144. https://doi.org/10.1017/als.2025.7

https://doi.org/10.1017/als.2025.7 Published online by Cambridge University Press