

SYMPOSIUM ON THE BANDUNG CONFERENCE AT 70: INTERNATIONAL LAW'S MANY THIRD WORLDS

FROM ASIAN-AFRICAN SOLIDARITY TO A COMMUNITY OF COMMON DESTINY: AN EVOLVING CHINESE PERSPECTIVE OF THE INTERNATIONAL LEGAL ORDER

*Bing Bing Jia**

Introduction

On the seventieth anniversary of the Bandung Asian-African Conference (Bandung Conference)—the first gathering of the leaders of Asian and African countries in history—the legacy of that historical event and its continued relevance in today's world present interesting questions for study. The significance of the Bandung Conference undoubtedly lies in its ushering in the Non-Aligned Movement in international politics and related developments such as the “New International Economic Order” of the 1960s and 1970s.¹ From a policy perspective, the Ten Principles announced at the end of the Bandung Conference (Bandung Principles) have defined Third World values in post-war international relations. This essay argues that the perspective of the People's Republic of China (China or PRC) with regard to international law has been influenced to a considerable extent by the Bandung Principles. As a conference participant, China endorsed the outcome. Its view of the international legal order has evolved during the intervening years; indeed, it was only in 1971 that China took back its rightful seat in the UN system and began to engage with the international community at all levels. Bandung has nonetheless remained a referent throughout its rise to the status of a major world power. Tracing the evolution of Bandung's influence on China, and vice versa, is meaningful, given that the international order is presently facing existential challenges of climate change, pandemics, and rifts in interstate relations.

Prelude: The Five Principles of Peaceful Co-existence of 1954

One year prior to the Bandung Conference, China entered into a trade and intercourse treaty with India, the preamble of which declared the Five Principles of Peaceful Co-existence (FPPC): (1) mutual respect for each other's territorial integrity and sovereignty; (2) mutual non-aggression; (3) mutual non-interference in each other's internal affairs; (4) equality and mutual benefit; and (5) peaceful co-existence.² The prime ministers of both countries re-affirmed the principles in a joint statement issued on June 28, 1954.³ The treaty was among the first ones China concluded with a foreign country after the establishment of the PRC government in

* *Professor of School of Law, Tsinghua University, Beijing, China.*

¹ Jürgen Kurtz, Jorge Viñuales & Michael Waibel, *Principles Governing the Global Economy*, in [THE UN FRIENDLY RELATIONS DECLARATION AT 50](#), at 346 (Jorge Viñuales ed., 2020).

² [Agreement Concerning Trade and Intercourse Between the Tibet Region of China and India](#), Apr. 29, 1954.

³ [Joint Statement by the Prime Ministers of China and India](#), June 28, 1954.

1949, although the basic elements of the FPPC were already present in the earliest of such treaties, concluded in 1950.⁴ The FPPC were from the outset meant to be applied in international relations generally.⁵ Cemented in state practice—by one account, more than 160 joint communiqués establishing diplomatic relations or bilateral treaties between China and other countries have incorporated the FPPC⁶—these principles were quickly woven into the then international legal order.⁷ The Chinese government would come to view the Bandung Principles as an “extension and development” of the FPPC,⁸ a view it holds to this day.⁹

The Bandung Principles of 1955

In April 1955, when the summit of mainly developing countries was convened in Bandung, Indonesia, the world was already in the grips of the Cold War. The usefulness of the United Nations Organization (UN) in maintaining peace and security was still untested. Not willing to align in terms of strategic interests with either the North Atlantic Treaty Organization, established in 1949, or the Warsaw Pact, concluded in 1955, twenty-nine Asian and African countries met at Bandung to forge a new path of collective existence.

In the final communiqué of the Bandung Conference, dated April 24, 1955, ten principles were gathered in a Declaration on the Promotion of World Peace and Co-operation.¹⁰ While the declaration did not, like the FPPC, contain a principle of peaceful co-existence, it did urge, in the *chapeau*, nations to “live together in peace with one another.” In other parts, the ten principles incorporated the FPPC. The declaration also laid emphasis on the role of the UN as the medium for “all States” to cooperate in achieving international peace and security. Western countries were suspicious of the term “peaceful co-existence,” viewing it as an “artful phrase” brought to the UN General Assembly’s agenda by the USSR in 1957. This led to its substitution by other similarly minded phrases in the lead-up to the 1970 Friendly Relations Declaration.¹¹ The suspicion was based on concerns more imagined than real.¹² Co-existence was not a matter of principle, but a matter of necessity for a community of sovereign states.

The Bandung Principles were the embodiment of the sentiment of solidarity of the participating countries at the Bandung Conference.¹³ With a clear resolve to prosper as independent sovereigns even when the balance of

⁴ *Treaty of Friendship, Alliance, and Mutual Assistance Between PRC and USSR*, Art. 5, Feb. 14, 1950 (referring to “friendly cooperation” and “principles of equality, mutual benefit, mutual respect for sovereignty and territorial integrity, and non-interference in internal affairs”). The treaty envisaged a term of validity for thirty years.

⁵ Wang Tieya, *International Law in China: Historical and Contemporary Perspectives*, 221 RECUEIL DES COURS 195, 263 (1990).

⁶ The term “peaceful coexistence” might have a longer history. FYODOR VON MARTENS, ON THE LAW OF PRIVATE PROPERTY IN TIME OF WAR (1869), cited in Vitaliy Ivanenko, *The Origins, Causes, and Enduring Significance of the Martens Clause: A View from Russia*, 104 INT’L REV. RED CROSS 1708, 1713 (2022).

⁷ Liu Zhenmin, *Following the Five Principles of Peaceful Co-existence and Jointly Building a Community of Common Destiny*, 13 CHINESE J. INT’L L. 477, para. 3 (2014). See also Tieya, *supra* note 5, at 268–69; Russell H. Fifield, *The Five Principles of Peaceful Co-Existence*, 52 AJIL 504, 506–08 (1958) (on the wide acceptance and acknowledgment of the FPPC in the 1950s).

⁸ Tieya, *supra* note 5, at 268 (citing the report submitted to the Standing Committee of the National People’s Congress by the Chinese prime minister and foreign minister on the Bandung Conference).

⁹ Xu Hong, *The Chair’s Summary of the Colloquium*, 13 CHINESE J. INT’L L. 501, para. IV(1) (2014).

¹⁰ *The Final Communiqué of the Asian-African Conference*, 11 INTERVENTIONS: INT’L J. POSTCOLONIAL STUD. 94 (2009).

¹¹ Fifield, *supra* note 7, at 504, 508–10. Cf. Miguel de Serpa Soares, *Keynote Speech at the International Colloquium on the Five Principles of Peaceful Co-Existence and the Development of International Law*, 13 CHINESE J. INT’L L. 481, para. 3 (2014).

¹² WOLFGANG FRIEDMANN, *THE CHANGING STRUCTURE OF INTERNATIONAL LAW* 15 (1964) (Based on Fifield’s account, the suspicion was rather vague itself, with discomfort felt by European countries toward the USSR’s push for this term to be included.).

¹³ Xue Hanqin, *Chinese Contemporary Perspectives on International Law: History, Culture and International Law*, 355 RECUEIL DES COURS 41, 67–68 (2011).

power was based on nuclear deterrence controlled by the two superpowers, those countries declared to the rest of the world what they thought to be most important values in interstate relations. They gave the world an early taste of multilateralism.

The Treaty of Amity and Cooperation in Southeast Asia, 1976

The Bandung Principles subsequently worked their way into a regional treaty, in which China later participated, reflecting its support for the wide acceptance of the principles. On February 24, 1976, five Southeast Asian countries, Indonesia, Malaysia, Singapore, the Philippines, and Thailand, concluded the Treaty of Amity and Cooperation in Southeast Asia.¹⁴ They were also the founding members of the Association of Southeast Asian Nations (ASEAN) in 1967.¹⁵ But the 1976 treaty does not qualify itself as an ASEAN treaty, and currently boasts of a global membership of fifty-six states, including all permanent members of the UN Security Council, and the European Union.¹⁶ The preamble of the treaty recalls, among others, the Bandung Principles, and Article 2 of the treaty stipulates in summary form that these principles are fundamental to the bilateral relations of the parties. The dispute settlement mechanism of the treaty has not, however, been resorted to, even when the Philippines instituted arbitration proceedings against China over the South China Sea in 2013 under Annex VII, United Nations Convention on the Law of the Sea.¹⁷

2015 Bandung Message and China

On the occasion of the sixtieth anniversary of the Bandung Conference, over one hundred governmental delegations attended the commemorative conference convened by Indonesia at Bandung in April 2015, which ended with the issuance of three documents, including the political declaration—the Bandung Message—that reaffirmed the relevance of the Bandung Spirit as reflected in the final communiqué of the Bandung Conference of 1955.¹⁸ The message recognized both the commitment of the leaders to cooperation among Asian and African countries in matters of global peace and security, human rights, and development, and the central role of the UN in maintaining international peace and security and enhancing prosperity, in accordance with the UN Charter and the Bandung Spirit.

The Chinese President Xi Jinping delivered a speech arguing that the Bandung Spirit should be “enriched with new elements” to bring about “a community with common destiny for whole humanity” [sic].¹⁹ Three points of the speech stand out in showing the evolution of the Chinese view of the international order. First, cooperation would be enhanced between Asian and African countries, already over one hundred in number; between them and “the developing countries in Latin America, South Pacific, and other regions”; and between the North and South. Second, the nature of a community of common destiny, an expression used by one of the co-editors of this

¹⁴ [Treaty of Amity and Cooperation in Southeast Asia](#), Art. 18, Feb. 24, 1976. The treaty is without expiry or withdrawal provisions.

¹⁵ [ASEAN Declaration \(Bangkok Declaration\)](#), Aug. 8, 1967.

¹⁶ *Id.* China acceded to the treaty in 2003.

¹⁷ Bing Bing Jia, *The Issue of Admissibility in Inter-State Arbitration*, in *THE SOUTH CHINA SEA ARBITRATION: A CHINESE PERSPECTIVE* 115–16 (Stefan Talmon & Bing Bing Jia eds., 2013).

¹⁸ South Centre, [Asian-African Summit Adopts 3 Documents](#) (May 15, 2015). The South Centre, specializing in policy research and advice to promote South unity and cooperation, is an intergovernmental organization of fifty-five developing countries, including China. Based in Geneva, it was established in 1995 by an international agreement.

¹⁹ Ministry of Foreign Affairs People's Republic of China Press Release, Xi Jinping, [Carry Forward the Bandung Spirit for Win-Win Cooperation](#) (Apr. 22, 2015).

symposium,²⁰ was “a new path featuring security by all, of all and for all” to attain “lasting peace and stability in regions and around the world.” Third, while China would develop friendship and cooperation with “all other countries” on the basis of the FPPC, its foreign policy would be permanently anchored to its friendship with developing countries. These points map out the policies that China would follow henceforth, with communal interests in security and peace and cooperation with developing countries high on its agenda.

It may be recalled that, in the 1960s, the enlargement of the membership of the international community and other “modern needs and developments” were thought to have added to the traditional international law of coexistence the principle of positive cooperation, in contrast with the traditional law comprising a “negative code of rules of abstention.”²¹ That development from the heyday of decolonization was reaffirmed by China in 2015. President Xi’s speech especially noted the importance of building “fair, equitable, inclusive and rules-based international economic and financial systems.” The formal, political notion of sovereignty would remain a mirage if it did not incorporate “the dimension of economic independence.”²²

A Policy-Oriented Perspective on the Contemporary International Order

It has been said elsewhere that the Chinese perspective on international law, characterized by an insistence on the fundamental importance of the notion of sovereignty, has been wrought by China’s experience with the outside world since 1949.²³ Certain values, including sovereign equality, non-aggression, and non-intervention in internal affairs,²⁴ were quickly identified by the PRC in its formative years as fundamental to its independence, and those values, soon set out in the FPPC and the Bandung Principles, were also shared by newly independent Asian and African countries.²⁵ The values were perceived by those countries to be central to the conduct of international relations among themselves. The subsequent, widespread acceptance of those values (or the principles reflective of them) in the world led to codification and refinement in the 1970 Friendly Relations Declaration which, having clearly been influenced by the FPPC in the drafting process,²⁶ is authoritative for interpreting the principles of the UN Charter.²⁷

The friendly relations built up among the Bandung Conference participants have flourished over the subsequent seven decades. These state-centered relations have been maintained with the aim of peaceful coexistence. As Friedmann observed a decade after the Bandung Conference, this does not seem extraordinary but rather predictable, for present purposes, from a case study of the evolution of China’s foreign policies since 1949.²⁸

This leads to an observation. China’s perspective on international law, like those of the newly independent Asian and African countries in the post-World War II era, is very likely a policy-oriented one, geared toward

²⁰ Ignacio de la Rasilla & Yayezi Hao, *The Community of Shared Future for Mankind and International Law*, in *THE CAMBRIDGE HANDBOOK OF CHINA AND INTERNATIONAL LAW* 49–69 (Ignacio de la Rasilla & Congyan Cai eds., 2024).

²¹ FRIEDMANN, *supra* note 12, at 61–62, 297–98, 317.

²² MOHAMMED BEDJAOU, *TOWARDS A NEW INTERNATIONAL ECONOMIC ORDER* 87 (1979).

²³ Bing Bing Jia, *Review Essay: Reflections on Chinese Scholarship and Perspectives Regarding International Law*, 116 AJIL 653, 656–57 (2022).

²⁴ Or, in terms of “state values,” etc.: Louis Henkin, *International Law, Politics, Values and Functions: General Course on Public International Law*, 216 RECUEIL DES COURS 13, 130–31 (1989).

²⁵ Georges Abi-Saab, *The Third World and the Future of the International Legal Order*, 29 REVUE ÉGYPTIENNE DE DROIT INTERNATIONAL 27, 38 (1973).

²⁶ Soares, *supra* note 11, para. 5.

²⁷ BROWNIE’S PRINCIPLES OF PUBLIC INTERNATIONAL LAW 39–40 (James Crawford ed., 9th ed. 2019).

²⁸ FRIEDMANN, *supra* note 12.

implementation of policies designed to uphold values dear to it.²⁹ In their formative years, China and newly independent developing countries quickly identified principles to adhere to in mutual relations, having been convinced of the values embodied by the principles. Their policy-oriented approach differs from that described by the New Haven School. The latter, building from the premise of a global process of effective power “which affects the shaping and sharing of all values,”³⁰ may give rise to doubt with regard to the identity of the authoritative decisionmaker that wields the decisional power.³¹ By comparison, the developing countries’ approach, in the early days of their independence, coalesced instantly around the value of collective coexistence, thus distancing them from the effective power mode of the New Haven School’s doctrine. Existential concerns outweighed any aspiration to project power globally and to share values of governance with the rest of the world. Their practice thus developed, and doctrines, like the one of FPPC, came only after.

Conclusion

As practice progresses, the perspectives of China and the Bandung participants of the international legal order also evolve. For today’s China, the values regarding interstate relations it initially adopted in the 1950s have become entrenched, adjusted by changes over time to reflect its increasingly expanded interests as a growing power.³² The Bandung Spirit of solidarity, to which China still subscribes, has been enriched by its policy of a community of common destiny. The current approach of China is to support equal and orderly multilateralism, with the UN as the center; to support economic globalization for general benefits and inclusiveness; and to recognize only one international order with international law as the basis.³³ China has thus expanded the Bandung Principles by broadening the original focus on neighborly relations to cover the communal interests. It has also clearly stated its respect for the existent international order based in international law and represented by the UN, revealing a classicist stance in contemporary circumstances.

²⁹ Jia, *supra* note 23, at 657.

³⁰ Myers McDougal & Michael Reisman, *International Law in Policy-Oriented Perspective*, in *THE STRUCTURE AND PROCESS OF INTERNATIONAL LAW: ESSAYS IN LEGAL PHILOSOPHY, DOCTRINE AND THEORY* 103, 104 (Ronald St. J. Macdonald & Douglas Johnston eds., 1983). *See also id.* at 119 (the effective power process is understood “in the sense that decisions are taken or enforced, by severe deprivations or high indulgences, which are inclusive in their reach and effects”); ROSALYN HIGGINS, *PROBLEMS & PROCESS: INTERNATIONAL LAW AND HOW WE USE IT* 6–7 (1994).

³¹ Ian Brownlie, *International Law at the Fiftieth Anniversary of the United Nations: General Course on Public International Law*, 255 RECUEIL DES COURS 9, 29 (1995).

³² JOSHUA KURLANTZICK, *CHARM OFFENSIVE: HOW CHINA’S SOFT POWER IS TRANSFORMING THE WORLD* (2007); CHINA’S INTERNATIONAL INVESTMENT STRATEGY: BILATERAL, REGIONAL AND GLOBAL LAW AND POLICY (J. Chaisse ed., 2019); CONGYAN CAI, *THE RISE OF CHINA AND INTERNATIONAL LAW: TAKING CHINESE EXCEPTIONALISM SERIOUSLY* 107–11, 119–26, 164–93 (2019).

³³ Press Conference of the Foreign Minister, Mr. Wang Yi.