

THE FOUNDATION FOR LAW AND INTERNATIONAL AFFAIRS REVIEW

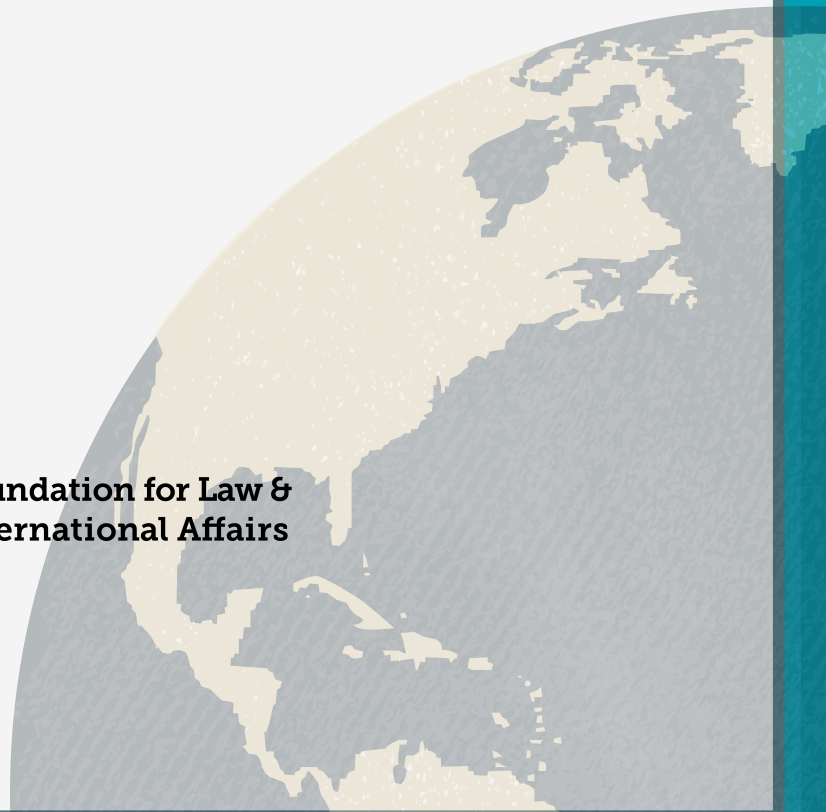
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Foundation for Law and International Affairs Review

Volume III, Issue 1

2021 Annual Conference on Global Law and Strategy — Region and Order

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On December 18, 2021, the 2021 Annual Conference on Global Law and Strategy – Region and Order was successfully held. Renmin University of China Law School cooperated with the Institute of Area Studies of Peking University to carry out related academic activities. There are 6 units and 27 speakers in the conference. The discussions were academic and cutting-edge. Chief Editor of FLIA Review, Professor Wei Shen, Associate Editor of FLIA Review, Professor Xiaofu Li and Guest Editor of this issue, Professor Yang Liu organized the translation of conference proceedings.

Ziqi Sun, Xiaofu Li, Yuheng Xie, Tingwen Yao, Qianhan Qian, Yier Ji and Jiangnan Nie translated various units in the conference proceedings. Nianshen Song, Jizeng Fan and Mingchao Mao translated their own speeches. Christopher Morton, Eva Ashbaugh, Joshua Clarke and Jamellah Craven proofread the translation of various units. All speakers confirmed the translations of their own speeches.

2021 Annual Conference on Global Law and Strategy —— Region and Order

Welcome Address¹

Huanfang Du (Professor, Vice Dean of Renmin University of China Law School)

Hello, everyone!

It is indeed very convenient to conduct various meetings online. The willingness of scholars to participate in such a cloud-based academic activity reflects the common concern for the corresponding academic topics. Therefore, on behalf of Renmin University of China Law School, I would like to express my special thanks for meeting to discuss relevant topics in the Global Law and Strategy initiated by Professor Yang Liu.

The first point I want to express is that “global law and strategy” can be said to be a big topic. Today’s topic is called “Area and Order”. Regional order is not only a physical and geographical concept. When discussing order, we of course focus more on historical order, social order, and legal order. While the world is facing “a great change that has not happened in a century”, we can go through the legal aspects of history, society, international relations, and international law. To explain and discuss together, I think it must be helpful to establish our confidence in the academic community.

The second point I want to express is what Professor Yang Liu mentioned just now. This is the first time that Renmin University of China Law School has cooperated with the Institute of Area Studies of Peking University to carry out related academic activities. Today’s meeting is a good start. Whether it is from the topic, or from the organizers and co-organizers, we are practicing a road of diversified discipline construction. It is necessary to break down the barriers between traditional disciplines under the current situation, especially with the great development of the humanities and social sciences. Many starting points, including the pursuit of academics, have more in common than opposites.

There are many research centers under Renmin Law and Technology Institute, including the Center of Global Law and Strategy organized by Professor Yang Liu. It should be said that Professor Yang Liu has done a lot of work in the early stage and has actually planned seminars that are very influential at home and abroad, with considerable academic depth and academic propositions, especially with domestic and foreign guests to focus on specific topics. After Professor Yang Liu taught at Renmin University of China, we were able to discover and observe the aspiration of academic service to the country embodied in Professor Yang Liu. Therefore, I would like to thank all the experts, scholars, and students for participating in this event. I would also like to thank Professor Yang Liu for hosting so many academic meetings, so that we can have the opportunity to discuss related topics together.

The co-organizers of this conference are the Institute of International Commercial Dispute Prevention and Settlement and the International Politics and Law Research Center where I belong. Our principle is to introduce more academic resources through more diverse academic exchanges. With the joint efforts of an academic circle interested in

¹ The Welcome Address is translated by Ziqi Sun (Hangzhou Minglang Film & TV Production Co., Ltd.) and Xiaofu Li (Associate Editor of FLIA Review). The translation has been modified and confirmed by the speakers.

building interdisciplinary exchanges, we will have a very conscious and confident discussion on academic propositions and topics. This is not based on utilitarian purpose, or some kind of answer or offer to the policy, but entirely stems from our inner pursuit of academics. Therefore, I consider it is very good for everyone to spend the weekend together to discuss and communicate with each other on the major issues that everyone is concerned about. In fact, I also expect such exchanges to be more continuous and in-depth, and to have higher-level, high-quality results transformation after the meeting. Because it is mainly online now, after the COVID-19 pandemic, we also hope and welcome everyone to visit Renmin University of China offline.

Finally, I wish you good health and success in work! Thanks!

Tao Zan (Tenured Associate Professor, Department of History of Peking University; Vice Dean of Institute of Area Studies of Peking University)

Hello, everyone!

I am very happy to have this opportunity to have in-depth cooperation with Renmin University of China. I looked at the topics and agenda, and our discussions should be very academic and cutting-edge.

On behalf of Professor Chengdan Qian, Dean of the Institute of Area Studies of Peking University, I would like to express my gratitude to the Center for Global Law and Strategy of Renmin University of China and Professor Yang Liu. Professor Yang Liu took the initiative to propose cooperative intentions with us. At that time, I asked Dean Chengdan Qian for instructions, and he expressed his support very actively. Therefore, there is such a cooperative online meeting today. Of course, in reality, it is mainly Professor Yang Liu who is taking care, and there is not much work done by the Institute of Area Studies. Therefore, I also take this opportunity to express my gratitude.

In fact, the Institute of Area Studies at Peking University has not been established for a long time; it has been three and a half years from April 2018 to the present. In this process, we were mainly busy with student training in the early stage. We emphasize interdisciplinary perspectives and hold academic activities, but relatively much less. This time, we can carry out such a cooperation with colleagues in the legal field, so that our understanding of law is not only in the sense of instrumental and normative, but also in the sense of area studies and civilization. I think this is a very useful attempt for how to establish a new paradigm of area studies in China, and I also look forward to some amazing results from this conference.

Thanks again. I wish the conference a success. Thank you!

Unit 1: *Shifting Boundaries* and the Imagination of Region History¹

Moderator: An Chang (Professor, Executive Director of Human Right Research Center at Northwest University of Political Science and Law)

Ladies and gentlemen!

Both for legal science and historiography, it is particularly necessary for making interdisciplinary research, including a research paradigm such as regional order. Establishing a new international political order is a common topic, and it may need to reflect on a series of knowledge production modes and knowledge itself of the old order.

Nianshen Song (Professor, Tsinghua Institute for Advanced Studies in Humanities and Social Sciences)

Topic: The Age of Discovery and “America’s Birth Certificate”

It’s a great pleasure to be here.

My presentation is largely inspired by Professor Yongle Zhang’s book *Shifting Boundaries*. One of my on-going projects concerns the way the West constructed the divisions and imagination of the globe. Although the project also touches upon the issue of International Law, my main focus differs from Professor Yongle Zhang’s, which is the Monroe Doctrine, but pays more attention to visual materials, particularly maps.² That being said, our research agendas overlap significantly. Therefore, I read his book at a slow pace. The reading was a thought-provoking process. This presentation is partially a product of such an intellectual journey.

I would like to share a story about a map, the 1507 World Map made by German cartographer Martin Waldseemüller. The map is widely known as the very first to name the continent that Christopher Columbus had “discovered” “America.” Preserved in the Library of Congress of the United States, it is one of the national treasures collected by the library.

The Waldseemüller Map of 1507 distinguishes itself in several ways. For one thing, it is very large: composed of altogether twelve sheets of paper, the overall size is more than three square meters. It was a rare large-size map printed at the time. Another feature is the shape of the American continents. The curve of the east coast is relatively familiar to contemporary readers. But the entire shape of the continents is still blur since the Europeans had not yet arrived at the west coast. On the southwest part of the map, where today’s South America locates, we see a printed word “America.” As we know, the new continent was not named after Christopher Columbus the “discoverer,” but another Italian navigator, Amerigo Vespucci. As a matter of fact, the map was Martin Waldseemüller’s salute to Vespucci. He drew two portraits on the upper part of the map. On the left was Claudius

¹ This Unit is translated by Yuheng Xie (East China University of Political Science and Law) and Xiaofu Li (Associate Editor of FLIA Review). Professor Nianshen Song translated his own speech. The translation has been modified and confirmed by the speakers.

² Editor: Monroe Doctrine was released in 1823, clearly outlining the stand of the United States at the time that European powers should no longer colonize the Americas or interfere in affairs relating to the sovereignty of American countries such as the United States and Mexico. Instead, the United States remained neutral in disputes between European nations or in wars between them and their American colonies.

Ptolemy, father of Western geography. On the right was Amerigo Vespucci.

Why would Martin Waldseemüller create such a map in 1507? Around that time, literatures of geographic explorations flourished in Europe. Among them were the letters of Amerigo Vespucci which introduced his adventures in the eastern Atlantic. These letters, in which Amerigo Vespucci asserted the discovery a new world, were translated into many European languages. But Amerigo Vespucci had never been to North America. What he had explored was the northeast coast of South America, in today's Brazil. Claiming that it was a place unknown to the world, he became the first author to use the term "new world" to describe the continent. Martin Waldseemüller and his friends were preparing to publish a new edition of Claudius Ptolemy's *Geography* when they read Amerigo Vespucci's letters. Fully convinced by these letters, they got so excited that Martin Waldseemüller put aside *Geography* and produced a map as the appendix of a new book, *Introduction of Cosmography*. On the map he and his friends named the new continent "America."

As we now know, the discovery and naming of the new continent were purely contingent events. To begin with, Christopher Columbus did not intent to discover a new continent but wanted to find a new way to China. According to Claudius Ptolemy's theory, if one sailed west from Europe, he could reach Asia faster and easier. Christopher Columbus never believed that he had found a new world. He insisted, until his death, that he had navigated to some places in India or China.

In addition, when studying the original manuscripts of Amerigo Vespucci, modern historians found that these letters largely exaggerated his adventures. Neither did he participat in all the explorations he mentioned, nor did he actually claim to discover a new world. It was his publisher, for the sake of selling his stories, twisted his letters and fabricated the "new world" assertion. Thus, the history was created by a market-driven impulse. However, such an invention had its impact and legacy, including the Waldseemüller Map of 1507 and the naming of the new continent.

The story did not stop here. Because Martin Waldseemüller later realized that the Amerigo Vespucci story was an exaggeration, he withdrew the naming of the new continent in the maps he made after, replacing it with *terra incognita*: that is, unknown land. That is to say, the cartographer who first used "America" to refer to the continent soon rejected the name. From 1507 to the end of the sixteenth century, the naming of the new continent was inconsistent in Europe. With the rise of the Netherlandish Cartographic School in the late sixteenth century, cartographers in the Low Countries, in order to counter the Spanish claim of sovereignty over the entire West Indian region, adopted "America," a politically neutral term Martin Waldseemüller had abandoned. Therefore, in Western cartography, the name "America" was only gradually accepted by most people in the late sixteenth century.

There is another critical fact. The America that Martin Waldseemüller referred was the South America continent only. For the part that Christopher Columbus actually reached, the cartographer still called it *terra incognita*.

History, on many occasions, was a product of misunderstanding. The 1507 Waldseemüller Map, with less than a thousand copies in circulation, was gradually lost. In 1899, the only existing copy was rediscovered in a castle in Germany. After the Cold War, the owner of the map, an aristocrat, put the antique map up for bid for 10 million U.S. dollars. The news caught the attention of the Library of Congress of the United States, which tried its best to raise funds from both the Congress of the United States and the public to make the purchase. The Library of Congress of the United States launched a successful

public relations campaign, in which they gave the map a catchy nickname, “America’s Birth Certificate.” When the map was exhibited after the acquisition, it was displayed under just that name.

It should be noted that the purchase met some difficulties. Since the map had already been listed as a national treasure of Germany, many Germans objected to its selling. It was not until a new government was formed after the election that Germany finally agreed to the acquisition. In 2007, the 500th anniversary of its publication that the map was transferred to the Library of Congress of the United States. Then German Chancellor Angela Merkel attended the ceremony and gave a speech at the Library of Congress of the United States. She explained that the transition was legitimate since the map “is very important to America’s cultural identity.” She also mentioned the role of the United States in defeating the Nazi and rebuilding Germany after War World II. Therefore, Angela Merkel believed the handover of the map “demonstrates the friendship between the United States and Germany.” As we can see, contemporary international relations got involved in cartographic interpretation, revealing a structure of power politics only understandable in the twentieth-first century.

But what was the historical connection between the map and the United States? Not much. Christopher Columbus never set foot on the territory of the United States and never claimed he had found a new continent. Amerigo Vespucci, despite being promoted as the one who announced the new world, would not have known it was later named after him. Martin Waldseemüller, the cartographer who named the continent after Amerigo Vespucci, soon withdrew the naming. And even when he once used the name, he referred it only to South America, not North America. However, an unintended consequence was, after a few hundred years when the map came to the United States, nobody felt awkward to call it “America’s Birth Certificate.”

Why not? The reason, perhaps, is that people today accepted, however subconsciously, the rhetoric of the Monroe Doctrine, “America for the Americans.” This is the theme of Professor Yongle Zhang’s brilliant book. When the Library of Congress of the United States nicknamed the map “America’s birth certificate,” the implication was clear: it was also “the birth certificate of the U.S.A.” Here the word “America” meant both the continents and the country. In a delicate way, the map was portrayed as a historical document to certify the United States hegemony in the region. Standing in front of this map in the Library of Congress of the United States, the audiences rarely feel any impropriety because they are not aware of the contingency and controversy behind it.

In a word, Christopher Columbus’ legacy did not go away. This fact, especially today, urges us to constantly rethink and re-understand the origin, development, and power structure of the modern world. Thank you.

Xianhua Wang (Professor, Dean of Institute for the Global History of Civilizations at Shanghai International Studies University)

Topic: Laments of the Caribbean: Haitian Revolution and the Formation of the Modern Global Order

Ladies and gentlemen!

It is a great honor to participate in such an event. Although it seems to be the first time that I have had the privilege of showing up in a very formal legal context, I did not hesitate

when Professor Yongle Zhang discussed it with me. Our topic today is also a response to the book of Professor Yongle Zhang *Shifting Boundaries*.

I read through the book and was lucky enough to read parts of it before it was published. I found it particularly interesting when Professor Yongle Zhang came to Shanghai around 2019 for an exchange. I felt that Professor Yongle Zhang's book should be appreciated in different ways and on different levels.

The Monroe Doctrine as a global concept has global or cosmopolitan connotations. The global evolution of this concept itself is a very interesting academic work. Now that we are all doing regional and country studies, this work provides us with a critical text that touches on fundamental questions at different levels.

First of all, I would like to take this opportunity to once again congratulate Professor Yongle Zhang on the publication of his book. The exhaustive research in the book often leads to the misconception that his major field of research is modern World History or Chinese history. In fact, the academic background of Professor Yongle Zhang is not technically in this area, but the area (including the previously published study on Youwei Kang) shows that Professor Yongle Zhang is really an epitome of "concentrating on studying".

Let us come back to the key theme of this conference. I have ventured to cogitate beyond my own specialty over the past few years. My major is Cuneiform Studies, something about ancient Babylonia, which seems remote from reality. However, I believe that many colleagues can understand that there are some questions that cannot be avoided in this era, no matter how far away we are technically working on. We often have to return to the times we lived in and answer fundamental questions. In other words, even if we do not ask what is human, we must ponder over the fundamental questions like: what makes civilization, what makes modernity, and what makes China?

As we will see, my research on this topic is still quite preliminary. I would like to take this opportunity to raise a question concerning the Haitian Revolution. Instead of giving a comprehensive overview of the Haitian Revolution and making any evaluation, which needs much more work, I am just highlighting a subtle point to discuss with all of you, and you jurists may be able to give me some tips, and it is my privilege to have your advice.

Assuming we can be transported back in time to, say, the 18th or 19th century, the era that basically laid down the current rules of the game and inaugurated a global order that remained fundamentally unchanged until today. Where did the so-called "long" 19th century begin? We know of the French Revolution, the American Revolution and, in the common framework of historical knowledge, perhaps the Haitian Revolution would be mentioned, but not much more. However, the Haitian Revolution, starting from 1791 and really spanning the transition from the 18th to the 19th century, was a very unique event. In a word, it is the only slave revolution in the modern world that can truly be described as a success, marked by the founding of a nation by black slaves. It also took place just after the French Revolution, because it draws on words like the freedom and human rights of the French Revolution. These words came out of the mouths of black slaves is worthy of mentioning and thinking about.

The question I would like to pose concerns Haitian constitutional revolution of 1805. In 1801, there was a constitutional establishment built upon by the Haitian revolutionaries. But the Haitian Constitution of 1805 interests me even more, which was presided over by Jean-Jacques Dessalines, known as the "father of the Republic of Haiti".

What interests me the most about the Haitian Constitution of 1805 is Article 14. Since it had been a French colony, the Constitution of 1805 was written in French. It is interesting here: the English translation means, roughly, that all people are family and that all Haitians should henceforth be referred to as “blacks”. This passage on the slide came from another scholar, who pointed out that Dessalines did not completely wipe out the whites. Although some said he did such a thing, whites were still in Haiti at the time. Therefore, it was not absolute that all whites were wiped out. The significance of these events is to point out the problem of “conscious self-recognition”, and the label used by Jean-Jacques Dessalines that is so bodily, “black”.

I wondered whether this issue had been discussed more systematically in constitutional studies. What makes me interested is that a similar bodily logic implicit in the Israeli Declaration of Independence.

My question, therefore, if one considers this logic to be of special references, what are they?

Now, I will answer the question - why I considered this question important and how I understand it.

From a historical perspective, our understanding of the modern world order ultimately leads to an ontological question. So do the Haitian Constitution of 1805 and the later Israeli Constitution. This exposes the possible need to reconstruct the underlying ontology in the sense of the whole of human history. The modern global order seems to be self-contradictory, both in the Western and Eastern hemispheres. In the chapter of Western hemisphere Professor Yongle Zhang has just mentioned the problem of racism, similar to that experienced by the Jews in the Old World to a certain extent. We will not go into the details here. But what emerges from it is actually the real necessity to reconstruct the ontology of being human, to construct an ontology with rationality and justice for the human space between the atmosphere and the geological layer of Mother Earth.

I am getting a little literary, but it's a question I thought I could bring up. Thanks!

Bo Wang (Editor of Social Science in China Press)

Topic: Commercial Hegemony and Limits of “Balance of Power Theory”: Review on the Anglo-French Game behind Napoleonic Wars

Ladies and gentlemen!

What I am about to say is actually a continuation of the Second Chapter of Professor Yongle Zhang's new book, which is a reflection on Carl Schmitt's theory. For Carl Schmitt and his contemporary followers, one question that has not always been fully discussed is whether the development of the capitalist economy inevitably leads to an explanation of the Monroe Doctrine from a regionalism to a global interventionism.

Professor Yongle Zhang actually mentions this question later in the book – Carl Schmitt's critique of American imperialism and universal interventionism perhaps does not comprehensively respond to Lenin's account of imperialism. And my first thought after reading this part was that the issue could perhaps be taken back to the early 19th century, the Napoleonic Wars, where similar problems had actually been exposed. Some of the issues that Carl Schmitt was concerned about a hundred years later or some of the areas that he had overlooked, had been clearly expressed around the time of the Napoleonic Wars. Therefore, what I am going to say is a footnote to the relevant discussion in the book of

Professor Yongle Zhang.

It is universally acknowledged that the Napoleonic Wars, or the War of the Anti-French Alliance, was the first vital event in Europe at the beginning of the 19th century. In a larger historical picture, this event can be regarded as the first large-scale reorganization of law-power in modern Europe after the Thirty Years' War. As it were, the war provided a historical opportunity for this reorganization and for the unification of Europe. Although the war was full of uncertainties and the unification did not succeed, it put an end to the Holy Roman Empire, which had lasted for nearly a thousand years and profoundly influenced the subsequent course of European history. What interests me more is the game Napoleon played with the powerful British Empire as he swept across Europe.

Commerce, the underpinning of British power, played an important role in Napoleon's war. Specifically, warfare in the Napoleonic Era was already deeply influenced by the international trading system, with conventional warfare and trade wars only constituting different forms of warfare. Napoleon's desire to use the war advantage of controlling the continent to exclude all British goods from European markets meant that he sought to use commerce as a means of warfare against Britain, on both land force and commercial warfare fronts, highly counting on commercial warfare. He had decreed that all trades with British ports were forbidden and ordered that the ship carrying British goods should be seized whenever they entered the ports of France or its allies. Studies have shown that the 10 years between 1806 and 1815 were very miserable for the British people. The British population grew rapidly during this period, but food was clearly in short supply. Several large strikes took place during this period mainly owing to the impact of Napoleon's trade war.

How did Britain respond to Napoleon's defeat? Research has found that the British had the greatest advantage of using their vast colonies to bring large quantities of bulk goods, such as tropical agricultural products and manufacturing products, into Europe through organized smuggling in the name of the Dutch or Spanish Dominions. Meanwhile, the British continued to occupy French overseas colonies and open new markets, eventually rendering the Napoleonic ban null and void, causing great discontent among French people. Nationalist sentiment in many neutral states was also heightened by the trade restrictions to an uncontrollable degree. These, in turn, greatly strengthened the Anti-French Alliance.

The French Revolution and the Napoleonic Wars (the latter was in fact part of the former) were so far-reaching that they were a wake-up call to many European monarchs in the 19th century, changing the way how they viewed threats. They became aware of the external nature of a nation's internal affairs, as well as the expansion and aggression of liberal imperialism. As a result, they began to regard the internal affairs of other countries as an important threat to their own. In order to prevent domestic liberal democratic revolutions from provoking an international chain reaction, a concert of the great powers and universal interventionism arose. After the collapse of the Westphalian System to the establishment of the Vienna System, to quote the Marxist historian Perry Anderson, Europe achieved a transition from the balance of powers within Christendom to the coordination of the great powers. The French Revolution fundamentally challenged the balance of power of territorial states, and total war ended with the Congress of Vienna in 1815, which changed the balance of international law from one in which states held on to their territorial borders to one in which the resilience of the great powers was the mechanism for adjustment. The possibility of waging aggressive wars was further reduced. Any territorial

changes had to be agreed upon by the unanimous consent of the great powers. Otherwise, any efforts to change the territory through the war would trigger legitimate unilateral or multilateral intervention.

In conclusion, an Intra-European order of international law was established. Where did this adjustment mechanism or peacekeeping force come from? According to Karl Polanyi, in the 19th century, Europe achieved a rare “one century of peace” in modern times. Pursuant to Perry Anderson’s stricter classification, the 40 years of peace from 1814 to 1854 was the first one of such kind in modern Europe since the Renaissance. Karl Polanyi further believed that the fundamental force that sustained this rare peace was the hegemonic parity between the great powers. The most important foundation or guarantee of this parity was the international financial system and the system of free trade markets. Although commercial trade and its accompanying financial system led to many wars, they also ensured that widespread catastrophes could be avoided. Commerce and finance maintained this peace through a system with a specific, organized balance of interests.

At the end of the second chapter of his new book, Professor Yongle Zhang has already referred to Carl Schmitt’s critique of Anglo-American liberalism and interventionism, which reveals the political nature of this economy and which can indeed constitute a relatively strong challenge to “Theory of the Large Space” (“Großraum” in Germany). The British Empire at the beginning of the 19th century was already the dominant power in real terms, and by the first Industrial Revolution it was so dominant that even Napoleon did not dare to underestimate it. Then, the question was why Britain did not provoke suspicion and panic among the European powers? A similar situation occurred at the beginning of the modern era with the rise of the House of Habsburg in Spain, the then dominant power in Europe. It can be observed that until the late 19th century, when Britain was firmly established as “the empire on which the sun never sets,” it was still not opposed by political alliances like that of France, while European alliances were formed to counterbalance Germany as the “Emerging Power”.

The answer to this question therefore requires a reflection on a concept very commonly used in international law and international relations - “Balance of Power”. Indeed, from the “Peace of Westphalia” to the “Treaty of Paris of 1856”, the “Balance of Power Theory” was a fundamental principle of international law in their arrangement of the post-war European order. Whatever its manifestations will be, it was certainly consistent with Philosophie des Lumières idea of the “common good.” In other words, in this sense, the new principles of international law and the traditional doctrine of natural law are united, i.e., the “Balance of Power Theory” is the common good of the international community.

Modern European hegemony can be divided into two forms. It is impossible to understand the problems just mentioned or to reflect more deeply on the principle of parity without making a distinction between the two forms. The first is land hegemony, which is based on traditional military power as a form of traditional European hegemony. The second is ocean hegemony, based on the power of finance, commerce, and naval forces. The two forms are derived from two different ways of being, land and sea. The balances of four centuries of modern Europe have been mainly directed at the former type of hegemony, that is, land hegemony. The latter type, because of its inherent invisibility and affectionate form, is often not easily perceived. Because the “Balance of Power Theory” was born on the European continent, its distinctly Eurocentric character is a natural limitation to

understanding and responding to the latter type of hegemony.

To exemplify it, Britain seldom appealed to arms to intervene in a country's politics because of its developed commercial economy and navy power. The types of manifestations of its maintenance of fundamental interests were very different from those of the European land powers. The British political geographer Halford John Mackinder has clearly explained this in his masterpiece. As a result, the "intermediate balance" between the maintenance of continental parity and global maritime and commercial hegemony became the basic policy of Britain's long-term approach to Eurasia, a policy that was almost entirely inherited by the United States in the 20th century. This was an important reason why Napoleon could not defeat Britain and why the Vienna System did not see Britain as a threat to war and was able to maintain peace for a century.

It is necessary to make a supplement that the so-called century of peace was not absolute either, except that the frequency of wars declined significantly in the century. The reasons for wars also changed, for example, the likelihood of war arising from disputes over trade and navigation declined significantly during this period. Several of the larger conflicts of the time centered on the Russian-Turkish dispute over the Turkish Straits. The fact that the European powers, through centuries of warfare, created a series of international rules, conventions and customs that temporarily resolved disputes over commercial trade does not mean that the reasons for war over commercial trade disappeared altogether. The early colonial powers hid their light under a bushel after building their empires, more consistent with the "political correctness" preached by the *Philosophe des Lumières*.

Thank you!

Audience: Could you please tell us something about your Ph.D. thesis?

My Ph.D. thesis was entitled "Commercial Reasons in the Theory of Right to War in Modern Europe": The main idea at the time was to bring together an interdisciplinary approach to the research of the law of war, in particular theories on the right to war and on the critique of capital trade. In the work of the Spanish jurist and Catholic priest Victoria of the School of Salamanca, I discovered the problem of commerce as a fundamental justification for the right to war. I then combed this thread all the way through to the World War I.

Tao Zan (Tenured Associate Professor, Department of History of Peking University; Deputy Dean of Institute of Area Studies of Peking University)

Topic: Plural "Turkism" and Its Limitations

Ladies and gentlemen!

I have "Turkism" as my topic, but why didn't I translate it into Chinese? Because it is plural and I find it impossible to translate: Not that it has multiple forms of single meaning, but that it is an exactly single form with multiple meanings. It is difficult to translate. There is a theoretical premise here. In the context of "Imagined Communities", humanity is beginning to change from a religious universal order to a spatial imaginary of an ethnic, secular order. This has a trajectory in recent history, and there is a process of diffusion of this trajectory, known as the diffusion of nationalism. There has been much dedicated discussion in previous studies of nationalism.

What I would like to discuss is a specific notion of spatial order. In regions/spaces

ranging from the Ottoman Empire to the Russian Empire, and certainly to Western China, there has been a historical accumulation of too many mythical things, and the most notable is those related to Turkism. The Turkish “Türkçülük” is translated into “Turkism,” or sometimes equated with “Pan-Turkism.” These are not just the different forms of plural Turkism I am going to mention, for even within a singular Turkism there is still diversity. In other words, there is a tremendous discrepancy among the goals, contents they are pursuing, and their boundaries of respective spatial imagination.

However, as a result of the development of history, in the political discourse of the peripheral powers of “Russian Empire,” “Russian Soviet Federative Socialist Republic” and “Union of Soviet Socialist Republics,” no serious distinction has actually been made between Turkism and others. In some cases, so-called “Pan-Turkism” has become the only way to comprehend the issues involved. This may well obscure the understanding of the specific issue of plural Turkism, even if it is rather awkward to say so.

Specifically, in Central Asia, for example, the emergence of artificial administrative formations such as Turkistan (a district or province governed by a viceroy) after Russian colonization was a product of imperialist colonialism. It was an artificial political creation. But it is interesting to note that by the beginning of the 20th century, this Russian creation became a taken-for-granted premise for local elite people to imagine their own space of existence and so-called national space. Then again, like the Tatars in the more developed regions (Crimea, the Volga Valley), they actually had a somewhat different perception of themselves even though the political discourse of later times described them as part of Turkism as well. At the time of the rise of nationalism, the Tatars, while recognizing their language as Turkic, did not consider themselves as part of the “Turkic Community.” Even though there were individuals who considered themselves as closely linked to the Turkic community, the Tatars still saw themselves as distinct, and so their nationalism could be called “Tatarism.”

In the case of Turkistan, which was created by Russians, there was a strong antagonism between it and Tatars and Ottoman Turks in the more developed regions. They imagined the Turkistan region created by Russians as a self-centered, autonomous political entity with specific boundaries. However, the nature of Turkistan and that of Tatars and the Ottoman Turks departed from each other, rather than merging together. Even when examining Central Asia as a regional unit, there are other peculiarities within Russian Turkistan. For example, the long-standing exclusion of nomadic peoples from the north, such as the Kazakhs, who were not considered as the members of Russian Turkistan community. These are the circumstances of what I call plural Turkism, and the complexities it presents to us.

The object of my long-term study is Turkey, whose Turkism, when it emerged, had roughly two sources, one from the Tatars under Imperial Russia, who had a long historical connection with Istanbul, the particularities of which I have discussed specifically in my article concerning the Muslim Hajj in *Journal of Peking University (Philosophy and Social Sciences)* (No.2, 2021). There is also a so-called “orientalism” from Europe, which involved the process of spreading knowledge of European nationalism and historical linguistics to the “East.” and the particular local reactions this process provoked. For the minority Turkish-speaking Muslim elite of the declining Ottoman Empire, Turkism was one of the possible ways to save the empire, alongside Ottomanism and Islamism.

In the history of Ottoman-Turkey, the so-called “Pan-Turkism” was essentially a

delusion or a Turkish strategy (rather than an ideal) that was never seriously practiced as a policy, mainly because it simply lacked subjects, the capacity, and the conditions to achieve it. The lack of capacity remains until today. Thus, the recent emergence of the “Organization of Turkic States,” in addition to being seen as “Pan-Turkism”, still requires an insight into the plural Turkism that was deep in history and its continuity until today.

Today, this continuity has taken on a new dimension. For example, what used to be a divide between Turkish, Tatars, Transoxiana, and nomadic peoples, after the construction of the Russian Soviet Federative Socialist Republic and Union of Soviet Socialist Republics and independence of members in 1991, became the Azerbaijanis, Kyrgyz, Kazakhs, Turkmen, and Uzbeks, among others, who already have founded independent sovereign states and formed their respective national identity and cared more about their own national interests. They are not necessarily as enthusiastic about Turkism, as we can imagine. Similar events have already occurred in history. These people were in fact primarily concerned with their own territory and internal affairs.

Today, the basis for understanding the relevant issues is mainly a paradigm of sovereign states that have emerged since 1991. For example, from the documents issued by the organization, these countries, in fact, placed great emphasis on a kind of engagement and interaction based on sovereign equality. They emphasize Turkism on the one hand, laying emphasis on some big and bold words, while at the same time, keeping a low profile internally and focusing on a multilateral path externally, balancing the concerns of all parties.

How to comprehend this situation? I think it is certainly important to face up to the complexity of history and reality. That is to say, it needs to be understood in a multidimensional way, rather than setting up ironclad opposites right off the bat. Both historically and today, there are various kinds of Turkism, each with certain “limits.” I am not talking about limits as a value-based judgement, but rather as an emphasis on their limitations.

Eventually, I would like to highlight another perspective. The geopolitical narratives of Halford John Mackinder about the World Island and the geographical pivot of history have probably had an overly important influence for more than 100 years. Halford John Mackinder’s narrative, a global imperial perspective, was probably the first to think about politics in a geographical sense and from a global perspective. Although many people no longer mention Halford John Mackinder, or even consider him obsolete, in reality Halford John Mackinder has been internalized into many geopolitical narratives, especially the geopolitical imagination and narrative of Eurasia. It is hard to escape Halford John Mackinder’s influence.

Some have also pointed out that Halford John Mackinder abandoned his theory, but I think it is hard to argue that. In his later years, Halford John Mackinder stressed that what he called the “Geographical Pivot Region” did not necessarily have to be clearly delineated on a map but was in fact a superposition of several categories. It is understandable, therefore, why many people continue to cite or indirectly refer to Halford John Mackinder’s theories when discussing issues related to Turkey-Caucasus-Central Asia in order to highlight the importance of the region.

But in terms of the intellectual history, Mackinder’s thesis was still significant. In retrospect, when Halford John Mackinder published his famous thesis in 1904, he ended by envisaging a situation in which the Japanese imperialists would conquer China. He

further envisaged that the “Yellow Race” might conquer Russia and thus have a greater advantage over the original Russian Empire. The “Yellow Race” then could have both “the superiority of the ocean and the immense resources of the continent” and could replace Russia in the “Pivotal Region.” Halford John Mackinder stressed that “the replacement of Russian control of this inland area by some new power would not diminish the significance of this pivotal position.” Of course, history had not gone by as Halford John Mackinder envisaged. Despite Russia’s defeat in the Russo-Japanese War of 1905, Russia was not conquered by Japan. Nor was China, which was never vanquished by Japan and defeated Japanese imperialism, despite long-term invasion by it. Halford John Mackinder died in 1947. After 1991, the Caucasus-Central Asia region had witnessed the emergence of a number of independent sovereign states following the collapse of the Union of Soviet Socialist Republics. The 21st century bore witness to the rapid rejuvenation and rise of China. These new circumstances, and the significance of Halford John Mackinder’s intellectual history, cannot be ignored in today’s thinking about the so-called “Organization of Turkic States” and Turkism. From Halford John Mackinder to Arnold Joseph Toynbee then to John Darwin nowadays, there is a certain inherent continuity in the British discourse.

Thank you!

Commentator: Yongle Zhang (Tenure Track Associate Professor, Peking University Law School)

Ladies and gentlemen!

I would like to extend my sincere gratitude to Professor Chang and other speakers. All of your research was really profound and shared some important awareness of the issues.

Professor Nianshen Song began with the first map that named Columbus “newly discovered” continent after America. The map produced by Martin Waldemüller was more or less symbolic of the “heirloom seal.” It was eventually given to the United States by Angela Merkel, in recognition of American hegemony in the Americas. Professor Nianshen Song’s research allows us to see how this “heirloom seal” was somewhat incongruous when placed in the United States in relation to its origins.

The production of maps is a cognitive division and naming of the space. How the map of the Americas came to be of great “nomos” significance? Genealogical research of Professor Nianshen Song has revealed the accidental and unintended consequences of the map’s naming of the space of “America.” Professor Nianshen Song’s research tells us that publishers actually played a very important role in this process, and that “America” did not originally refer to the entire American continent, but first to South America. In terms of origin, South America seems more orthodox, but it was the United States that established American hegemony and even used the name America to refer to itself as a continent. Thus, important questions arise: how exactly did the center of gravity of the Americas shift? How was American spatial hegemony established? How has the world’s imagination of the American space been reshaped over the development of history?

If this was the case in the Americas, what about Asia? In modern Japan, “America for the Americas” was parroted as “Asia for the Asians.” So how have the maps of Asia changed? Who was making maps? What are the spatial imaginary differences among the maps produced by different subjects? Professor Nianshen Song is an expert in East Asian studies and has some masterpieces in this aspect. I am very pleased to find that his research horizon has been further expanded. I think the Monroe Doctrine is an excellent, spatially

linked topic for different continents.

Professor Xianhua Wang lecture was profound, and there were some aspects that I had not yet thought through. Let me start with the parts that I was able to articulate. Monroe Doctrine was born out of the anti-colonial revolutions in Latin America, and the first colony in Latin America to witness a revolution was, appropriately, Haiti. To explore Haiti, therefore, is to capture the very important beginnings.

When the Monroe Doctrine was formulated in the United States, it resorted to the concept of “America” or the “Western Hemisphere,” which has a spatial division: “America” or the “Western Hemisphere” represented the purer spirit of European civilization, republican and healthy, while “Old Europe” was corrupt and authoritarian. But the distinction was being made at a time when the United States was still experiencing the expansion of slavery. By introducing the Monroe Doctrine, the United States had, from the outset, the intention of preventing the British Empire from interfering with its slave trade through Cuba. The United States then used the Monroe Doctrine to deny the European powers interference in the Westward Movement, which was itself a process of expanding slavery. The independence of Texas from Mexico, for example, had much to do with the Mexican government’s abolitionist efforts: Texas slaveholders did not want to abolish slavery and became involved with American slaveholders. Texas first gained independence from Mexico and then joined the United States as a slave-holding state.

The revolutions in Latin America, however, happened to begin with the black slave revolution. Black slaves, too, happened to be the first forces to rise and put into practice the values of the French Revolution. Professor Xianhua Wang spoke of the Haitian Constitution of 1805, which granted citizenship to blacks but excluded whites, a reversal of the pre-revolutionary political order that existed before the revolution. The Haitian Revolution established a republic, but it was more of a racial revolution. Monroe Doctrine is interested in a republic, but the attitude is complicated by the elements of a racial revolution, for Monroe Doctrine was born precisely to protect the black slave trade. The American discourse on the Haitian Revolution became closely linked to its own constitutive principles. Before the abolition of slavery in the Civil War, the content of the racial revolution was harder to tell. After the abolition during the Civil War, the story is better told. Here, the “inside” and the “outside” are closely linked. Professor Xianhua Wang’s linkage between the Haitian Constitution of 1805 and the Israeli Declaration of Independence is profound. I am not yet ready to grasp the full extent of the connection. I wonder if there is an intrinsic link between the ferocious racial violence experienced by both Blacks and Jews, and the violence that has led them to emphasize their physical identity in turn.

I would also like to introduce in particular an interesting concept that Professor Xianhua Wang has been working on recently, called the “common domain.” He mentioned the Haitian Constitution of 1805 and the Israeli Declaration of Independence, and I have faintly felt that the concept of “common domain” is in the background: he has left us a “bait and switch,” but has not yet developed it. Professor Xianhua Wang has already clarified this concept in some detail, which you can search for on the Internet. I think this concept is very relevant to the future and could bring inspiration to the conference.

Responding to the discussion by Wang Bo, I can sense that it is an extension of the research for the Ph.D. thesis. His Ph.D. thesis was a study of the relationship between commercial trade and war under the background of trade wars. The presentation he made

earlier was part of an in-depth study that analyzed the divide between land and ocean hegemony in the context of the Anglo-French conflict and went on to explore the link between the Monroe Doctrine, commercial trade and ocean hegemony. Ocean hegemony is combined with commerce, often separating politics from economics, and its capital can infiltrate other spaces in a seemingly “innocuous” form, less visible and less easily contained by traditional forms of geopolitical combat.

Carl Schmitt’s “Theory of the Large Space” divided the American Monroe Doctrine into two temporal segments, the Monroe Doctrine of self-defense and exclusion of foreign intervention, and the Monroe Doctrine exceeding the “Large Space” of the Americas in search of global hegemony from Theodore Roosevelt to Woodrow Wilson. The Monroe Doctrine exceeded “Theory of the Large Space” of the Americas in search of global hegemony. Here, the forces of commercial trade, capital and naval power were at work. Carl Schmitt wanted to defend the original Monroe Doctrine against the Monroe Doctrine of global intervention that arose later. The question I am concerned with is what forces can keep the Monroe Doctrine at one of its original stages and not out of space. This may require a discussion at the level of political economy, that is, it requires a particular political-economic institutional set-up to maintain some moderation.

When I wrote about Schmitt in Chapter 2 of *Shifting Boundaries*, I ended by mentioning Lenin, in fact, in response to this question. Lenin’s theory of imperialism was based on the political economic analysis that imperialism meant the combination of capital and state power to form a monopoly and to participate outwardly in the division of global space, and a country that entered this trajectory will find it difficult to curb its own impulse to expand abroad. Can it be contained by the national spirit? It seems impossible to rely on it. To explore the economic theories that the Germans believed in the 19th century, there was Friedrich List’s “National System of Political Economy,” inspired by Alexander Hamilton in the United States, and during World War II there was the so-called “Economics of War.” This series of economic theories, which are generally more terrestrial and regional in nature, still faces Lenin’s question. I have not pondered over this either. There are initial thoughts in the preface to *Shifting Boundaries*, about the state’s ability to regulate economy countercyclically, for example. Without that, it is common for one to be unable to absorb economic contradictions at home and to shift them outwards.

Finally, in response to Professor Tao Zhan’s discussion, which can be described as an intellectual response to the recent announcement by Turkish Prime Minister Recep Tayyip Erdoğan of the creation of the Organization of Turkic States, we discuss the plural “Turkism,” I have not done much research on the content of Professor Tao Zhan’s research, but the problematic awareness and research perspective contained in “plural Turkism” has commonalities with my Monroe studies. In both Monroe Doctrine and Turkism, we ask who is imagining the region, how it is imagined, what is the final imaginary picture of the region, and what power mechanisms are involved in this imaginary process? For example, the United States has its own imaginary of the Americas, but the South American elites also has its own imaginary of the Americas - there are commonalities, such as in being wary of European powers. However, different subjects have different ideas about what principles should prevail in the American space. The United States is content with a formalized principle of “non-intervention” in order to create the conditions for its own intervention while excluding the intervention of the European powers, but South American countries like Argentina, which was against both European and American intervention, had a stricter

threshold for “non-intervention.” Of course, in the struggle for interpretation, the South American countries lost.

Here I am reminded of Premier Enlai Zhou’s meeting with Chilean cultural and educational figures on April 6th, 1960, when, after commenting on the United States policy towards our Taiwan province, he suggested that “the United States has the Monroe Doctrine, and you in Latin America should have a new Latin American Monroe Doctrine, which does not allow others to interfere but unites yourself and forms a strong economic force altogether.” This could be considered as a reflection of Chinese thinking about the Latin American region in the 1960s. Our imagination was not one of dominations from the “imperial eyes,” as in the United States, but a new world of equality and union.

Here I’m going to recommend an article written by Professor Tao Zan in the first half of the year “The Virtues of Regional Studies,” Many regional studies in the West start from the “imperial eyes,” and the aim of the study is domination. These days, in the process of building a community with a shared future for mankind and promoting the Silk Road Economic Belt and the 21st-Century Maritime Silk Road by China, what is the perspective of regional studies? What kind of regional order are Chinese scholars thinking about? What kind of international law is to be endorsed?

These are the possibilities for reflection opened by the four professors’ speeches. My reflections are quite superficial, and I would appreciate it if you could provide any constructive criticisms. Thanks!

Unit 2: Reasons for Regions¹

Moderator: Jizeng Fan (Associate Professor, Law School of Shandong Institute of Business and Technology)

Ladies and gentlemen!

We have four speakers and one commentator in this panel. Professor Xiuyan Fei, the professor from East China University of Political Science and Law, is the first speaker. She would bring us one of her recent research findings, which initially starts from the perspective of historical development of the Monroe Doctrine, followed by deep research on how the former Donald Trump administration and the current Joseph Biden administration would impact on World Trade Organization policies. In my view, it is necessary to make a distinction between the Monroe Doctrine, unilateralism, and the Grand Old Party's non-interventionism from each other. The reason is that the Donald Trump administration was significantly colored by populism. Donald Trump, as the United States president, was bound to put the interests of the United States as its main priority. However, Joseph Biden, a successor but a political opponent to Donald Trump, was nominated by the Democratic Party. This is a distinguishing label that President Joseph Biden has and he would return to Barack Obama's policy – advocating free and multilateral trade. This may explain why Joseph Biden cannot set aside international treaties.

The second speaker is Kuangyi Luo, a Ph.D. candidate from Wuhan University School of Law. Her talk mainly concerns the interactions between theory and conception. It would be useful to adopt an empirical lens as an alternative to the macro approach. The empirical approach may be relied on as a method to consider (i) what kind of regionalism can be achieved, (ii) will it usefully lead to globalism, or (iii) will it be affected by the global process reversely. In my opinion, some of these questions are in a conflict with each other. The Kadi judgment delivered by the Court of Justice of the European Union was an apparent example in which the deficiency of the United Nations legal system was perceived and supplemented (or fixed) by the EU Court of Justice (i.e., fundamental rights protection). International law is recognized to be opposed to terrorism and freezes assets of the alleged suspect, while failing to give them access to a fair trial.

The judgment indicates that the antagonism was born from the EU law being superior to the United Nations Charter. The antagonistic scene is common with regard to the relationship between EU law and national law. For example, the Italian Constitutional Court would object to the application of EU law in a circumstance that the EU rules provisions are not in line with the Italian constitution, especially those rules protecting basic rights. A recent German constitutional judgment has confirmed that it would review the compliance of the EU central bank's decision with this principle.

Tong Zhang, a Ph.D. candidate from China University of Political Science and Law, is the third speaker in this panel. At first, I thought her presentation would focus on certain part of transnational regions, such as trans-Europe or Latin America. She actually proposes a notion that international law shall be considered as a close-ended system, which has a similarity to the territory in the sense of identity. Miss Zhang tries to illustrate her

¹ This Unit is translated by Tingwen Yao (East China University of Political Science and Law) and Xiaofu Li (Associate Editor of FLIA Review). Associate Professor Jizeng Fan translated his own speech. The translation has been modified and confirmed by the speakers.

innovative idea from the aspects of the distinguishing features of both legislative structure and linguistic perspective of international law. She continues to demonstrate how the subjects of international law would affect international law development in the manners of legal interpretation and value shaping.

The last speaker is Yida Guo, a Ph.D. candidate from Renmin University of China. Her presentation on the Monroe Doctrine's historical influence on the Latin American is quite interesting. Her talk also has a high moral ground for us to rethink this part of history. "Political struggle" is one of the inextricable key words in her presentation. She argues that we should identify the hypocritical cordiality of the Western bloc. Here, at present, I cannot wait to share some of my personal views: the Monroe Doctrine reflects a diplomatic idea of the United States attempting to become the dominant power in part of the region. Consequently, the United States government conceived that the whole of Latin America should stand with the United States. We cannot intuitively conclude that it demonstrated the United States hegemony in the early days, because it may ignore the Monroe Doctrine impacts on the anti-colonial effect. The United States gained its political dominance in Latin America thanks to the Monroe Doctrine. On the other hand, the US was unlikely to claim that it was practicing new colonization. Rather, the Monroe Doctrine may help bring the Latin American people's colonialization to an end. In this perspective, is the Monroe Doctrine a civilization or a retrogression of civilization? It seems that Miss Guo's argument may possibly give a blind eye on its positive effect to the Latin American regions, which at least the Monroe Doctrine did help Latinos to get rid of European colonizers, form a sense of community, and spread liberal ideology - freedom, democracy, and human rights. I am sure the United States and EU institutions in our age would strongly reject the restoration of the earlier colonial rules which are incompatible with contemporary human rights rules and contemporary human dignity. If Miss Guo calls for fighting against Western values, shall we still be hostile to these liberal fundamental values - human dignity and human autonomy - in our time?

Apart from this, there is one more question. I notice that Miss Guo made an introduction to the territorial Monroe Doctrine at first, then she argues that it is the Monroe Doctrine that generates the Schmittian theory on geo-politics and the Japanese doctrine of "China can be preserved." But the fact is that both the Schmittian and Japanese doctrines were based on racism. Then Miss Guo argues that the idea of provincial autonomy may get inspired by the Monroe Doctrine. However, the regional autonomy in the constitutional sense, makes up a unique model of power separation between the central and peripheral (local) government, even though regional autonomy may decline to separatism. In this sense, the regional autonomy has a great difference from the practice of the Monroe Doctrine. Could we conclude that the Monroe doctrine, racism, and regional autonomy are the same thing? I am looking forward to Miss Guo's response.

Xiuyan Fei (Assistant Professor, East China University of Political Science and Law Scientific Research Think Tank Institute of Social Sciences)

Topic: The "Monroe Doctrine" and US Trade Practice in the Post-WTO Era

Ladies and gentlemen!

Inspired by Professor Zhang's book - *Shifting Boundaries*, I would like to discuss the US's recent trade practices in the context of the Monroe Doctrine. The "Post-WTO Period"

refers to the period when the World Trade Organization is now trapped in a crisis, especially since Donald Trump took office. Today's subject will focus on the United States trade practices under the Donald Trump and Joseph Biden presidencies. My talk consists of four parts: the first part is the evolution of the Monroe Doctrine and its essence, the second part is the trade practices under the Donald Trump presidency, the third part is the practices under the Joseph Biden presidency, and then a conclusion is drawn.

As for the evolution of the Monroe Doctrine, everyone here probably is well aware of it, so I will not repeat it. In terms of essence, my question is: what are the essential features of the Monroe Doctrine? Is the Monroe Doctrine unilateral or multilateral? Is it a principle of international law? Is the Monroe Doctrine necessarily linked to the geographical space of the American Western Hemisphere? In my opinion, the Monroe Doctrine is linked to national security, and the Monroe Doctrine was initially closely connected with the American Western Hemisphere, but its geographical scope has become increasingly expansive through constant reinterpretations made by all of the previous American presidents. President Theodore Roosevelt expressed his concern about the Far East and the China Gateway Policy in his State of the Union address in 1904, in which he spoke of the United States' adherence to the Monroe Doctrine in defense of both national interest and the interest of all mankind, and, correspondingly he strengthened the relevance and importance of the intervention policy towards China at the time. Even in 1904, the early Roosevelt Doctrine had this implication of breaking the regional limits of the Americas. In the Cold War, the American diplomat George Frost Kennan extended the application of the Monroe Doctrine, arguing that the United States should regard the communist expansion towards the Western Hemisphere as a threat to national security and that the United States should therefore intervene. President Ronald Reagan also expanded the geographical scope of the Monroe Doctrine. In Barack Obama's presidency, in 2013, the Secretary of State made it clear that the era of the Monroe Doctrine was over, which was indeed directed at the people of the Americas. It is worth noticing that even under the Barack Obama presidency, Hillary Clinton stated in a speech at the University of Hawai'i in 2011 that "the 21st century will be America's Pacific century." Hillary Clinton's statement, together with Barack Obama's Asia Pacific Rebalancing Strategy, actually treats Asia as a sphere of influence. Considered in a Monroe Doctrine way, accordingly, the geographical scope has already extended beyond the Americas. Thus, the Monroe Doctrine is not confined within the Americas, but also includes interventionism in the name of defense.

In terms of trade practice and theory under the Donald Trump presidency, Donald Trump once explained that economic security equals national security. The 2017 National Security Strategy proposed fair and reciprocal trade policies, which was quite different from the neoliberalism of the World Trade Organization since its inception. The 2017 National Security Strategy declared its intention to maintain leadership in R&D and technology, and to prevent competitors from unfairly acquiring intellectual property rights, revealing the United States' ambition to maintain economic and scientific hegemony. In particular, the report pointed out that China and Russia are challenging the United States' influence and interests, attempting to erode the United States' security and prosperity, making the economy less free and fair, and prompting the United States to reassess its trade policies of the past 20 years. When Donald Trump was in office, the United States government issued the Executive Order on "Buy American Hire American," an obvious America-first approach to protecting the United States market, which ran counter to the

theory of comparative advantage. Under Donald Trump, the Annual Report of the President of the United States on the Trade Agreements Program was released,¹ and this Report included no specific discussions on China, but instead, it cited the Report to Congress on China's WTO Compliance of 2017, expressing the United States' dissatisfaction with some of China's post-accession trade practices, arguing that China remains a state-led economy and that the United States and other partners' interests are being seriously challenged. Under Donald Trump, the United States government took actions under Section 232 and Section 301. Actually Section 232 of the Trade Act of 1974 has seldom been used by the United States since the foundation of the World Trade Organization, but Donald Trump reopened the Section 232 investigations, arguing that China was committing economic aggression. In 2018, the United States released "How China's Economic Aggression Threatens the Technologies and Intellectual Property of the United States and the World." At the regional level, the United States withdrew from the Trans-Pacific Partnership Agreement (TTP), arguing that TTP would do harm to the United States workers' employment. Although the United States withdrew from the TPP, it renewed the North American Free Trade Agreement (NAFTA) and then concluded the United States-Mexico-Canada Agreement (USMCA). The "poison pill" clause in the USMCA is essentially hostile to China and interferes with the trade freedom of North American trading partners.

As far as the United States trade practice under Joseph Biden is concerned, although it differs from that taken by Donald Trump in terms of form, the substance is the same, i.e., to maintain United States economic hegemony. The first joint statement by the EU-US Trade and Technology Council proposed to take shared democratic values and market economy institutions as orientation. In addition, it included Joseph Biden's regulations on labor-strengthening legislation. Some American scholars commented that the Joseph Biden administration's trade policy tends towards national security and state control which has departed from the original Neoliberalism. Other scholars also consider Joseph Biden's trade policy unilateral and protective, as well as isolated and discriminatory.

The essence of trade policy under both Joseph Biden and Donald Trump is to intervene in the economic policies of China and some other countries in the name of protecting national security. In comparison, the trade policy under Donald Trump is directly based on United States interests, with destructive policy on the surface; while the Joseph Biden administration is based on the concept of capitalist market economy values, while repairing and reconstructing the international trade order on the surface. But both are protecting the international economic order led by the United States as well as the United States' national interests.

Thanks to Professor Chi He for his comments, and I also agree with Professor Pizhao Che that Donald Trump is also reshaping the international economic and trade order. According to the studies by domestic scholars on the Monroe Doctrine, less attention has been paid to the Monroe Doctrine during the Cold War. I recently noticed an article in 2016 dealing with the South China Sea issue (*Does China Have a Monroe Doctrine? Evidence for Regional Exclusion*, written by Steven F. Jackson). The author of that article questioned whether China is implementing the Monroe Doctrine. The Joseph Biden administration proposed to rebuild the international economic order on the basis of shared democratic values and market economies, binding the United States and Europe together. The Joseph

¹ Editor: <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2018/june/ustr-issues-tariffs-chinese-products> (accessed on March 20, 2022).

Biden administration argues that China's economic system is neither democratic nor market economy oriented. The view implies a hierarchy of market economic systems, and that China threatens the market economy values of Western capitalism. From Joseph Biden administration's statements, there seems to be a Cold War-type Monroe Doctrine flavor in its trade policy.

Thanks!

Kuangyi Luo (Ph.D. Candidate, Wuhan University Institute of International Law)

Topic: Re-examination of the Relationship between Regional Order and Global Order

Ladies and gentlemen!

The first part of my talk is the interpretation of regional order and global order. The definition of region goes first. It has been defined by the scholars at home and abroad with a variety of variables and criteria, containing not only geographical factors, but also social, economic, security, political and organizational links. The concept of a region or area is not a given one. Rather, they are man-made ones created and recreated by related countries to facilitate cooperation. The concept is shifting from its initial emphasis on objective geography to a focus on subjective construction. It means the members within the region have self-awareness of their identity that they have formed a region and other non-members are also aware of the existence of the region, thus the subjective construction of the region is complete.

The concept of order has both social and political connotations, with actors interacting bilaterally or multilaterally to develop a consensual and reliable expectation and then interacting more deeply on the basis of that expectation. Order in the international community refers to formal and informal arrangements between states, providing a predictable and stable international environment for states to pursue collective goals such as the peaceful settlement of disputes through rule-based interaction.

A distinction needs to be made between the concepts of "global order", "international order" and "world order." International order mostly refers to the order between the states. World order includes not only international order, but also domestic order, as well as the inter-state order with a world political system. The difference between the two above is that the former is an order made up of states, while the latter emphasizes more the position and role of other actors in the world system. The concept of global order is much broader, including not only international order and world order, but also order at the lower political level such as ecological and environmental order, with the overall interests of mankind as the guide. The concept of global order further incorporates international governance, emphasizing the characteristics of integrity, globalization and complex interdependence.

The regional order is essentially a multilateralist institutional form, from the perspective of the whole region, seeking consensus on regional affairs and willingness in cooperation through joint arrangement so as to deal with the interrelationship of political actors within the region in that kind of structure and order. In short, a regional order is evolving into a shape when the key members of the region agree on and act in concert on common issues.

The second part is the reason why regional order exists in the context of globalization. Particularly in the trend of economic integration, someone might ask if there is anything non-global or what is the point of discussing regional order in the context of globalization.

In the study of economic integration, the leading view is that regional order or regional community is the second-best arrangement, as the ultimate goal is the complete integration of the world economy. Therefore, they believe that regional order is only a transitional stage before globalization, and that once the global order or globalization is completed, regional order will no longer exist. The question I'm pondering is whether the regional order is an independent process and trend, or merely an alternative or a necessary transition to globalization.

Firstly, I believe that the regional order is independent and specific. On the one hand, although it has a very close connection with globalization, non-traditional security issues such as environmental pollution, climate change, and viruses are both global and regional, and to some extent its regional nature may be more prominent, requiring special means within the region and regional cooperation to solve them. For example, issues such as jurisdiction involves national sovereignty (conflicts) and needs to be resolved in accordance with regional agreements. Therefore, regional cooperation plays an irreplaceable role in dealing with conspicuously regional issues. On the other hand, groups of countries with a regional unit need to take their own particular positions and interests fully into account, instead of blindly following the leads of other countries or regions, which ultimately results in failing to express and respect their own interest.

Secondly, the regional order can achieve the "greatest common divisor" of compliance mechanisms within the region. International law's compliance mechanisms are subject to geopolitical games and other interests, which have been proven by the regional law practices of the EU and the North American Free Trade Area (NAFTA). The two different types of regional arrangements between countries, as well as the existence and stable operation of the different types of regional-level international law, have served a good function in regulating regional order in these regions. Based on the factors such as geographical location, cultural background and geopolitics of these countries in the region, it is often more efficient to reach the "greatest common divisor" in the region.

Thirdly, regional order exists objectively. Having been widely accepted, the regional norms then develop into multilateral norms or even the global order. This is also in line with the development of international law.

The third part discusses the dialectical relationship between regional order and global order. Are the regional order and global order absolutely opposed to each other and absolutely hostile to each other? My answer is no. They are complementary and interactive to each other, and tend to form a dialectical unity in the midst of struggles.

The first is complementarity, which can be put into three aspects: perspective, process and organization. First, the perspectives are complementary. To get a comprehensive and correct picture of international order, it is necessary to examine both the regional order from a meso perspective and the global order from a macro perspective. These two perspectives are complementary, which means the absence of either perspective is incomplete. Second, the process is complementary. Building a stable and virtuous regional order is a necessary step for countries to participate in the process of rebuilding the global order. Any country must be a regional power in its own region before becoming a global power. In the long history of the world, we have never seen any country that is able to rise to the world center with its own regional order in a mess. Whether it is the European powers or the United States, none of them has jumped out of the fixed pattern of gaining the status of a regional power first, that is, the region where these countries are located was

incorporated into a regional order by consensus or by force, and then gradually moving towards a global power. Third, the organizations are complementary. Regional and global organizations complement each other in some respects. The Charter of the United Nations incorporates regional organizations into the United Nations' global system maintaining peace and security, and emphasizes two points: firstly, the basic function of the regional organization is to maintain international peace and security with regional actions; and secondly, the existence of the regional organization should not violate the purposes and principles of the United Nations. The regional organizations established after the United Nations have mostly enshrined the spirit of this fundamental provision in their constitutions as a guideline for their activities. Thus, although regional organizations are autonomous in their existence and activities, their relationship with the United Nations is complementary and supplementary in the maintenance of international peace and security. This institutional combination allows regional organizations to play their rightful role in the peaceful settlement of disputes and the implementation of coercive actions, without undermining the dominant position of the United Nations.

The second is interactivity. The regional order and the global order are mutually constructive and integrated. On the one hand, while forming the world panorama, regions also bring their own characteristics of order, to some extent, into the global order of which they are one part; on the other hand, once formed, the global order does not exist in isolation from the regional order. The regional order and the global order are in a relationship of impact and counter-impact, action and counteraction. For example, the regional order in the Middle East is at risk of being deconstructed by various forces, which has a certain impact on the stability of the global order. Similarly, the global order can also cause a counter-shock on the regional order. For example, the subprime crisis in the United States in 2008 and the global financial tsunami it triggered consequently had a devastating effect on the financial order in many regions of the world.

Even if the regional order is in struggle with the global order, it can still grow in a healthy way. Because international law develops dialectically through the promotion and argument of different theoretical claims, local international law and universal international law are mutually reinforcing. It also applies to the regional order and the global order. Regional and global interests do not necessarily contradict each other, and it is possible to unite them. It is in the struggle, comparison and weighing of regional interests that the global universal interest and common values are expressed. No culture can think up international relations without bearing its own regional interests in mind, and all of them must aim for global universal recognition and acceptance. Under this circumstance, imagining there is no competing claims and doctrines of international law, the normative principles ostensibly described as universal international law are in fact the expression of a certain culture. A truly healthy international law order can only emerge if different cultural traditions and geographic regions are allowed and encouraged to express their respective claims to an international order, and if the international community is allowed to choose and balance between sufficiently competing claims.

The last part is about how to effectively convert the regional order into a global order, i.e., how to judge a healthy regional order that can be converted into a global order, rather than a hegemonic "gangster," confined and exclusive "coterie." As time is limited, I will put it briefly. I believe that a healthy regional order should be inclusive and flexible, adhering to open regionalism and multilateralism, reflecting universal interests and values

of “a community with a shared future for mankind,” and be easily accepted by a wide range of people. For example, the Silk Road Economic Belt and the 21st-Century Maritime Silk Road are open and inclusive multilateral cooperation platforms based on the principle of “construction, contribution, and shared benefits.” For now, it is still a regional order, but it has strong vitality that reflects the global common interests and will eventually develop into a global order.

In the final analysis, I believe that the phenomenon of counter-globalization or undesirable regional order is only a tortuous stage in the formation of the global order. Regional order and global order are developing in dialectical and dynamic process. International relations in the future will remain a form where regional orders and global orders exist together, impact each other, interact with each other, and convert into each other. In the process of converting from regional mechanisms into global mechanisms, the major powers should fulfill their due responsibilities and provide public goods for the international community, while promoting law-based international relations through communication and cooperation so as to ultimately achieve the smooth conversion of regional order into global order.

Thanks!

Tong Zhang (Ph.D. Candidate, School of International Law of China University of Political Science and Law)

Topic: An Analysis of General International Law in a Regionalist Approach – Closed Discourse and Evolution of Order

Ladies and gentlemen!

The first part of my talk is about the feasibility of using a regionalist approaches in the research of international law in general. In traditional regional analysis, the “global” is considered as a third-level concept, distinct from the national and the regional. Assuming that the closed nature of international law discourse could form a separate abstract region, it should be based on two premises regarding the definition of “region.” The first premise is that “region” can transcend the limits of geographical space; the second premise is that the concept of “region” is subjective and constructed. The region of international law is more in line with the constructivist definition of “region.” In constructivism, the region is defined by the identification of similar actors, then the space is composed of similar actors, and the spatial boundaries are defined by the scope of the subject.

In the context of international law, specific identities arise based on the concept of “legality”: those among the subjects of international law who abide by the law, and those non-subjects of international law who are experts in international law and directly involved in international law practices. Legality is a legal question, which must be answered through the language of law. The concept of “legal questions” is described in a classic way by the International Court of Justice in its determination of jurisdiction. Legality as the key concept of regional identity ties the regional subjects to the language of law. As per James White’s theory, law is a language in itself and that language of law is inherently communal. Such community is from a closed discourse. Law is a particular way of reading, writing, and speaking, and it has to maintain its own particular culture of argument. This way of speaking is constructed through specific symbols and abstract expressions. Abstract expression is a fictional expression that can be used to construct a subjective perception of

reality. In terms of the expression: first, language is the form in which law exists. Both law itself and its interpretation are expressed through certain language. Second, the dynamic change of legal practices is also expressed in the dynamic change of linguistic practices. The impact of law on reality is also similar to that of language. This combination of statics and dynamics gives rise to a description that is quite familiar to legal practitioners, called “legalese.” It is difficult for an extraterritorial subject to have a conversation with an interterritorial subject on the issue of legality. Legalese, as an expression of the communal nature, implies the closure of the discourse. According to James White’s theory, it creates a specific legal world, i.e., a specific context + a specific narrator + a specific audience. It is roughly equivalent to a certain kind of legal society dominated by secondary rules, as Hart explained. In other words, regardless of the discourse or concept used to describe the phenomenon, the direct consequence of legalese is the fact that international law has a specific context, specific narrators, and specific audiences.

“Regionalization” explains specifically how the closed international law discourse is linked to “regions.” My primary basis is from Chinese scholars Ruilei Xing and Anqi Dai’s article *Space, Power Relations, and Order: Spatial Integration Mechanisms in the Multiplex World* in the Chinese Journal of European Studies (No.2, 2018). The authors argue that there are three key points of regionalization. The first is the spacing mechanism that shapes the territory, the second is the enculturation mechanism that shapes the symbols, and the third is the structuration mechanism that enables institutionalization and positional shaping. Let’s return to the previous concept of legal questions. The International Court of Justice has explained why, under the clear recognition that all questions of international law are necessarily influenced by political economy, the questions it adjudicated remain questions of law, instead of politics. According to the International Court of Justice, this is because the fundamental feature of legal adjudication is reaching conclusions with legal techniques based on interconnected legal grounds, which satisfies the requirement of being purely legal. The symbolic shaping of international law regions can be demonstrated from the rules of source of law. The rules of source give rise to specific symbols in the discourse of international law. The rules of interpretation determine the logic of expression, i.e., the specific way of abstract expressions or fictional expressions. In other words, the abstract legal expression in legal symbols, which leads to legal conclusions, is consistent with legal adjudication. It means, so-called legality and norms are expressed in form, in linguistic form, in legalese. As to who is the narrator, and who is the audience, I think it should be the participants in the mechanisms of international law, which are built on the basis of legality, such as international justice. In this way it can be linked to “regionalization”. From the perspective of international law, it is clear that the specific symbols of the rules of source can be linked to shaping symbols, and that the rules of interpretation, as an abstract and fictional expression logic, are in fact one way of shaping structures; that is an immature and personal opinion, and it may not be suitable. I also believe that it is the narrator and the audience that shape the territory. It is through the subjects, that is, the narrator and the audience, that constructivism defines the boundaries of space.

In the constructivist definition of “region,” identity is crucial. I believe that the identity of a region under international law derives from identification upon the fundamental concepts that forming international law, such as “*pacta sunt servanda*.” It does not derive from some specific legal viewpoint, but from the consensus of allowing international law to be a region separately, which makes states believe that it is necessary to abide by the law,

and makes it necessary for international law experts to exist. It is similar to what Hans Kelsen calls basic norm (*grundnorm*). If this identity interest is compromised, one may be excluded from the dialogue. That may help explain why some theories of international law are very influential, but they hardly influence the real international judicial practice. Legal language theory contains a particular kind of society called the interpretive community, consisting of actors in legal interpretation activities. International judges and international lawyers are typical examples. In my view, this interpretive community forms a power structure in international law. Within the scope of international law, the more professional and purer the interpretation is, the more likely legal authority will arise. That may partly explain why the legal views proposed by states are usually less authoritative than those by international courts. Considering the experience of studying specific questions of legality, there is usually a ranking of the grounds of arguments. Apart from international law itself, judicial precedent usually is of the highest priority. Codification by authoritative experts is also included, such as the reports by the United Nations International Law Commission. In my opinion, interpretive community can explain why these materials are of higher authority to some extent. It is true that the concept of “authority” is quite vague in international law discourse, so it is not necessarily equivalent to the concept of power in international politics. However, in the context of international law, where the conceptual construction is far more important, authority often has a massive and practical impact and creates a kind of real power.

I will then quickly introduce the remaining three parts. Regarding the basic structure of international law regional order, I draw mainly on Professor Feng Zhu’s research. According to him, the regional structure consists of three main factors: the subjects, the operational mechanism, and the regional objectives. The elements of international law regions are distinguished from international law itself. The subjects of an international law region are actors with a shared identity, which includes not only the subject of international law, but also members of the expert communities under international law. Within the operational mechanisms, international law regions are made up of both institutional and social legal decision-making mechanisms. International law itself does not contain social legal decision-making mechanisms, for example, informal law-making. The United Nations International Law Commission, Institut de Droit International and the International Committee of the Red Cross are quite *de facto* influential, but that kind of power is not reflected directly and explicitly in the *de jure* decision-making mechanisms of international law. The last one is about regional objectives. The objectives of international law are mainly presented among the abstract description in the object and purpose clauses of treaties. But the objectives of international law region are clearly not limited to this. The region of international law is a dynamic process of practice. Political and economic factors outside the region can be transformed into an international law discourse and the updating of regional objectives in international law does not necessarily depend on the updating of the content of the text of international law, such as the forming of the doctrine of “Responsibility to Protect” and the using of its spirit or goal as a new specific judicial policy or law-making objective. The regional order of international law is a multi-dimensional and dynamic structure that is not entirely consistent with international law itself.

The third part focuses on the influence of international law regions on the construction of international order through the “rules-based international order.” International order is

an operational mechanism based on international norms, but the regional order of international law is quite different. The political and economic factors outside the international law region are, in fact, excluded from the discourse within the region. The core of the process of turning international political and economic factors into the language of international law is the institutional and social mechanisms of legal decision-making. If “rule-based” is assumed to be “based on the rules of the international law region,” in comparison with “based on international law,” the subjects are different, so the norms are different, which leads to different determinants. International relationship is one of the determinants of the regional order, as it determines the text of international law, mainly presented in the decision-making system of the formal legislation of international law; international relationships can at the same time be considered as the only dominant factor of the “international order based on international law.” However, the social mechanisms of the international law region are not the content of international law but are an integral part of the regional order. Informal law-making, promoted by the community of international law experts, may also participate in the order evolution, becoming another independent variable. The developing of de-state-centrism in international law is relatively successful through emerging international law theoretical discourse such as policy-oriented approaches and constitutionalism, which in some way further erodes the validity of state sovereignty doctrine in international law practice. Typical social decision-making mechanisms in international law include decisions on publication made by authoritative international law presses such as Oxford University Press and Cambridge University Press. The reference books they published, such as the handbooks on various international legal themes and commentaries on treaties, are with high academic authority not only because of the quality of its content but also the recognition and recommendation of the authoritative publishers. International law practitioners often believe they have to refer to or cite them in order to ensure their professionalism. In this way, influence is gained. It does not mean that these social factors can determine or shape an international order, but rather that they play a constructive role in shaping the perception of international order by other international actors. At present, Western countries led by the United States play a leading role in some social mechanisms, which does not exactly coincide with the United States’ decline in powers of international relations. In other words, a “rules-based international order” could more effectively amplify the impact on the reality of the discourse power on the basis of the leading position of the social mechanisms in the international law regional order.

Finally, it is the question about the significance of the regionalism analysis of international law. I think that regionalism analysis is a very convenient bridge for dialogues because it can connect some basic concepts of international law and international politics.

Thanks for Professor Chi He’s comments! I would like to answer the question about the relationship between the analysis of international law in a regionalist approach and the Monroe Doctrine; the general international law is global and is not directly related to the Monroe Doctrine. The possible connection between international law and the Monroe Doctrine may be at the international law at the regional level. Regionalism analysis of international law could provide a multi-dimensional analytical structure in general, not only at the regional level, but also at the global, where the latter describes the public international law as a whole as a region. If this analytical structure is applied to international law at the regional level, in addition to the traditional approach, it may help delve into the specific

influences of various regional societies. A typical example might be the Court of Justice of the European Union. The Court of Justice of the European Union has expanded its jurisdiction with the help of purposive interpretation, which has gained social acceptance mostly. This process is partly due to its interaction with the domestic judges and prosecutors inside the EU countries. Legal experts within the EU countries, together with the direct practitioners of the Court of Justice of the European Union, form small groups that can engage in dialogues as narrators and audiences. In contrast, the courts of some African regional economic integration organizations have, in their previous cases, explicitly refused to draw on the practices of the Court of Justice of the European Union on similar legal issues. If the reasons for the different positions are to be answered, it is difficult to do so merely through normative analysis, and if an international law regional analysis is introduced, it is possible to observe clearly through the difference of social mechanisms between the African-region international law and that of Europe.

Professor Chi He pointed out that, with regard to the future, seemingly there is now anxiety in the West and optimism in China. I think the regional analysis of international law can partly explain it. The former has its root in international relations, as the power balance among states is changing very rapidly. The latter is due to the fact that the regional social mechanisms of international law are changing in a very slow way, and that the West is still in a controlling position. In his statement of Moral Realism, Professor Yan Xuetong pointed out that international norms are changing very slowly. I believe that this slowness is not only due to the fact that fundamental changes in the text of international law require major changes in the international situation, but also due to the strong influence of social mechanisms in the order of the international law region. This is determined by the absence of a unified legislative body and the fragmented, anarchic order of international law itself. For example, despite the fact that since 1945 the world first entered a bipolar system and then Pax Americana, the influence of European experts in the international law region has remained very strong and lasts until today. Over the years, the United States has only managed to be a counterpart of Europe. When applying the results of political center - shifting directly in the international law region, the process of the corresponding change of social decision-making mechanisms may be very slow, which is perhaps the reason why Chinese scholars should not be so optimistic.

Thanks!

Yida Guo (Ph.D. Candidate, Renmin University of China Law School)

Topic: The Logic of the Monroe Doctrine in Delineating Regional Boundaries and Its Critique

Ladies and gentlemen!

The first part of my talk discusses the logic of delineating regions under the Monroe Doctrine, the second part analyses the drawbacks of the logic, and the third part is some reflections on the construction of regional order. The first and second parts will be highlighted.

The Monroe Doctrine constructs a regional order. Identifying the logic of regional delineation is the first step to dissect its kernel. The book, *Shifting Boundaries*, explained the logic of the Monroe Doctrine in regional delineation in America, Europe, and Asia, with three explicit clues being geography, nationalism, and race.

The whole story begins where the United States delineated regional boundaries against European interference in the affairs of the Western Hemisphere. The Monroe Doctrine originated in the State of the Union Address delivered by the 5th President James Monroe in 1823. The gist of the address was to separate America from Europe, decolonization, and non-intervention. James Monroe explicitly used the concept of the “Western Hemisphere” to separate America from Europe. Geographically, the Western Hemisphere was larger than the Americas, and James Monroe used the geographical concept to delineate a politically secured space that would keep all European powers out.

The logic of delineating regional boundaries was based on Carl Schmitt’s theory of “large space” (*Großraum* in German) owned by dominant nations. In the words of *Shifting Boundaries*, the earth is so large that there are many dynamic nations, and as an ideal global order, there should be a number of different “large spaces,” where sovereigns (*Reich* in German) were founded and prevailed by nationalism. For historical reasons, Germans lived in different countries such as Germany, Czechoslovakia, Austria, and Poland, while Carl Schmitt came up with the theory of large space for the rise of Germany after World War I.

When the Monroe Doctrine was introduced to Japan, it was combined with “Asianism” and was interpreted as Japan “preserving” China, since they both belong to the yellow race. Competition between the white and yellow races was then assumed to be inevitable in Japan, where both the Chinese and the Japanese were seen as enemies by whites.

The delineating logic of geography, nationalism and race roughly corresponded with the sphere of influence of the United States, Germany, and Japan, referring to the “Western Hemisphere” in James Monroe’s address, *Reich* by Carl Schmitt, and the “China Preservation Theory” in Japan. In addition to the three explicit clues, there are also implicit clues, including the ideological homogeneity, the reach within military capability, and sense of identity.

The starting point of the Monroe story reflects the logic of delineating regional boundaries based on ideological homogeneity. James Monroe’s 1823 address was delivered when the European Holy Alliance attempted to intervene in the Latin American Revolution. James Monroe warned against any intervention by Europe in the Western Hemisphere. The concept of the Americas was closely linked to the republicanism ideology, thus opposing the monarchism of the Holy Alliance.

In addition, the Monroe Doctrine was transplanted as the “Provincial Monroe Doctrine” in - modern Chinese history (from 1840 to 1949). Against the background of a weak central government, Hunan Monroe Doctrine and Shanxi Monroe Doctrine (independent local administration) emerged, and the policy of “protecting the territory and securing the people” became the guidelines. The pattern of “let the native rule the native (province)” became the supporting theory of warlords in the various provinces of a divided China. A person’s birthplace was essential in determining whether he was qualified to be the leader in a provincial order. A typical example was that Deshan Yang, who was born in Anhui, was greatly resisted in Zhejiang Province as the governor.

When the Monroe Doctrine was transplanted to the “Provincial Monroe Doctrine” in modern China, the expansionist side was overlooked, while the defending-against-external-interference side was emphasized. The space of the “Provincial Monroe Doctrine” was associated with the sense of security, inasmuch the reach of military capability. When the local political, economic, and military capacity could only support one single province, the Monroe Doctrine became the theory advocating for non-intervention from other powers.

When military capacity could only support for a few years, a province might not be able to be the subject to construct a regional order.

To sum up, the explicit and the implicit clues intertwine and articulate the kernel of the Monroe Doctrine and its variants, namely, rejecting foreign intervention in the name of guarding boundaries and, at the same time, intervening in other spaces in the name of universalism.

As the Monroe Doctrine travels around the world in a popular way, the drawbacks come out. The Monroe Doctrine takes continuous space, ideological homogeneity, and external threats as the basis of regional delineation. Its underlying thinking shares the common features with today's hegemonic order. Heinrich Triepel, a German jurist famous for his dualist theory, has made a detailed explanation on hegemony, which penetrates the hegemonic nature of the Monroe Doctrine.

Firstly, according to Heinrich Triepel's hegemony theory, some forms of alliance are the basis. Alliances do not necessarily create hegemony, but hegemony is inevitably based on alliances. Just as Luis María Drago, the then Minister of Foreign Affairs of Argentina, announced in 1902 that no foreign power could use force against a nation in Latin America for debt collection, invoking the Monroe Doctrine against the European powers. Apparently, the shells of these small states might still exist, but the small states gave their consent to the alliance in order to get protection from the large state within the alliance.

Secondly, when states within the alliance reach some type of homogeneity, they will eventually be led by hegemony. Many political theories are based on ideological homogeneity, for example, Immanuel Kant argued in his *Perpetual Peace: A Philosophical Sketch* (*Zum ewigen Frieden* in German) that the civil constitution of each state shall be republican. When all the states achieve ideological homogeneity, or some types of homogeneity, only one nation will stand at the top of the pyramid.

Thirdly, hegemonic power will only emerge when there is an external threat that is sufficient to bring the states together voluntarily, both the leading states and those being led. This is the distinction between friend and enemy, which I understand is the classic logic of *Leviathan* by Thomas Hobbes, except that the subjects are "nation and regional hegemony" instead of "people and sovereign." By emphasizing external threats, the Monroe Doctrine evokes fears in the other members within the space, which gives large states the power to interfere with the other members within the space in the name of defying external threats.

Many scholars have made arguments about hegemony, and we may see the hegemonic features of the Monroe Doctrine through Heinrich Trippel's lens. In addition to its hegemonic nature, the Monroe Doctrine in fact legitimizes expansionism. When the Monroe Doctrine serves as a defensive strategy, the regional boundary would be highlighted, such as the Western Hemisphere and the provinces in modern Chinese history; when the Monroe Doctrine serves as an expansionist strategy, the regional boundary would be blurred, even gone. Defensive and expansive, both were genes carried by the Monroe Doctrine since its birth. In fact, before James Monroe's address in 1823, Thomas Jefferson, the 3rd President of the United States, wrote in a letter to William Short in 1820: "*The day is not distant when we may formally require a meridian of partition through the ocean which separates the two hemispheres, on the hither side of which no European gun shall ever be heard, nor an American on the other...the principles of society there and here then are radically different...*"

No matter that it was the “Jefferson partition” or the “Western Hemisphere” in Monroe’s address, these concepts blueprinted a regional dominance for the United States. In *Der Nomos der Erde*, Carl Schmitt argued that the concept of the “Western Hemisphere” is a new way of acquiring the sea. The Monroe Doctrine harbors two aspects, the land and the sea. Before the Monroe Doctrine was introduced, the concept of Americas only referred to the land of the Western Hemisphere, while the idea of the sea remained as of freedom as in the nineteenth century. However, after the Monroe Doctrine arose, the boundaries of the Americas included the sea, and this is a new, modern way of taking the sea. Moreover, the Western Hemisphere was allegedly going against the old Europe. James Monroe’s address was essentially defying the European-style acquisition in the name of defense. Clearly, the defensive boundary gave the United States the freedom to acquire the territory within the Western Hemisphere. Furthermore, Carl Schmitt argued that the Western Hemisphere was a new civilization. James Monroe’s address declared that the term Western Hemisphere was to be used by the United States to establish the moral, cultural, or political foundations of the Western Hemisphere. In other words, the new West would be the Americas replacing the old Europe, and redefining the center of the world.

In addition to legitimizing the large states’ interventions imposing on small states and the powerful states’ expansion towards the weak ones, the kernel of the Monroe Doctrine shows that hierarchy and civilization go hand in hand. The civilizational hierarchy theory divides the development paths of different nations around the world into different levels. It was also a discourse that developed in Japan after the Monroe Doctrine was introduced. Fukuzawa Yukichi (ふくざわゆきち in Japanese) suggested with bias that China’s grand unified political system left the people with a lack of autonomy and stifled the progress of civilization.

China had its own civilizational discourse. In the Chinese traditional comprehension of the world, the boundaries of the world were not physical, but a distinction between civilization and barbarism. Afterwards, civilization became a symbol for the Western countries, while the ancient, civilized state was regarded as semi-civilized or barbaric. History tells us that so-called civilization and semi-civilization may suggest achievements, but more than that, it means war, killing, and destruction. Taking the drawbacks of the Monroe Doctrine’s logic in regional delineation as a warning, when constructing a regional order, we should avoid determinism, and be wary of intervention in the name of universalism, and should pursue voluntariness, equality, and mutual benefits of the participants in the regional order.

Finally, faced with China’s position in the international order, the West cannot help applying their political theories and institutional designs onto China. In Western models of statehood and political theory, China seems unable to become a normal state, and as a result, China is denied and questioned, which even brings about self-denial and self-doubt among Chinese people. When China is confronted with Western political theories or institutional designs, we shall reveal the hypocrisies, to clarify the misunderstandings, and to justify the order we advocate to establish.

When the Monroe Doctrine is used to construct a regional order, it is worthwhile for us to think about its counterpart, whether it is another regional order or the whole global order. In the beginning, the United States struggled against Europe, drawing regional boundaries with a territorial logic. Later on, the United States President Woodrow Wilson brought about Article 21 of the Covenant of the League of Nations, which excluded

American affairs from its jurisdiction. In contrast, the “large space” (consisting of *Reich*) proposed by Carl Schmitt was a juxtaposition of several large spaces. These practices reflect different facets of a regional order. Further questions are, can two regions overlap if the counterpart to a regional order is another regional order? If the regional order is scooped from the global order, by what logic are boundaries drawn?

Thanks !

Commentator: Chi He (Assistant Professor, Kenneth Wang School of Law of Soochow University)

Ladies and gentlemen!

The theme of this presentation was Reasons for Regions, and the speakers focused on the specific manifestations of the Monroe Doctrine in contemporary international law. Before moving on to discussion, I would like to share with you an interesting discussion that I have recently seen in the Western academia of international law.

There are two readers’ letters posted in the latest issue of the European Journal of International Law, in a column “Canceling Schmitt.” Two readers expressed very different views on the status of Carl Schmitt in international law studies. One reader argued that Carl Schmitt should be removed from the discussion of international law, which represents the current European viewpoint of “cancelation.” This is because the historical experience and views of the person make it anachronistic. Another reader argued that even if the thoughts or experiences of the person might be controversial, ideas and insights into issues are inescapable. That’s part of history and should keep being discussed. It reminds me of the similarities in today’s discussion of the Monroe Doctrine, which is always being criticized in traditional international law. But there seems to be a different description during the discussion today about the Monroe Doctrine. That makes me wonder what the point and value of thinking about the Monroe Doctrine in the present without otherwise “canceling the Monroe Doctrine.” The evolution of the Monroe Doctrine over time and space makes us scrutinize this term that is somewhat negative in international law, and was once associated with intervention, force, and spheres of influence. And what kind of inspiration will it bring to international law issues that we encounter today?

Back to the international trade law that Professor Xiuyan Fei mentioned in her presentation. She sees a resurgence of the Monroe Doctrine, particularly under Donald Trump, with its appeal to defend the United States’ interests, and the Monroe Doctrine discourse is resurgent in the United States’ trade law practice. However, as I read Professor Pizhao Che’s article *Counter-globalization or Reshaping Global Rules* (Journal of Political Science and Law, No.1, 2019). It seems difficult to get the full page of the United States trade law practices from a literal understanding of the Monroe Doctrine, or perhaps it is too superficial to do so. Professor Pizhao Che argues that the various international trade law practices under Donald Trump are not “counter-globalization” as some scholars hold. Rather, the United States is reshaping the rules of globalization through various methods. Underlying the counter-globalization is a different understanding of globalization. Is the Monroe Doctrine, as it is usually understood, too simple to deal with this issue? Different understandings of globalization also remind me of what Anthea Roberts said at the annual lecture Global Law and Strategy two days ago about “Six Faces of Globalization.” In the competing and overlapping globalizations, as Professor Xiuyan Fei put it, the United States

trade law practices in the “Post-WTO Period” work in a more multifaceted and variable way, and the Monroe Doctrine is perhaps only one of them.

After listening to Miss Kuangyi Luo’s presentation, I felt that it is the typical perspective of positivist international law. Miss Kuangyi Luo sorted out the Charter of the United Nations, the most important document in international law, and described the relationship between the regional order (international organizations) and the global order (the United Nations). Such perspectives overlooked in today’s conference. The official (Chinese) view has always placed great emphasis on respecting the UN-centered international order. The view of multilateralism and corresponding state practice have largely taken the perspective of Miss Kuangyi Luo. The problem, however, is that this view is actually at odds with the Monroe Doctrine. How does the Monroe Doctrine, as a spatial political arrangement, relate to non-interference, harmonization of the regional and global orders in the Charter of the United Nations? That might be worth thinking about.

Viewed from China’s perspective, it has always been officially stressed that China is a staunch supporter of the Charter of the United Nations and multilateralism, and has a full global imagination, including China’s emphasis on the construction of a “a community with a shared future for mankind.” However, the regional imagination is weaker. My question to Miss Kuangyi Luo is: Is it possible to explore more on China’s regional imagination and regional order? How can China’s regional imagination and global imagination be better integrated?

After listening to Miss Tong Zhang’s presentation, I think that, firstly, it may not have much to do with the regionalism that we are dealing with today, nor with the Monroe Doctrine. The Monroe Doctrine places more emphasis on spatial politics, whereas Miss Tong Zhang might want to emphasize the basic theory of international law, i.e., the role of international law as an independent or self-consistent theoretical system in international politics, except that Miss Tong Zhang uses the term “regionalism.” But Miss Tong Zhang’s presentation is closely related to the Monroe Doctrine’s syntax (“X is X for X people”). “International law is international law for international law scholars (or international people)”, which seems to be her emphasis. I feel that she wants to emphasize what solutions and unique perspectives international law can offer to today’s international order. She also talked about the importance of the formalism of international law for the modern international order. I think the issues that Miss Tong Zhang mentioned are actually very important. These issues continue to be discussed in Chinese academia of international law now.

Miss Yida Guo reflects on and criticizes the Monroe Doctrine. Linking to what I mentioned earlier about Canceling the Monroe Doctrine: since the Monroe Doctrine is controversial but a historical fact, why do we continue to discuss the Monroe Doctrine now and what are the inspirations it can bring to Chinese international law today?

There have been some new studies in Western international law, such as comparative international law, the historical turn in international law, or the discussion from liberal international law to authoritarian international law. All of these are discussed in the context of the “rise of China,” and this new research reflects the deep anxiety of Western scholars towards China and international law. Since huge geopolitical changes have challenged their previous global imaginaries and regional order arrangements, it takes time for them to understand and digest.

In contrast, in China, the academia of international law seems to be more optimistic.

Words always come up naturally, such as “a community with a shared future for mankind,” with an attempt to guide the global imaginary, and more and more scholars are trying to put up with a Chinese pattern or a Chinese framework to break the “Western centrism” in international law. A recent paper *Deep Dialectical Structure of Global Intellectual Property Governance Game: Chinses Paradigm Approach* on intellectual property published in the Chinese Journal of Law (in 2021) also makes this point. But the question is, will the imagery be too macro or lack in detail? In recent years, Chinese international law scholars have become increasingly adept at using academic sources such as Western-centrism, critical international law, international law, and international relations. But on the whole, this strategy is some kind of agitation. Behind these optimistic and macro statements, there remains the question of “what to do.” Western international law academia, on the other hand, although anxious - and still not free from their “preconceptions” of the world, cannot escape from the framework of Whig Historiography in international law history entirely. But their approach to the problem is worth learning from.

As we continue to discuss the Monroe Doctrine today, the most important thing is to face the problem and to work within the existing global imaginary. That includes how to identify the suspected resurgence of the Monroe Doctrine from others (as in Professor Xiuyan Fei’s presentation), to further consider the regional imaginary in a global perspective (as in Kuangyi Luo’s presentation), to insist on the unique value of international law for the global order (as in Tong Zhang’s presentation), and to inspire the future under the history of the Monroe Doctrine (as in Yida Guo’s presentation). All of these should start from the space in which we are located at this moment. Our imagination is not pie in the sky, but is grounded in the land beneath our feet. In Martti Koskenniemi’s new book, there’s an astonishing detail where he described the world in the Scholastic philosophers’ imagination of his time. They had never actually travelled, nor had a precise knowledge of the geography of the world, but it did not prevent them from imagining a regional order or a world order. People today are no longer stuck by regional or geographical barriers, but are they necessarily more imaginative than the philosophers who were “stuck in Salamanca?”

Thanks!

Unit 3: Regional Agreements and International Law¹

Moderator: Xu Qian (Hundred Talents Program Fellow, Guanghua Law School of Zhejiang University)

Wei Shen (Professor, KoGuan School of Law at Shanghai Jiaotong University)

Topic: Reflections on Multilateralism and Regionalism

Hello, everyone!

My topic today is “Reflections on Multilateralism and Regionalism”, but will focus more on minilateralism, so “Reflections on minilateralism and regionalism” might be a more reasonable title. There are many views on multilateralism and minilateralism. For example, “Multilateralism is the practice of coordinating national policies among three or more countries by means of special arrangements or institutions.” Also, “multilateralism with fewer parties is minilateralism”. There is a view that during the formation of the Bretton Woods System, the International Monetary Fund and the World Bank’s special majority voting mechanism itself is a kind of minilateralism. There are also views that minilateralism is highly effective and is a way for a small number of countries to solve a certain type of problems.

It is worth noting: minilateralism is not a concept of right or wrong, but a concept of efficiency.

Chinese scholars seem to be less agreeable with the concept of minilateralism, believing that multilateralism refers to real multilateralism. The minilateralism outside of multilateralism is a pseudo-multilateralism, a relatively fake multilateralism.

There are also views that, in addition to quantity, minilateralism is also *ad hoc* and issue-oriented; distinguishing multilateralism from minilateralism is not a simple calculation of quantity, but also includes the type of organizational relationship.

Furthermore, how does minilateralism differ from multilateralism? Mainly, the participating subjects are limited to specific regions and countries of the Commonwealth. Minilateralism is exclusive, elitism, procedural injustice, and self-serving.

Chris Brummer is one of the scholars who have recently systematically studied minilateralism in mainstream American law schools. He published a book titled “Minilateralism” by Cambridge University Press in 2014. He believes that the dominance of multilateral trade institutions has been broken, and minilateralism has exclusive characteristics; this exclusive characteristic has had a relatively large impact on the cooperation mechanism of multilateralism. He also hopes the United States will continue the path of minilateralism to promote a trade and investment agenda that will be eventually beneficial to the United States.

William T. Tow pointed out that minilateralism is becoming an increasingly prominent trend in geopolitics.

At least there is some overlap between multilateralism and regionalism. If they are two circles, they have intersections and differences. Accordingly, I make some distinctions.

¹ This Unit is translated by Qianhan Qian (East China University of Political Science and Law) and Xiaofu Li (Associate Editor of FLIA Review). The translation has been modified and confirmed by the speakers.

Today I focus on the operandi of the United States in the practice of minilateralism from the Donald Trump administration to the Joseph Biden administration. In fact, the Donald Trump administration is evidently promoting minilateralism. For example, the United States has withdrawn from some multilateral agreements, and at the same time, is leading and dominating new small-scale trade agreements, including the United States-Mexico-Canada Agreement (USMCA) and those between the United States and Japan, the United States and Singapore, the United States and Europe, the United States and South Korea.

The Joseph Biden administration does not follow the same approaches as the Donald Trump administration, but applies a new term “New Internationalism”, for example, the four member states of the Pacific Alliance, the Five Eyes, the three-nation mechanism of the United States, Australia and the United Kingdom. To a certain extent, these also belong to minilateralism, as a kind of small groupism, or pseudo-multilateralism criticized by Chinese scholars.

In my opinion, when criticizing the ideologicalization of international trade rules by the United States, Chinese scholars may view the minilateralism practice of the United States through an ideological lens or “moral glasses”. But whether multilateralism has 5, 6, or 164 members as the World Trade Organization, it does not matter whether it is “fake” or “true”, as the idea of minilateralism is to promote multilateralism that is beneficial to themselves.

What I will say next is the connotation and theoretical framework of US-orientated minilateralism.

There is an interesting issue in international economic law —the mathematical problem of “how many sides are appropriate” for international economic and trade agreements. From the concept itself, “few” and “small” themselves contain the meaning that the number of participating parties in the global multilateral system is reduced, narrowed, and limited, which itself is a dynamic change. It itself does not have a scientific and quantitative definition. For example, 2, 3, 4, and 5 are all theoretically possible.

The multilateralism that international law scholars talk about is actually a WTO-centered multilateralism. There is a problem with this multilateralism — the collective action dilemma, what is also called the efficiency of collective action. The core feature of minilateralism is to make up for efficiency problems or to solve this efficiency problem.

Therefore, Miles Kahler argues that the “majority” (involving multiple parties) is an insurmountable obstacle to collective activity, and this is a reality. For example, when it comes to advancing the Silk Road Economic Belt and the 21st-Century Maritime Silk Road, there is also a collective action dilemma: China is leading, and other countries are cooperating, but they are not promoting the initiative as hard as China. This is a clearer example of the collective action dilemma.

What are the main goals of minilateralism? One goal is to expand rules. Minilateralism is to establish some new rules in a small scope, but its purpose is to expand these rules, resulting in rule spillovers, which play a role in the extension of these rules. Organizations or other countries can also absorb such rules.

Another goal is to achieve national interests —be it multilateralism or globalization. In the process of promoting multilateralism or participating in multilateralism, the purpose of a country is to achieve national interests, such as promoting national development, improving people’s living standards, and promoting scientific and technological progress.

American minilateralism is not a new concept. The Barack Obama administration has actually advanced it. The Trans-Pacific Partnership Agreement (TPP) he promoted is a kind of minilateralism to a certain extent, but it has more “sides” than 3 or 4. It has 12 sides. And finally, the United States withdrew: in addition to former President Donald Trump’s distrust of the ruling outcomes of the Barack Obama administration, another reason is that the involvement of 12 countries seems “messy” — the scope is too large, the level of national economic development is uneven, and developing countries and underdeveloped countries cannot meet the needs of the United States.

The Barack Obama administration, the Bush administration, and much earlier, the Bill Clinton administration who promoted the North American Free Trade Agreement (NAFTA) all more or less reflect and practise an idea: putting the World Trade Organization aside first, not engaging in it, to push the smaller “circle”. These smaller circles are more important to the United States, such as NAFTA: Canada and Mexico are more important to the American market and American companies.

Now let’s analyze reasons for the emergence of the American minilateralism system.

Why did the Donald Trump administration accelerate a boost for minilateralism? There are two reasons. One aspect is a rethinking of the inherent crux of existing multilateralism — in particular, its inefficiency and inability to advance the US’s own trade and investment agenda. Therefore, when we reflect on the minilateralism of the United States, we must also reflect on multilateralism. The cost of promoting global multilateralism is very high, the efficiency of promotion is relatively low, and the results of promotion are not necessarily satisfactory. One of the advantages of promoting global multilateralism is that it can occupy the moral high ground: many people believe in global multilateralism, which is the establishment normative. Everyone thinks that global multilateralism is good and can generate consensus and achieve economic development. The unique crux and structural problem of multilateralism however is its inefficiency. There are too many members, complex issues, divergent interests, clumsy voting mechanisms, lack of enforcement mechanisms. As a result, there is little possibility of reaching consensus on pressing issues. This is also the reason why the World Trade Organization has not produced any new agreement in the true sense after the Doha Round.

Another aspect is that there is also a big gap in economic strength among the members, and their concerns regarding trade and economic interests are different. This has caused developing countries to refuse to support and participate in the rules of the United States and some issues dominated by the United States.

Dissatisfaction with inherent crux of multilateralism is an immediate reason for the United States to turn to minilateralism, such as the inability of the Doha Round to produce negotiated results, and the previous negotiations before the establishment of the General Agreement on Tariffs and Trade (GATT) — there have been only three rounds of negotiations in the past 15 years, no results have been achieved, and the Singapore agenda went nowhere.

The second point I would like to talk about is that the United States wants to maximize its interests in globalization or multilateralism.

Due to the rise of China, the United States believes that World Trade Organization rules are more conducive to China’s benefits in the World Trade Organization, rather than its own interests. In the final analysis, the United States still wants to benefit its own country in multilateralism or globalization. When Donald Trump spoke to the United Nations’

General Assembly during his presidency, he said, “I’m the president of the United States of America, so I’m going to serve America’s interests.” Such remarks in China are criticized as relatively paranoid and narrow-minded globalism.

The developing country status is considered as a big problem by the United States. For example, the positioning and definition of developing countries in the World Trade Organization rules are not clear. The United States believes that China (ab)uses its status as a developing country to absorb and erode some of the dividends and benefits brought about by the World Trade Organization rules.

The United States believes that the use and revision of the World Trade Organization rules allow China to enjoy a relatively long-term assurance, including a transition period and more moderate tariff reductions. Therefore, the United States believes that China is revisionism: the absolute value of profits gained by China in the World Trade Organization is far greater than the United States; although in relative terms, the United States also benefits, since the rules themselves are dominated and structured by the United States.

The problem concerning the state-owned enterprises is now one of the most important issues in contention and confrontation between China and the United States in some new international economic and trade agreements.

The three-zero plan is namely zero tariffs, zero barriers, and zero subsidies. Generally speaking, the United States hopes to promote the three-zero plan in the World Trade Organization, because the United States has reached the economic standard and economic level of three-zero, but China hasn’t. The United States is now encouraging the EU and Japan to follow up the three-zero plan.

Next is the reform of World Trade Organization rules. The tone of the US’s white paper on the World Trade Organization reform is very different from China’s. In general, China recognizes the validity and value orientation of the World Trade Organization rules. But the United States believes that the existing World Trade Organization rules can no longer allow the United States to continue to gain benefits.

What are the core features of American-pursued minilateralism? I think it includes three aspects. One is the efficient and rapid negotiation of agreements in the process of treaty negotiation and rule formation. The second is the exclusivity of the club form; the third aspect is the flexibility to adjust the agreement.

First, concerning the efficiency and speed of the relevant agreements, the USMCA and the US-Korea Free Trade Agreement were negotiated in about a year. This is indeed much more efficient compared to the World Trade Organization, which has not had any agreement in the past 15 years.

In addition to the efficiency improvement brought about by the reduction in the number of negotiators, the negotiation method of the United States applying extreme pressure and unilateral pressure is very “immediate”. The Donald Trump administration made it clear that it would impose punitive tariffs if not negotiating, and as a result, Mexico, Canada, South Korea, Japan, and others have all negotiated. It can be seen that the combination of political and legal means of negotiation has produced good results.

Second, the exclusivity of club forms. On the rules of origin, the three-zero plan, developing country status and treatment, on these issues, minilateral agreements have achieved new conditions demanded by the United States. In other words, from China’s standpoint, these new conditions put a lot of pressures on China. The exclusivity of the club form is also reflected in the “America First” policy considerations and the exclusion of the

interference of the World Trade Organization “consensus” voting.

Third, it’s about the flexibility of agreement adjustment. For example, if the agreement has a sunset clause, the United States and other parties have the right to re-examine and investigate whether the agreement is beneficial to both parties. If there is no benefit, the agreement can be modified. If the modification is still unprofitable, the agreement can be terminated, which is obviously different from other multilateral economic and trade agreements.

One of the main objectives for the United States to create a US-centered minilateralism system is to seize the initiative in formulating global economic and trade rules. The United States seeks to make significant progress in digital trade, dispute settlement mechanisms, and discriminatory provisions against non-market economy countries. The dispute settlement mechanism varies from country to country. For example, the dispute settlement mechanism of the USMCA is to treat the three countries differently.

The second objective is to effectively eliminate trade practices that the United States considers unfair.

The minilateralism economic and trade policy of President Biden’s administration is now taking on its own characteristic. For example, through the packaging of values, the policies adopted by the Democratic Party in international affairs after Wilsonianism are completely different from those adopted by the Republican Party with the banner of Conservatism. The Democratic Alliance or Club has always been a slogan or moral high ground that the Democratic Party is good at using. Another example is the structural flaws of the World Trade Organization — the diversification of issues and the differentiation of interests. The United States will still encounter obstacles from time to time in the implementation of its own trade agenda within the World Trade Organization. In the process of minilateralism promoted by the Joseph Biden administration, it can be seen that he is still using the previous agenda, but he is different from former President Donald Trump. The Donald Trump administration’s approach is to put America first, while the Joseph Biden administration emphasizes human rights, Democratic Alliance human rights and other values so their flags and packages are different with probably the same or similar means.

In summary, minilateralism is still a means of perpetuation and manipulation by the United States. China’s position is still relatively exclusive. In analyzing the effectiveness of international agreements or negotiation of international agreements from the perspective of scholars and from the perspective of law and economics, we can understand the reasons for the United States government’s preferred approach. Of course, from our own values and from the perspective of “a community with a shared future for mankind”, we may critique the United States’ narrow-minded and one-sided approach.

What matters most now is what kind of multilateralism China should pursue. If the goal is to advance multilateralism like the World Trade Organization (with in total 164 members), the cost is very high, and it may be left unfinished and fruitless. At the end of my statement is a question mark - what kind of multilateralism are we going to advance, or what kind of multilateralism that can deliver some positive results.

Thanks!

Xianbai Ji (Assistant Professor, School of International Studies of Renmin University)

of China)

Topic: RCEP, CPTPP and the Prospects for Economic Integration in the Asia-Pacific Region

Hello, everyone!

First of all, I would like to explain why I am going to talk about the “Asia Pacific” instead of the “Indo-Pacific”, a term which has been very popular in recent years and for many reasons. From the perspective of international politics, the term “Indo-Pacific” originated from a speech by the former Japanese Prime Minister Shinzo Abe in India in 2007. From the perspective of international relations the history of the term dates back 100 years. Its origin can be traced back to the strategic ideas of the geopolitical scientist Karl Haushofer during the Nazi regime in the 1920s (*Deutsche Kulturpolitik im indopazifischen Raum*, 1924). In 2007, Shinzo Abe’s speech was titled “Confluence of the Two Seas” — the union of two oceans, the Indian Ocean and the Pacific Ocean. He first put forward the concept of the “Indo-Pacific” during that time. Later in 2011, America’s Secretary of State Hillary Clinton endorsed the idea, making references to the “Indo-Pacific” in public appearances. During President Trump’s administration in 2017, the “Indo-Pacific” entered the United States’ geopolitical strategic narrative. It was officially called the “Free and Open Indo-Pacific” (FOIP). Now the Biden administration has inherited the concept of the “Indo-Pacific”.

However, there are many problems with the concept of “Indo-Pacific”. First, it is highly confrontational in rhetoric. Second, it is an highly ideology driven. The pivot countries of the Indo-Pacific strategy, such as the United States, Japan, India, and Australia are all so-called liberal democracies. Thus, the concept of the “Indo-Pacific” is actually drawing lines along this ideology, dividing and weakening the unity between the countries in the region. The regional consensus and regional identity formed by geography, blood relationship, historical origin and economic exchanges have all been weakened as a result. Thirdly, it involves strong extraterritorial factors. It’s not just the United States, Japan, India and Australia that have an Indo-Pacific strategy. Some countries in Europe, such as the United Kingdom, France, Germany, and the Netherlands, have launched their own Indo-Pacific strategies. Therefore, the concept of the “Indo-Pacific” is open-ended with significant weaknesses. That is, the policy aspect of the strategy is weak, and there is little practical meaning to implement this concept. Starting in 2017, the Indo-Pacific strategy has not had a real vehicle for cooperation, especially on the economic front.

By contrast, the concept of the “Asia Pacific” is often associated with regional integration, economic cooperation, taming confrontation with an emphasis on cooperation. The political ecologies, economic systems, and ideologies of countries on both sides of the Pacific Ocean are diverse. There is no ideological exclusivity, and relatively few extraterritorial interferences attached to the idea of the Asia Pacific. Regional countries have the final say on regional affairs. Even countries like India and Brazil are not included in the Asia-Pacific geographic category.

Therefore, the concept of the “Asia -Pacific” is more *regional* and more in line with the theme of this conference. Moreover, there are several signature regional economic cooperation structures in the Asia-Pacific region: the United States-Mexico-Canada Agreement (formerly known as the North American Free Trade Agreement) is located on the east coast of the Pacific Ocean, and Mercosur/Mercosul and the Pacific Alliance (“Alianza del Pacifico” in Latin) are located in Latin America. There are ASEAN Free

Trade Area and Regional Comprehensive Economic Partnership (RCEP) on the west coast of the Pacific Ocean. The Trans-Pacific Partnership (TPP) and now CPTPP are in the Pacific Rim, as is the Asia-Pacific Economic Cooperation (APEC).

Recently China has been commemorating the twentieth anniversary of its accession to the World Trade Organization. In fact, this year (2021) also marks the 30th anniversary of China's accession to APEC. Also, the predecessor of the CPTPP discussed today, the Trans-Pacific Strategic Economic Partnership Agreement (TPSEP), was announced and negotiated during the 2002 APEC summit.

From the perspective of regional economic cooperation and regional integration, we should all continue to use "Asia Pacific" instead of "Indo-Pacific".

Now let me briefly talk about the economic order of the region.

Obviously, RCEP and CPTPP are two platforms that can best reflect the history, status quo and potential development of the construction of the regional economic order in the Asia-Pacific region. Unlike the bilateral and multilateral free trade agreements that Professor Shen mentioned just now, RCEP and CPTPP are called mega regional arrangements. But there are many different translations and expressions in the Chinese literature - wide -area free trade agreements, giant free trade agreements, large free trade agreements, super large free trade agreements. These translations or expressions are all fine. But in order not to confuse everyone, I will use the expression "giant free trade agreement" today.

I think everyone is very familiar with the two agreements, RCEP and CPTPP, so I won't repeat them. Taking this opportunity today, I mainly want to talk about two issues that I think are quite controversial and need special clarification.

The first is the comparison between the standard of RCEP and the CPTPP. CPTPP is referred to as the "gold standard" of free trade agreements in the 21st century, and becomes the perfect template for a new generation of FTAs. This characterization itself is both right and wrong, and is debatable. On the one hand, the TPP or CPTPP is undoubtedly the leader in post-World War II regional free trade agreements considering the breadth of issues covered, the strength of implementation, and the ability to resolve disputes. The tariff reduction and exemptions are very strong, the transition time is very short, and many non-tariff trade barriers are defined and regulated very precisely, with a very high degree of legalization and strong binding force. These are all objective facts. However, to a certain extent, the standards of the CPTPP are not the highest. The renegotiated USMCA has higher standards than the CPTPP in certain provisions, such as labor rights protection. The trade agreement signed by Japan and the United States also has higher standards than the CPTPP in terms of digital economy and e-commerce provisions. Therefore, when considering whether the CPTPP is a high-standard agreement, the answer is yes and no, depending on the set judging criteria.

Secondly, is the RCEP a high standard protocol? It is wrong and unfair if the standard of the CPTPP is used to judge the quality of the RCEP or other FTAs. Indeed, the vast majority of FTAs would be considered low standard if the CPTPP is the threshold. The comparison does not make much sense: the RCEP is not a "low standard" in absolute terms, but a "lower standard" relative to the CPTPP. For a long time the experience and path of the European integration project has been regarded as the yardstick for evaluating the degree and quality of another region's integration. The EU considered itself to be the best model for regionalism. However, now the EU itself has many problems: Brexit, the

European debt crisis, refugee crisis, Ukraine crisis, among others. In other parts of the world, the development of the ASEAN (covering Southeast Asia), the Pacific Alliance in Latin America, and the African Continental Free Trade Agreement (AFCFTA) in Africa have also been quite impressive. None of them followed the EU integration path and Brussels in an exact sense. As such, are these institutional arrangements for regional integration of low standards just because they do not follow the EU's way of regional integration? Obviously, the answer is no. Similarly, we should not consider RCEP a low standard regional free trade agreement just because it is different from the CPTPP.

RCEP is a de facto, comprehensive, modern, high-quality, and mutually beneficial regional free trade arrangement, and a triumph of China's economic diplomacy. Together, RECP and the Belt and Road Initiative are two important levers for China to build a regional economic order that is beneficial to itself. In the medium to long term, the China-led RCEP and the Japan-led CPTPP will co-exist in the Asia-Pacific region. China may consider subsuming the CPTPP by RCEP, so that it can play a leadership or a more advantageous position in Asia-Pacific regionalism.

Thanks!

Bin Liu (Associate Professor, School of International Law of Southwest University of Political Science & Law)

Topic: Regionalism in International Economic & Trade Cooperation and China's Position

Hello, everyone!

First, I would like to talk about the research on regionalism, which is the common research object of many disciplines such as international relations, international economics, international law and even world history. There are two types of classic research topics in this regard, the first is the relationship between regionalism and the direction of the world order. The second is country-specific research on regionalism, that is, what kind of toolbox-meanings regionalism has for a specific country.

Compared with the rich theoretical description of regionalism in the discipline of international relations, it is difficult to say that the discipline of international law has any relevant theories. Professor Chongli Xu of Xiamen University has described that the discipline of international law is actually in a state of theoretical poverty.

Summarizing the research on free trade agreements from both Chinese and foreign jurisprudential circles in the past 30 years, two major shifts can be found. The first one is, from arguing to strengthen the WTO's constraints on FTAs, and to strengthen the discipline of the WTO in this area (for example, Article 24 of the General Agreement on Tariffs and Trade (GATT), Article 5 of the General Agreement on Trade in Services (GATS)), to now properly characterize the status and function of FTAs. Advocating to enhance the WTO constraints was mostly discussed over ten to twenty years ago, or when China joined the WTO, i.e., the very beginning of this century. Time has changed, and now, few scholars talk about how to strengthen WTO-related disciplines and how to strengthen the constraints on FTAs —People are starting to face up to the status of FTAs. This is a topic in the category of the relationship between regionalism and the direction of the world order.

The second turn is to focus on the rule-setting of FTAs instead of its economic & trade interests. That is to say, legal scholars came to realize that paying attention to the economic

& trade interests of FTAs is not what the legal profession is good at, but is what economists are better at. Legal scholars are better at studying the rule-setting of FTAs and not only the impact of FTA rule-setting on the reconstruction of global economic & trade rules, but also whether the FTA rule-setting is beneficial to a specific country. This shift belongs not only to the category of the relationship between regionalism and the world order, but also to the category of country-specific studies of regionalism.

Considering this, it may be possible to produce certain legal theories in the country-specific research on regionalism, that is, the duality of functions of regional trade agreements: on the one hand, regional trade agreements promote economic & trade interests, and on the other hand, they also promote the construction of rules. From the perspective of international law-making, for major countries, regional trade agreements that only promote economic & trade interests but do not reflect their own propositions on rule-setting are hardly successful.

Next, the theme of my speech is “Regionalism as a Mode of Economic & Trade Governance and Contemporary China”. Imitating the division of stages of China’s bilateral investment treaties by scholars of international investment law, I divide the free trade agreements concluded by China after its accession to the WTO into four stages. The first stage is from 2002 to 2012. These 10 years are the initial stage of China’s free trade area strategy. Most of the partners are developing countries and small & medium-sized countries, such as the 10 ASEAN countries, Pakistan, New Zealand, Chile, Peru, Costa Rica. Relatively speaking, the rule standards of the agreements were low. Ten years after the China-ASEAN Free Trade Agreement came into effect, China’s then-Minister of Commerce once commented, “From today’s point of view, the rule standards are relatively low.” In other words, the official evaluation is the same.

In the second stage, from 2013 to 2015, there were more developed economies as treaty partners, mainly Iceland, Switzerland, South Korea, and Australia. Especially in the free trade agreements with the latter three, the rule standards accepted by China have been significantly improved.

The third stage is from 2016 to 2019. China seems to have stepped back a bit during this period. The partners of newly concluded agreements are still mainly developing countries and small & medium-sized countries, such as Georgia, Maldives, Mauritius, and Cambodia. Rule standards have also been somewhat rolled back. Some chapters, which China has always insisted on before, are missing in some agreements. For example, in the China-Cambodia Free Trade Agreement, there is no intellectual property chapter. At this stage, some old agreements such as the China-Singapore Free Trade Agreement, the China-ASEAN Free Trade Agreement, have been upgraded to include chapters on customs procedures and trade facilitation, e-commerce, competition policy, and trade & environment.

The fourth stage is from 2020 up to date. Partners in this stage tend to be multi-typed. China has begun to embrace mega-FTAs like the Regional Comprehensive Economic Partnership Agreement (RECP) as well as the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), and the standards of rules continue to rise. China’s official application to join the CPTPP implies that China’s free trade agreements will gradually move towards advanced standards of the world.

Judging from the Chinese official formulations, the “14th Five-Year Plan for National Economic and Social Development and the Vision for 2035” proposes a “promotion

strategy of free trade areas”. Compared with the past, the word “promotion” has been added, which is the need to build a higher-level open economic system. The consequent reflection is, how to achieve that “promotion”? This is an internal formulation. The external formulation is to “uphold real multilateralism”, which is obviously a response to the “rule-containing on China” by the West. At the same time, a question arises: if Western countries refuse to budge in a series of multilateral platforms, what will China do?

As regards the strategic considerations for contemporary China, this is a pure academic discussion and does not represent any official positions, no more than my thinking from an academic point of view, which can be discussed and even criticized. First, China’s participation in international economic & trade governance cannot avoid the realistic choice of sides, that is, how to choose between multilateralism, regionalism and bilateralism when faced with different affairs. There are other formulations, such as “minilateralism” (international relations scholar Su Changhe translated “minilateralism” in the book edited by John Ruggie into “少边主义”, which I prefer. Although “少边主义” is not quite in line with the Chinese expression habits, it is the most accurate in terms of ideographic function in my eyes). Second, when it comes to the promotion strategy of free trade areas of contemporary China, three pairs of relationships need to be dealt with: The first pair, in terms of the inherent idea, is the competition downward *vs.* competition upward. The second pair, in terms of the functional focus, is economic & trade interests *vs.* rule-setting. The third pair, in terms of negotiation channels, is “mini-multilateral” negotiation *vs.* “one-to-one” negotiation.

The first pair of relationships is inherent ideas. Competition downward concerns the traditional efforts to provide more tariff concessions and to open more sectors. “You have opened up a lot, and I should be more open than you.” “Since other countries have signed an agreement, I should also sign a new one.” This leads to a domino effect. In the past, the reason why people discussed strengthening the WTO’s discipline on FTAs was, there were too many FTAs like dominoes, which makes everyone panic, and feel that the multilateral order was shaken. This kind of competition is the traditional competition downward, which serves a pure economic & trade idea. The emerging competition upward is mainly reflected in the improvement of rule standards and the upgrading of a series of inherent concepts. Of course, there is “fueling the flames” of developed economies in it, but we also need to pay attention to the changes in domestic academic trends in recent years. Whether it is in the field of law or economics, there are some famous scholars who have changed their evaluation and formulation of Western-led international economic & trade rules (such as TPP) compared to the past, and began to affirm that these Western-led rules have something worthy of recognition. This is a shift that has taken place in China’s domestic academia in recent years.

Is the path of China in the new era a competition downward or upward? At present, China’s identities and interests are multiplied, and answers cannot be given easily. We need to get rid of pure competition downward, but should not be paranoid about any ends, or believe that going out of competition downward is certainly followed with choosing competition upward. We should “focus on ourselves”, and be pragmatic and flexible. We should advocate the Chinese Paradigm, but not the Chinese Model. Model is rigid, while Paradigm is a relatively flexible concept.

The second pair of relationships focuses on the function. Should China’s promotion strategy of free trade area in the new era focus on economic & trade interests or on the

setting of rules? China's promotion strategy of free trade area needs to achieve "two wings flapping", not only the market opening, but also the setting of rules, so that it can be stable and far-reaching. The free trade agreements of the US have pursued both wings since the NAFTA, while the agreements of China have always emphasized the former and ignored the latter. In the setting of rules, we should not only emphasize China's individual interests, but also combine China's individual interests with the public interests of the international community.

The third pair of relationships concerns the channel of negotiation. How does China handle the relation between "mini-multilateral"¹ and "one-to-one" negotiation? To my point of view, though China must pay attention to "mini-multilateral" in the new era, it should also attach importance to "one-to-one" negotiation, but China's "one-to-one" is different from the Trump administration's approach.

The motive for "one-to-one" bilateral FTA negotiations is based on the realist international relations theory. China in the new era does have relatively strong hard power, and the advantage of "one-to-one" negotiation is China's voice of rule-setting. Meanwhile, bilateral negotiations keep a relatively low-profile so as to avoid the Western perception of so-called "China-led" image, which is difficult to achieve in "mini-multilateral" negotiations. In terms of negotiating partners, it is relatively easy for China to realize its own rule-setting target when facing small & medium-sized countries along the "Belt and Road".

When multilateral negotiation is stagnant, the "one-to-one" bilateral FTA negotiation should be used rationally to achieve three goals. First, try to change the permanent adverse provisions in the Protocol on China's Accession to the WTO. Second, try to transmit China's claims that could not be adopted in the Doha round negotiation into free trade agreements. Third, try to dissolve those unreasonable or unfavorable rulings against China in the WTO and international investment arbitration during the past 20 years. As long as it is to oppose the unjust and unreasonable rules stubbornly maintained by the West, as long as the negotiation results are based on the voluntary consensus of both parties, and as long as China's individual interests are put forward while taking into account the public interests of the international community, to raise China's rule-setting claims in free trade agreements is by no means power politics.

To sum up, the forum shifting strategy is not a patent of developed economies. Emerging powers can also reasonably use this strategy. Doing so is not contradictory to "upholding real multilateralism". On the contrary, it will help emerging powers to enrich the toolbox for advancing the new international economic order and building "a community with a shared future for mankind".

Thanks!

Luyao Che (Associate Professor, School of International Law of China University of

¹ Bin Liu: This phrase means "小多边" (which means "multilateralism with small numbers") in Chinese. It is noteworthy that Professor Shen Wei of Shanghai Jiaotong University prefers to translate "minilateralism" into "小多边" and use these two interchangeably. However, in my opinion, "minilateralism" was in fact used in a flexible and relative sense as the antonym of "multilateralism" in Miles Kahler's classic article "multilateralism with small and large numbers". For instance, CPTPP is multilateral when compared to NAFTA or USMCA, but minilateral when compared to the WTO. Therefore, I do not agree to translate "minilateralism" into "小多边" or equate them. Instead, I prefer to translate "小多边" into "mini-multilateralism" as noun or "mini-multilateral" as adjective.

Political Science and Law)

Topic: CPTPP SOE Rules and the Competitive Neutrality Principle: Original Conception, Extension, or Deviation?

Hello, everyone!

Compared to the studies by the other three professors, my research is rather microscopic, for it focuses on specific rules on state-owned enterprises (SOEs). To begin with, it should be clarified that I did not base on the unilateral, regional and multilateral relationships to undertake my study. Instead, I noticed a very interesting phenomenon when proceeding with my research: rules in a similar nature can lead to varying qualities within unilateral (country or region), regional (a “small circle” composed of several countries or regions with a relatively close-ended geographical scope) or multilateral circle. The essence of the differences lies in the institutional foundation of different countries concerned, the consensus of a “small circle”, and the difference in the degree of multilateral consensus.

During my speech, I will take the norms disciplining SOEs under international law as an example to discuss the proposition: the same rules may have quality distinctions in different systems and different platforms.

First, please allow me to give a little background to my research, and then I will discuss SOE rules and a well-known, now taken as it should be, principle — competitive neutrality.

The CPTPP is a representative of high-level liberalization and the standardization of normalizing domestic regulation among the existing regional trade agreements. The CPTPP formulates the following requirements for SOEs: First, the CPTPP defines which entities should be scrutinized according to the rules in the CPTPP. Second, SOEs must comply with the rules of commercial considerations when conducting business activities. In addition, SOEs cannot become a tool for the government to discriminate against domestic and foreign investors, importers and exporters. Third, SOEs can favor certain enterprises because of their own behaviors or implicit subsidy relationships with these enterprises, as well as that the government may also favor SOEs, both SOEs and the government should not undertake non-commercial assistance that may potentially do harm to their foreign counterparts. Fourth, based on the recognition that the transparency of SOEs is insufficient, the CPTPP requires more information disclosure relevant to SOEs.

These rules are set out for the SOEs by the CPTPP. I agree with what Professor Bin Liu mentioned just now that a model is not the same as a paradigm. Although the SOE provisions in both the CPTPP, the USMCA, and some regional agreements are all formed under the leadership of the United States, these rules possess differences to a certain degree, they have clearly formed a paradigm in the sense the panel addressed previously. The United States uses similar texts to express the same value orientation. Although the texts of specific rules that embody the value may vary, they consistently underpin the similar relationship between rights and obligations. This is why it can be argued that a paradigm exists.

The general view in China is that SOE rules led and designed by the United States are very strict to China, with little flexibility and policy space. In this context, we should explore the difficulty of Chinese SOEs complying with the CPTPP rule. At the same time, we often associate these SOE rules to the principle that has been introduced into China in recent years and is considered to be a principle that has gained international consensus to

some extent — competitive neutrality. Although the international rules of SOEs (the international rules represented by the CPTPP) seem too strict, if they help reform Chinese SOEs and establish competitive neutrality, they will have a positive effect, and there will be a so-called push for China to proceed with its economic reform. Why not do it? Guided by this idea, some people congenitally equate the aforementioned SOE rules with the principle of competitive neutrality. As its name suggests, the principle of competitive neutrality shows a clear positive correlation with the SOE rules.

First, both the SOE rules and the competitive neutrality principle focus on SOEs and the relationship between the government and SOEs. Second, they both aim to prevent SOEs from gaining from the government the competitive advantage that is available through non-commercial channels. Third, in terms of the target, it is necessary to clarify that competitive neutrality is not of a nature of competition rule but trade law, and is similar to the SOE rules in the regional trade agreements in this sense. The principle of competitive neutrality directly prevents certain behaviors of the government, rather than a certain effect on the market. In other words, the aim of such rules is to ensure that some individuals or some industries will not have a competitive disadvantage resulting from the behavior of the government. The principle of competitive neutrality is to remove the competitive disadvantage that the government creates artificially rather than to remove the factors that limit the competitive state. The rules are not designed to remove the derogatory competitive mechanism that makes it impossible to function.

The above similarity between the SOE rules and the competitive neutrality principle may show the consistency between the two. However, the existing SOE rules should be categorically regarded as the embodiment of the principle of competitive neutrality. In order to further elaborate, three questions need to be explained or answered. Competitive neutrality actually requires the state and the government that represents it not to favor enterprises of specific ownership in competition, mainly not to favor SOEs. However, the principle of competitive neutrality does not answer three questions listed as follows: First, what is the standard for an entity to qualify an SOE; second, how to determine whether the state grants unfair aid to an SOE in the market competition; and third, how to prove the existence of unfair aid.

Why do these three issues require no further explanation in domestic law? This is because each country will define what an SOE is, or a country has fewer SOEs so that a definition is not needed, or the characteristics of SOEs are obvious enough that requires no further definition. In the definition of an unfair (or biased) practice, since the state regulates SOEs for its own sake, the state does not need to specifically define its practice, or otherwise, the domestic law itself has standards to define it. On the question of how to demonstrate practices, it is clear that the duty of transparency is not directed against (any) member of the international community but against its own nationals. Therefore, when the above problems exist in a country's domestic legal system, there is no need for a unified answer for the three questions identified above, and there is no need to have best practices. Rather, some guidance telling (each) country's recommended practices is enough.

If these rules are transplanted from a domestic regime to an international forum, or even a mandatory and binding international treaty/rule, these three questions can no longer be ignored and must be supplemented with further details. For this purpose, it is necessary for scholars to disassemble the SOE rules in detail and analyze which semantic elements supplement the above three questions that the principle of competitive neutrality does not

answer.

Since some regional rules are formed among countries with heterogeneous political and economic systems and inter-complementary cooperative relations, the answers to the above three questions may be easily reached. If the same questions are raised to the multilateral level, there might be no agreement on these issues. This is the key point of my argument: when a domestic rule becomes a regional rule or a multilateral one, there will inevitably be some loopholes or some blanks. These gaps need to be filled. It cannot be taken for granted that if a rule works well domestically, it will also work well regionally and internationally.

The purpose of my research is to try to clarify the proper meaning of the principle of competition neutrality, then to classify the international rules of SOEs according to their nature, as well as to demonstrate that some SOE rules are indeed the embodiment of the principle of competition neutrality, which is the original meaning. However, other rules are actually extended arrangements to adapt to multilateral and regional arrangements, because domestic rules cannot be directly used at a regional or multilateral level. Finally, if a rule becomes regional, it may even deviate from its original meaning in a domestic context. If it is in a small group of countries with a relatively strong leading member to dominate, it can use the moral high ground of the rules to hide some factors that the leading members hope to bring more benefits to themselves.

The principle of competitive neutrality has two basic requirements. On the one hand, if the state is to compete, the government must assign a function, which is the capital contributor of SOEs. This function as a capital contributor needs to be separated from other functions of the state. Therefore, the government as a capital contributor needs to be isolated from the administration of SOEs. Accordingly, SOEs need to be independent from the sphere of the government, which is also addressed as the public sphere. On the other hand, as the main body of the supervising power of the market, the government needs to maintain its neutrality between SOEs and private enterprises, or enterprises of different ownership. Accordingly, the two requirements under the principle of competitive neutrality can be rephrased as follows: one is that SOEs obtain full independence, and the other is that the government should not provide special competitive advantages to SOEs.

The so-called “pillar principles” of competitive neutrality established by the Organization for Economic Co-operation and Development (OECD) are recommended practices at the level of domestic law, reflecting the above two points. Time constrained, further contents will not be discussed here.

However, when SOE rules are converted from domestic rules to international rules, at least three additional provisions are required: the first is to define the rules and clarify what a state-owned enterprise is; the second is to formulate the rules on how to judge the government’s bias for SOEs; and the third one is to set out an information acquisition rule that measures how bias is identified. These are exactly corresponding to the three questions mentioned previously. If these three issues are affected significantly by some dominant regional members, they will be transformed into three new issues: attribution regulation, presumption regulation, and inversion of the burden of proof. These three rules can also answer the three questions not answered by the principle of competitive neutrality in domestic law. But they may be “stale”, and the result of the sourness is that the pillar of the principle of competitive neutrality may absorb the presupposition of enterprise independence.

First, which international rules of SOEs reflect the original meaning of the principle of competitive neutrality? The non-commercial assistance rules hold that the government should not grant advantages to some enterprises and SOEs with specific ownerships, and bring adverse effects to other members. In addition, institutions should not give SOEs privileges and favors in the process of legislation and law enforcement. These are indeed the original meanings of the principle of competitive neutrality. However, given that each country has different requirements for the status of market players, it has no choice but to avoid the independence requirements and turn independence into commerciality. It is assumed that an enterprise satisfies the standard of business considerations, which is similar to that of an independent market entity and thereby satisfies commerciality.

Second, which rules are extensions of the principle of competitive neutrality? The first rule is the definition rule, as it stipulates what enterprises are SOEs. The second rule is the rule setting out the criteria for judging the bias of the government favoring SOEs. Article 17.1 of the CPTPP on both the definition of aid and the definition of commercial considerations sets out the rules of determining the bias rather vaguely. Article 17.1 is significantly more ambiguous than the recommended domestic practices, bringing great ambiguity and discretion to the implementation of relevant provisions in the region. In addition, there are rules for obtaining information. For example, Article 17.10 of the CPTPP specifies the circumstances under which SOEs need to disclose information. However, this clause is also out of the original meaning of the principle of competitive neutrality. Because the transparency obligation required by the traditional competitive neutrality principle is similar to the obligation owed to the shareholders of listed companies. Governments and individuals in other countries are not equal to the shareholders of listed companies. Rather, they are only stakeholders. Therefore, Article 17.10 has actually expanded the traditional rules of access to information.

Third, deviation means that a rule is not an inherent requirement of the principle of competitive neutrality, nor is it an auxiliary rule that needs to be implemented to achieve the principle of competitive neutrality. These rules are actually deviations from the original principle of competitive neutrality, but they are subtly mixed into the two types of rules of application and extension, which are not easy to detect. For example, the determination rule becomes the attribution rule. When some enterprises have state-owned or national factors, they are considered to be no longer independent. Essentially these rules conflict with SOE independence requirements.

For another example, the determination rules become assumption rules. This effectively relies on private rules to infer the SOE's appropriateness. For instance, it is necessary to judge whether the same private entity can do this. Why does this rule deviate from the independence requirement? Because the essence of the independence requirement is to assume that if SOEs are independent, they are eligible to wear a "corporate veil". In this case, it cannot be assumed that there is a distinction between SOEs and private entities.

Finally, from the information disclosure rule to the inversion rule of the burden of proof. Traditionally, SOEs have an obligation to disclose some information. Now, if SOEs have no obligation but the disclosure is not sufficient, will there be direct adverse consequences? If the answer is yes, this adverse consequence itself would mean a further erosion of the independence of SOEs.

It can be seen that the principle of competitive neutrality is not comprehensive or close-ended — there are gaps in extending from domestic rules to international rules. This

results in a phenomenon that when domestic rules become regional and multilateral rules, they must be expanded, and the shadow of deviation is implied in the expansion. When China applies to join the CPTPP, we should be cautious about the deviation in the name of expansion.

Thank you!

Commentator: Wenliang Zhang (Associate Professor, Renmin University of China Law School)

Hello, everyone!

In fact, the theme of this panel is the relationship between regionalism and multilateralism, or the concept mentioned by Professor Shen — “Minilateralism”, or “Megaregional Free Trade Agreement” mentioned by Professor Xianbai Ji. These are objective phenomena. Every country in the world walks with “two legs”, either multilateral, bilateral or unilateral. There are reasons and justifications for the existence of objective phenomena. Speakers of this panel made explanations from different angles. The first three speakers have conducted very convincing research from a macro perspective. I very much agree with Professor Bin Liu’s statement that domestic research is currently at a preliminary and deficient stage. In fact, several other speakers have also permeated this point of view. Professor Luyao Che demonstrated the legal system from a specific point. I particularly agree with his statement that the same rule may vary greatly in quality and character when it comes to different contexts and circles, whether it is multilateral, regional, or unilateral. Such expression is very suitable for the current holistic environment home and abroad.

Specifically, Professor Shen explained the minilateralism against the whole background, which I very much agree with and benefit from it a lot. Professor Shen pointed out the main point of the problem, that it could not be more straightforward and simpler, that is, the leading issue involved is a country’s interests. Whether it is unilateral, multilateral, regional, or minilateral, national interests are an eternal theme. If the rules of a region are said to be beneficial, why don’t we adopt it? Are we doing it for the benefit of “World Harmony”? I think this is a more realistic question. Wei Shen made a detailed analysis of the historical background and motivation of minilateralism in the United States. In fact, we can also see that the United States is making continuous adjustments, which has always been a manifestation of the priority of American interests. Professor Shen also pointed out that some core features and main demands of minilateralism are actually reflected in the core interests of countries. In the historical evolution of minilateralism in the United States, for example, the policy means Bidens administration and President Trump’s administration, as Professor Shen said, are different but with the same goal. American minilateralism reflects the priority of the United States interests, and there are certain exclusivity factors, especially for some multilateralism practices, including the exclusion of mega regional trade agreements such as the CPTPP, which also reflects this basic idea.

Professor Xianbai Ji distinguished between the two concepts of the “Indo-Pacific” and “Asia Pacific”. How to understand regional economic cooperation with more appropriate concepts and categories is a noteworthy issue in legal research. Professor Xianbai Ji started from the comparison of the two regional agreements, RCEP and CPTPP, and especially mentioned the issue of standards. In fact, high or low standards are a relative set of concepts. High standards for others may be low standards for “you”. For a regional trade agreement,

such as RCEP, its standard may be high, but in other systems it may be low, which is completely relative. But there is a constant point, which is the maximization of national and regional interests. The level of the standard is relative, and the interest is the “real thing”. Therefore, I very much agree with Professor Xianbai Ji’s distinction.

Professor Xianbai Ji expounded a lot on China’s participation in CPTPP, which I find very interesting. He also explained the timing and major events before and after China proposed to join the CPTPP on September 16, 2021. Will China succeed in joining such a regional trade agreement? According to Professor Xianbai Ji’s point of view, “There cannot be two swords in one sheath”. My opinion is roughly the same. However, I think, as Professor Xianbai Ji explained about strategic considerations, China’s rules may differ from the CPTPP in many aspects. Although China may not be accepted to the CPTPP or successfully join it, proposing a position is also a matter of concern.

Professor Bin Liu presented us part of his research, especially the discussion of “the duality of regional trade functions”, and also elaborated on the four stages of regional trade agreements after China’s accession to the World Trade Organization. I think it is very enlightening.

States are constantly changing in the international trade arena and international exchanges, which reflects a fundamental point — the overall strength of the country. “Etiquette is acquired only when granaries are full.” A strong country inevitably seeks more interests. In this case, China has gradually become a dominant player from passive acceptance of international rules. What path to take in the dominant process — whether it is a regional trade agreement or continuing to advance the multilateral trading system — is another issue. It seems that China also walks with “multiple legs”, but the main line may need further observation. I’m looking forward to more research results from scholars.

Although Professor Luyao Che’s speech is different from previous speakers, they both analyzed some rule systems and positioning issues in unilateral, regional or overall trade systems. I mentioned the basic premise of Professor Luyao Che’s speech — the same rules have different qualities in different contexts. Combining with the high-level standards that CPTPP represents amongst regional trade agreements, CPTPP has put forward special requirements for state-owned enterprises. Because state-owned enterprises are very special participants, Professor Luyao Che analyzed the special rule system for state-owned enterprises, and elaborated on the principle of competitive neutrality, which I think is very profound.

To briefly summarize my reflection on these speakers’ talks, what is the relationship between regionalism, mega regionalism, multilateralism, or the minilateralism mentioned by Professor Shen? There is definitely tension between them. However, if the tension is deliberately emphasized, it is actually kind of a departure from the current order: according to my own understanding, minilateralism and regionalism are very popular now. Therefore, in addition to the competitive relationship, whether there is a mutually beneficial and enhancing relationship between these doctrines is an issue that needs further consideration. For example, in the field of international jurisdictional cooperation, there are many regional relations, and multilateral relations have been promoted; multilateral arrangements and conventions have also been transformed into regional conventions. Whether the perspective of mutual benefit can become the perspective of future exploration serves as a model for each other and helps realize the value of various economic and trade arrangements.

I very much agree with what the speakers mentioned that interest is the eternal baton.

If the regional agreement is conducive to a country and can maximize benefits, why not regionalism? If multilateralism is the most beneficial, why not promote multilateralism? Verbal criticism is of course possible, but I think from the perspective of legitimacy, a country's pursuit of maximizing interests is understandable. Pursuing the best interests of each country can help the overall interests of the international community at the same time, and that will be a more noble goal.

I have also noticed the President of the People's Republic of China Jinping Xi's speech at the United Nations General Assembly, where he proposed to use international law as the basis, with a special emphasis on the multilateral order. Such a formulation, I think, is China's overall strategy, and it is also an issue that Chinese scholars of international law need to pay special attention to. Based on this conclusion, it is worth reflecting on how we interpret this issue from the perspective of regionalism, minilateralism, unilateralism, and multilateralism.

Thanks!

Commentator: Yang Liu (Assistant Professor, Renmin University of China Law School)

If this group of speeches are combined with the entire meeting today, there will be a big question: If we are only discussing regional agreements in the economic field, how do we define which level of order it belongs to? Is it a mere arrangement previously based on the free market? The nature of regional agreement may have changed. Especially since 2018, there has been a trend of pan-securitization in specific terms. The scope and target selection of regional agreements, such as minilateralism, will be dominated by ideology rather than market orientation. Against this backdrop, other logics appear in the regional order arrangement, which lead to a need for revision on some previous thinking about regional agreements and economic regional agreements, because the premise has changed.

Another very important question concerns the relationship between region and the world proposed by Professor Wenliang Zhang. Is it tense, stimulative or mutually beneficial? Professor Wenliang Zhang invoked the expression "Cut the Gordian Knot", which I completely agree with from the perspective of interests. Furthermore, with regard to the regional and global order choices China is currently facing, "which move should it play first"? What options are possible? Which possibilities no longer exist?

When regional order, regional arrangement and global arrangement tend to be consistent, the leader of the global order and arrangement may also be the leader of that regional arrangement. We can observe from the relationship between NAFTA and the WTO that the WTO also tends to recognize the different provisions of NAFTA at that time. However, if this relationship is reversed when China dominates a certain regional agreement or China mainly participates in a certain regional agreement, will the relationship between regional agreements and other specific global agreements, or the relationship between certain global orders still be harmonious? Will there be very tense relationships over the handling of key issues? This needs rethinking.

For example, Professor Luyao Che talked about SOE-related issues in a very detailed manner. If the WTO rules are used to examine the SOE rules in the CPTPP, we will find some problems. The premise of this analysis is that some problems will arise if there is no inclusive rule setting for the overall multilateral order and the CPTPP rules. Therefore, the very specific and demanding detailed legal analysis behind this series of phenomena

requires a foundation — the relationship between regional order and the larger global order.
Thanks!

Commentator: Xu Qian (Hundred Talents Program Fellow, Guanghua Law School of Zhejiang University)

Due to the time limit, I would like to briefly address two points.

The first point is the relationship and interaction between multilateralism and minilateralism, which was mentioned by Professor Shen. Professor Luyao Che further discussed the issue of State-Owned Enterprises (SOEs) in that context and it should be noted that SOEs may face different opportunities and challenges in different circumstances and forums.

The second point is the frozen China-EU Comprehensive Agreement on Investment (CAI). If one compares it with CPTPP and RCEP, he/she may notice that, China is actually acting as a developed country rather than a developing country during the negotiations. Despite the fact that EU-China CAI is now entering the most political part of the process, such a deal represents a high-level agreement that matches international high-level economic and trade rules concluded by China.

In fact, there have been many discussions on SOEs under the world trade system, such as Article XVII of the GATT, which requires a member's trading enterprises to act in accordance with two principles: (1) the non-discriminatory treatment, and (2) commercial considerations. After 20 years of China's accession to the World Trade Organization, it is essential to have a closer examination on the impact of this Article on the behaviors of SOEs. From a strategic trade perspective, it is worthy to explore the rule-based regulations on the behaviors of SOEs in broader economic and geopolitical considerations.

Unit 4: Empire and Regional Order¹

Moderator: Tao Zan (Tenured Associate Professor, Department of History of Peking University; Deputy Dean of the Institute of Area Studies of Peking University)

Kankan Xie (Assistant Professor, School of Foreign Languages, Peking University)

Topic: Symptoms of Imperial Paranoia: Colonial Policing, Imprisonment and Exile from a Southeast Asian Perspective

Ladies and gentlemen!

The topic I am presenting today seems relevant to law and jurisprudence. However, what I want to discuss is more related to approaching historical issues from a regional perspective and how research concerning the colonial period can help deepen our understanding of regional orders in the contemporary era.

I have introduced two books to my graduate students this semester. The first is Alfred McCoy's *Policing America's Empire*, which focuses on how the United States developed its surveillance technology during its colonization of the Philippines. The United States was less experienced in colonial governance than its European counterparts. Nevertheless, the United States treated the Philippines as a crucial experimental field of colonization and made many attempts to improve its surveillance capacities. Later, the United States adopted such experiments, including surveillance technologies and the so-called "peacekeeping" measures, in both the homeland and overseas after World War II. The second book is *Along the Archival Grain* by American anthropologist Ann Laura Stoler. The book has received a lot of attention in recent years. This book suggests that we should not treat archives as our sources of information only. More importantly, it is essential to treat archives as our field in an anthropological sense by critically reflecting on how these archives are generated.

Echoing the themes of these two books, I will discuss two related issues: 1. how to do research on the history of regional politics? 2. how to make sense of the unwritten by following the "archival grains"? Ann Laura Stoler has discussed the concept of "epistemic anxiety" in her book. She suggests that colonial officials often "generate facts" through subjective perception, speculation, and even imagination in the process of archive production. Intelligence officers needed to reflect on "what they needed to know, what kind of knowledge they needed, and what they knew they did not." Both "epistemic uncertainties" and "perceived facts" are significant throughout the process. I have pushed my students to discuss several issues: the first is incarceration in colonial Southeast Asia, especially the operation of colonial prisons; the second is the relationship between policing and the maintenance of the colonial order; the third is banishment, also a critical means of colonial rule.

I will use an example from my research to demonstrate how epistemic anxieties emerge and how such issues can help us understand the history of Southeast Asia before World War II. My research primarily focuses on the leftwing movement of Southeast Asia in the late colonial period, which is closely related to colonial officials' practices of

¹ This Unit is translated by Ziqi Sun (Hangzhou Minglang Film & TV Production Co., Ltd.) and Xiaofu Li (Associate Editor of FLIA Review). Assistant Professor Mingchao Mao translated his own speech. The translation has been modified and confirmed by the speakers.

intelligence gathering. There was a sizable community of Chinese immigrants in British Malaya. British authorities there used to produce a monthly report titled *the Malayan Bulletin of Political Intelligence* (MBPI), which aimed to record various political threats to the colonial order. Although the title *the Malayan Bulletin of Political Intelligence* may indicate that the MBPI was a compilation of local intelligence about Malaya, it often covered events far beyond colonial borders. For instance, the bulletin often devotes significant space to discussing the situation of the Chinese revolution, followed by the pan-Islamic movement in the nearby Dutch East Indies. There were also many discussions on political issues of the Middle East. By comparison, local politics received far less attention from British authorities. The content of the MBPI shows that the British had an expansive view of the entire East Asian region. The British influence was never confined within its own colonies only. Instead, the empire was eager to protect its extensive interests and project its power throughout the Far East.

Meanwhile, the Dutch established a similar intelligence network right across the Malacca Strait in the East Indies (today's Indonesia). Compared to their British counterparts, the Netherlands was a weaker empire, and Indonesia was its single most important colony. As a colonial empire, the Netherlands had relatively limited capacity and means of governance. We can see an evident trend in Dutch intelligence reports, which mainly focused on the internal affairs within its territories. The Dutch Indies government divided its *Political Police Overview* (*Politiek-Politieoneele Overzichten*, PPO) by themes and arranged its content by the following order: communism, nationalist and Islamic movement, Chinese activities, trade union movements, and overseas affairs. By contrast, the MBPI was divided by region. The Dutch and British authorities' different ways of organizing intelligence files send us a crucial message. That is, in their efforts to understand and govern their colonies, officials needed to be "creative" in detecting threats and generating "truths" through subjective speculations.

Here, I will make my point by discussing the impact of the Asian revolutions in the region between 1925 and 1927. During this period, British and Dutch officials paid particular attention to political movements in China, with which Chinese scholars are also concerned. Meanwhile, many significant political events occurred in Indonesia, including two unsuccessful revolts of the Communist Party of Indonesia (PKI). Dutch colonial authorities quickly suppressed the uprisings mainly due to the party's poor planning and coordination. If we put the Chinese and Indonesian revolutions on the same timeline, it is easy to notice that many incidents occurred at the turn of 1926 and 1927. Such political interplays profoundly impacted colonial authorities across Southeast Asia and even the entire Far East. While many details deserve further explanations, my main point is that the colonial officials were easily confused by excessive information. As a result, they often needed to rely on their imaginations while making sense of complex political situations. Various external factors might also affect their judgment, and finding out the truth was always difficult.

Here is another example. When an uprising broke out in Indonesia in November 1926, British officials in Malaya analyzed the situation in the neighboring colony, stating: "There can be no doubt that the outbreak was actually organized by the PKI, or the Communist Party in Java, as evidenced by the connected character of the rising, the secrecy with which the plans were laid, and the choice of the birthday of Sun Yat-sen as the day on which the rising was to occur." The last sentence sounds particularly ridiculous. The officer believed

that the timing of the PKI uprising was important, as it happened on the birthday of a key Chinese revolutionary. While the report itself did not have much intelligence value, the intelligence officer reported it anyway. How the officer got drowned in the sea of excessive information is absurd from today's perspective.

Coincidentally, Dutch authorities experienced a similar scenario. In an Overview of the Dutch-Indies Political Police report, a Dutch officer expressed his concerns over the Chinese immigrants in British Malaya, especially those from Hainan Province who would potentially spread the Chinese Revolution to the Southeast Asian colonies. The colonial officials were particularly worried that the Hainanese would mingle with local revolutionaries and merge their revolutionary activities, which would pose serious threats to the colonial order.

I want to emphasize that the British and Dutch in Southeast Asia had very different views of regional security in the late colonial period. The British had vital commercial and political interests throughout the Far East. Thus, they were very concerned about political situations in China from 1925 to 1927 and worried about the spillover of the Chinese revolution to the rest of the region. By contrast, the Netherlands was a relatively small colonial power, which primarily cared about the stability of the Dutch East Indies. As a result, British authorities in Malaya took very harsh measures against communism between 1925 and 1927, largely due to the interplay of the concurrent Chinese and Indonesian revolutions. Past research has generally held that the British colonists reacted with repressive measures to the rise of Malayan leftist groups. My point is that the British colonial government initiated pre-emptive strikes after observing revolutionary situations in surrounding areas. In other words, the anti-communist measures of the British started at least three years earlier than the establishment of the Malayan Communist Party (1930).

Such observations entail some further implications. Nowadays, we commonly rely on the analytical framework of modern nation-states to study colonial empires. Nevertheless, it is noteworthy that European empires launched fierce assaults on international communism far beyond their respective colonial borders. Additionally, they also learned from each other and shared their experiences. The British government learned lessons from their Dutch neighbors and carried out pre-emptive crackdowns on leftwing groups in Malaya. Such actions created tremendous difficulties for the Malayan Communist Party from its outset. Moreover, by relying on the British intelligence network, the Netherlands managed to track down many PKI fugitives and prevent the party's resurgence. Finally, the two countries' anti-communist cooperation curbed the spread of communism in the two places throughout the remainder of the colonial era. The scope of such cooperation went beyond Britain and the Netherlands; French and American authorities in the region also actively participated in the scheme.

The borders of modern Southeast Asian states largely overlap with those during the colonial period. The intelligence network formed in the pre-WWII era laid a crucial foundation for the comprehensive cooperation of Western powers in fostering pro-European nationalist leaders and suppressing leftwing movements in the region during the Cold War. Such collaboration also played a role in forming the regional order led by the five founding members (Indonesia, Malaysia, the Philippines, Singapore, and Thailand) of the Association of Southeast Asian Nations (ASEAN). Therefore, we can safely trace the lineage of the anti-leftist forces that dominated Southeast Asia during the Cold War back to the late colonial period.

Thanks!

Mingchao Mao (Assistant Professor, School of Foreign Languages, Peking University)

Topic: Germany, Central Europe and the Großraum Order

Ladies and gentlemen!

As my topic suggests, I would like to talk about Carl Schmitt's concept of "Großraumordnung"¹ (large space order), which is also mentioned by Prof. Yongle Zhang in his book *Shifting Boundaries*. He describes the concept of "Großraum" as a "specific German variation of Monroe Doctrine". I would like to provide some additional materials and thoughts from my perspective.

You may be familiar with the German national anthem. The lyrics are from a poem entitled *Das Lied der Deutschen (The Song of the German)*, which dates back to 1841 and has altogether three strophes. However, only the third is allowed to be sung today. The reason lies in the spatial imagination of Germany in the first strophe. The very first line of this poem reads: "Deutschland, Deutschland, über alles", which means "Germany, Germany above everything". In the first strophe, the poet defines the territory of Germany as the region in which the German language is spoken. He then uses four geographical landmarks to determine the external borders of Germany: the Rivers Maas (in the Netherlands), Memel (the Neman in Lithuanian), Etsch (the Adige in Italy), as well as the Danish straits, which are called "Belt" in German. As you can see from the map, the space within these landmarks exceeds by far the present territory of the Federal Republic of Germany, since it includes not only the Benelux, the Baltic countries, Denmark, but also extends southwards to Switzerland, Austria and Italy.

German politics has a long history of space imagination. The German Empire came up with the term "Platz an der Sonne" (a place under the sun), in order to justify its colonial endeavor. The Nazis were obsessed with the ideology of so called "Lebensraum" (living space) as an excuse for their mania of expansion. Territorial imagination, regardless of its moral judgment, plays a crucial role throughout the history of political thoughts.

Let's turn back to Carl Schmitt's concept of "Großraumordnung" or "large space order". There are three key texts to this term: *Völkerrechtliche Großraumordnung mit Interventionsverbot für raumfremde Mächte (The Grossraum Order of International Law with a Ban on Intervention for Spatially Foreign Powers)* in 1939, *Großraum gegen Universalismus (Large Space against Universalism)* also in 1939, and *Raum und Großraum im Völkerrecht (Space and Large Space in International Law)* in 1940. The two opponents Schmitt was arguing against were obvious: the universalism represented by Great Britain, and the small countries. Schmitt mocked the system of League of Nations in Geneva and was convinced that the core component of international law should not be states, but empires.

According to Schmitt, the large space is derived from an economic term, and as such a "concrete, historical, and political concept of the present". Based on the political incidents of 1939, He stressed that the large space is the result of "man's planning, organization, and activity." (Schmitt 2011, 79) Schmitt also considered Monroe Doctrine as a perfect example

¹ Mingchao Mao: See Carl Schmitt, *Großraum, Nomos. Arbeiten aus den Jahren 1916-1969*, Dunkler & Humblot, pp.234-68 (1995); Carl Schmitt, *Writings on War, Polity*, pp.75-124 (2011).

of large space order, because the core idea of it is the “connection of politically awakened nation, political idea, and a *Großraum* ruled by this idea, a *Großraum* excluding foreign interventions.” (Schmitt 2011, 88)

Our discussion on the large space order today circles mainly around the prohibition of interference by extraterritorial forces, but the concepts of both large space and order are yet sufficiently analyzed. The concept of large space has its unique historical background. Schmitt referred explicitly to the speech of Adolf Hitler on February 20th, 1938, in which the Nazi dictator states: “We well know that it is scarcely possible to establish borders in Europe which will satisfy everyone. Hence, it would be all the more important to avoid unnecessarily tormenting national minorities in order not to add to the pain of political separation the further pain of persecution for belonging to a certain Volkstum. [...] However, just as England looks after its interests in every corner of the earth, modern Germany, too, shall know how to look after and protect its – albeit much more limited – interests. And these interests of the German Reich include protecting those German Volksgenossen who are not, of their own power, in a position to secure for themselves on our borders the right to general human, political, and *weltanschaulich* freedom!” (Hitler: 1992, 1031).²

In the fourth chapter of his book *The Grossraum Order*, Schmitt discussed the “minority and national group law”, and underlined the differences between the minorities protection mechanism in the Versailles and League of Nations system on the one hand, and his ideal of protection of national groups on the other. The concept of protection is crucial to that of *Großraum* order, so that Schmitt proclaimed a “German right of protection”: “Since the declaration that the Reich Chancellor Adolf Hitler gave in the German Reichstag on February 20, 1938 there has existed a German right of protection for German national groups of foreign state citizenship, all on the foundation of our National Socialist national idea.” (Schmitt 2011, 99f.) It is in fact the implementation of *Großraum* principle of international law in Central and East Europe. By the “German national groups” Schmitt referred mainly to the Austrians and Sudeten Germans in the Czechoslovakia. Shortly after Hitler’s Speech, on March 12, 1938, the Nazi Germany’s troops marched into the capital of Austria, Vienna, and on March 13, the *Law the Law on the Reunification of Austria and the German Reich* was enacted. On September 30 of the same year, Germany signed the *Munich Agreement* with the United States, Britain and Italy, and occupied Sudetenland, using the excuse of nothing else but the right of protection. Evidently, the concept of protection is essential to Schmitt’s theory, as he also mentions the idiom of “*protego ergo oblige*” in *The Concept of Politics*. For him, it’s the “*cogito ergo sum*” of politics and therefore the key foundation. When he proposed the right of protection in the *Großraum* order, Sudetenland was already under German control, so the aim was to extend the protection right to the rest of Czechoslovakia. What then emerged, was the Protectorate of Bohemia and Moravia, a nominally autonomous administration under German protection, but in reality a marionette regime of the Nazi.

So, is there any embodiment of the “*Großraum* order” and the “non-interference principle” in international law? Carl Schmitt made it very clear that there was – by citing the *German-Soviet Boundary and Friendship Treaty* as an example. Interestingly, Schmitt replaced the term “Soviet” with “Russian”, probably because he regarded Bolshevism as a

² Mingchao Mao: See Adolf Hitler, *Speeches and Proclamations 1932-1945. The Chronicle of a Dictatorship. Vol. II: 1935-1938*, Bolchazy-Carducci Publishers (1992).

typical representative of universalism-interventionism. In various texts Schmitt argued that the *German-Soviet Boundary and Friendship Treaty* was the best illustration of his idea of *Großraum* order and the principle of non-interference. But what exactly was the content of this treaty?

The first article of the treaty determines “the boundary of their respective national interests (*Reichsinteresse*) in the territory of the former Polish state”, and “any interference of third powers in this settlement”, as the second article stipulates, shall be rejected.³ Why “former Polish state?” Because there was no longer an independent Poland. The treaty was signed on September 28, 1939, while the German *Wehrmacht* had already invaded Poland on September 1. Ribbentrop met Stalin and Molotow in Moscow and demarcated the frontiers of their sphere of influence. The German Reich regained East Prussia, extended the northern border to the south bank of the Neman, and divided Poland. The Soviet Union obtained Lithuania, Latvia and Estonia. But how about the German nationals living in these Baltic countries? In 1939, there was a large-scale initiative called “Heim ins Reich” (back home to the Reich), which aimed at relocating all the German nationals from regions that were outside of German control back to Germany.

These are the essence of the *German-Soviet Boundary and Friendship Treaty*. So, what exactly is the “order” of a large space? Carl Schmidt argued in his *Großraum Order*: “The *Großraum* remains an area of national unity and autonomy. Only for this reason is it superior to universalistic forms of rule, and only for this reason is it peace.” (Schmitt 1995, 260) This article was written in 1940, but what happened in that year? Let me just list a few historical facts here. In April 1940, Nazi Germany occupied Belgium, the Netherlands, Luxembourg, and conquered France in June of the same year. The Soviet Union carried out the “Katyn Massacre” in Poland and acquired the Baltic states, which were then incorporated into the Soviet Union by force in August. Merely one year later, on June 22, 1941, Nazi Germany attacked the Soviet Union, and Hitler delivered his *Address to the German People*. In my opinion, none of the above can be called peace.

On June 28, 1941, Carl Schmidt wrote in the introduction to the fourth edition of his book *The Grossraum Order*: “The paper must remain what it is. It arose early in 1939 with certain theses and points of view in a certain situation. Through the course of events, it has experienced some meaningful confirmation. This is its value as a document.” (Schmitt 2011, 76) At that time, Nazi Germany had already started “Operation Barbarossa” and began with the invasion of the Soviet Union. Schmitt might have been quite satisfied with his paper as it foresaw the development of history in advance. From today’s perspective, his writings may well contain certain documentative value, but we will probably not give them such a positive evaluation as their author did.

Thanks!

Weihua Wang (Associate Professor, School of International Studies of Peking University)

Topic: The Limits of Regional Order

Hello, everyone!

³ Mingchao Mao: See the English translation of this document provided by the Avalon Project of Yale Law School, https://avalon.law.yale.edu/20th_century/gsbound.asp (accessed on March 19, 2022).

Actually, I haven't specialized in regional and regional integration, so I will briefly report some thoughts on this topic.

Above all, we should figure out what kind of regional order we are talking about? Colleagues who do area studies, when it comes to regional order, international relations scholars usually only speak over "regional order". In the field of international relations, it refers to the order of a certain region between the world and its countries. However, regional science in the context of geography is called "regional science" in Chinese, and the level referred to region includes both international (for example, the Rhine River Basin, Lancang River-Mekong River Basin) and other national areas below the level (for example, the Pearl River Delta, the Yangtze River Delta); they are all called regions, but regional science and area studies are two different things. Therefore, in different disciplines, regions often have different ways of understanding, and their prominent attributes are quite different. In the following, I will use "regional order" in accordance with the custom in the field of international relations, that is, the "international order in a certain region" between the world/global and countries.

In my opinion, the core concern of the regional order has always been security. Along with the development of the market economy and the international division of labor, regional economic integration has emerged. We have noticed that, unlike the usual concerns of the international economic order, the focus of the regional economic order is international and intra-regional economic integration. Whether it is a security issue or an integration issue, it is difficult to say that it is an order that grows spontaneously, it mainly depends on cooperation among countries in the region.

In my view, the extension of regional order can be defined in three words: regional security, economic integration (regionalization), and state cooperation. The so-called regional order is based on state cooperation to resolve regional security issues and regional economic integration issues. The way countries cooperate will involve disputes between unilateralism and multilateralism. But between the two, there is a more common state which is called bilateralism.

As for the connotation of regional order, one of the most basic assumptions in international relations research is that the international political system under anarchy and the domestic political system under hierarchy are not the same things, and international order and domestic order are also not the same thing. However, since they are all called order, the core of order should be rules. There is no order without rules.

In recent years, Americans usually spoke about "rule-based international order". Literally, it's tautological nonsense. Obviously, China is very sensitive about this sentence, and dramatically advocates an "international order based on international law". You may have noticed that this proposition is also written into the 14th Five-Year Plan and the Long-Range Objectives Through the Year 2035. The discourse dispute between China and the United States is not about the need for international order or international rules, but involves disputes at two levels: First, China believes that the United States pursues unilateralism, while China firmly upholds multilateralism. Second, Americans advocate "starting from the position of strength". Although we may have different understandings in translation, the literal expression is there, and the meaning is very clear. China aroused fierce opposition and proposed the concept of "the principle of extensive consultation, joint contribution and shared benefits". Adhering to multilateralism and extensive consultation, joint contribution and shared benefits have become our clear propositions for building a

regional order and even an international order today.

Looking at the connotation and extension of regional order together, it is not difficult to find that regional order is an intermediate state, an intermediate state between the two extremes of complete anarchy and domestic order. From complete anarchy to self-help multinational systems, is there a stable regional order, or is there a relatively stable regional power structure and a corresponding rule system? At least, from the standpoint of realism, this is not very important. The rules themselves are not an important issue. After all, the comparison of strength determined international order. When we talk about regional order, the actual focus is on the two states in the between. One is to maintain regional peace, and certain rules have been formed between various countries, so that the region has rules to follow; the second is to go further - regional economic integration. With the development of industrialization and the further integration of the market, there will be some supranational bureaucratic management institutions on this basis. Today's representative is the European Union. In this sense, we found that there is a certain overlap between the hierarchical order based on the domestic and the regional order that originally belonged to the international order in its basic attributes, which also gives us a space for association: Will further integration lead to an infinite approach to a state of domestic order in the regional order? If the regional order is placed between anarchy and domestic order, the regional order is an intermediate state, does this intermediate state have a relatively clear limit and boundary? That is my concern.

The feature of regional order is international rules, which involve two levels and five issues. The first level is the concrete, historical empirical level, there are two key questions: First, who decides the rules? Does the hegemonic (or dominant) have the final say, or is it bargaining among the great powers? Second, how do rules spread? To be accepted by others, or to be learned by others? The second level is the abstract, normative level of value. Since it's a rule, it must have normative connotations. Focusing on international rules, there are two key points: First, is national sovereignty the basis of international rules? Second, are there general rules a priori? There is no universal standard of right and wrong on normative topics. Believe this or not, you can choose one or the other. There is a set of strong normative judgments with the color of subjective value judgments. Combining the two dimensions, a fifth key question arises: in what way are the rules enforced? If we look back on history, in the entire history of international relations, we can only see a complete and most experienced process of regional order construction, that is, the formation and evolution of European regional order since modern times.

In its origin, the regional order differs from the military conquests of earlier empires. Empire is a domestic order based on hierarchy, and regional order is an international order based on anarchy. The uniqueness of the European regional order is that it is the result of religious wars in modern Europe. The basic rules are a system of rules for sovereign states determined on the basis of common beliefs, that is international law. However, with the colonial expansion of European powers, the European regional order has evolved into modern international law, the European multinational system has been enlarged into an international system, in fact, the European regional order is the foundation of today's international order. This is our basic historical understanding of the development of international relations.

When I studied the history of international relations, I started with the Westphalian system, the Vienna system, the Versailles system and then extended to other concepts.

However, if we think about it carefully, we will find that the Westphalian system and the Vienna system, with the “coordination of the great powers” around, only shaped the European regional order. Before that, there was a papal meridian, or an imagined international order, with the Spanish and Portuguese colonial disputes as the focus. The modern European regional order is achieved by coordination of foreign powers. As a reference, one kind is the Monroe Doctrine mentioned by Professor Yongle Zhang, that is, the realization method of the hegemonic led regional order in the Americas, and the other is the so-called East Asia after the Opium War. The collapse of the tributary system formed a shape contrast on both sides.

Thank you!

Geng Tian (Associate Professor, Department of Sociology of Peking University)

Topic: The Construction of the Inner Frontier: The Possibilities of Regional Comparisons

Ladies and gentlemen!

Today I will discuss the concept of the inner frontier and I will focus on the late imperial China in my presentation.

What’s the inner frontier? In short, it is within the political domain but not completely subsumed by the standard governmental structure. Of course, 化外, sounds familiar to legal historians because the term is from the lexicon of traditional Chinese law, 化外人, the civil aliens. The concept of “civil aliens” once influenced the study of extraterritorial rights in modern times, and also inspired the study of the inner frontier. Legal exceptions or variations in the form of governance are the preconditions for the existence of the inner frontier as a concept. The spatial composition of the inner frontier is obvious, between inside and outside. Therefore, we have no doubt about the in-betweenness of the inner frontier, and we are accustomed to what constitutes the inside. We almost take it as a consensus that the inside means a relatively unified order based on China’s inner provinces or the interior space. Whether it is called administratively or in other ways, its integrity is obvious. But what makes the outer part of the inner frontier? That part is the most controversial aspect of what we mean by inner frontier. I personally think that there are two mainstream analytical frameworks, one is the evolution of political regions, which is also a framework that scholars of modern Chinese history have made great efforts to build, to study the historical process of the inner frontier through the evolution of political regions and the evolution of the administrative system. The second framework, social infrastructural frame, discusses the specificity of the inner frontier through the evolution of social infrastructure.

Politically speaking, the inner frontier is a buffering zone or a corridor. As argued by Professor Cheng Gu in his article *“The Territory of the Ming Empire”*, the inner frontier is the place where the standard bureaucratic government is not fully installed but the direct rule is stronger than that of the containing system, or Jimi System. The rule by the garrison (weisuo) was a very important administrative category in the Ming Dynasty, and the garrison system is related to the concept of the inner frontier. Along the nine Great Wall Outposts in the Ming Dynasty, we can see that the inner frontier made a buffer zone between the inner province and the outer frontier facing military pressure. However, it may cause problems to call this frontier a garrison area, as a new type of Ming’s national defense

was formed later to take the military function of the garrison, we will leave this topic for another occasion. In short, the inner frontier is perceived as a military mid-way in the first approach to study it. The second approach is more familiar to social science. From a relational perspective, the space of the inner frontier facilitates the political relations between direct and indirect rules, such as patron-client relations, or political clientele. To put it in a simple way, the inner frontier is an ideal space for political bondages such as clientele and brokerage to operate. Taking the northern frontier of the Ming Dynasty as an example, from the Jurchen in the northeast, to the Uriyangqads in the north, and then to Tibetan groups active at the Gansu-Tibet Border, the political relationship formed by these nomads in the inner frontier is a typical example of favor and vassal, and this relationship is the inner trait of the frontier. The third perspective takes the inner frontier as a great strategic space and was actually discussed by some panelists in the morning. One of the most representative arguments was raised by Owen Lattimore who states that the inner frontier is the cradle of power to change the course of Chinese history, because the Eurasian nomads and the sedentary dynasties of inland China encountered each other first at the inner frontiers. Only the conquerors growing from the inner frontier owned the power to move southward to incorporate the entire Chinese territory and established their political ruling dynasties. So, Lattimore said that the Northeast area is probably the most strategic space in China. Until industrialization enables us to unify it with the inner land, it will continue to be the game changer of China's historical process. In Lattimore's analysis, it is not as important to determine who made the dominant ethnic group in this space in a particular historical time as to delimit the ecological and strategic bounds of this space.

The research tradition of studying the Southwestern frontier in China is different from what I said above. I will give three examples here. The first one is the study of "Miaojiang" or the Miao territory. The second one is the research on the mountainous region in South China, where the Ming philosopher and bureaucrat Yangming Wang famously drew the comparison between cleaning the bandits in the mountain and diminishing the thieves in one's own heart. What kind of historical cycle did these places undergo from being a banditry hotbed to a political territory in an empire? This is a very important research topic in the history of the Ming and Qing Dynasties, especially the history of the Ming Dynasty. The third example is the study of the area circumscribed by the Yellow River and the Huai River (HUANG-HUAI region). As inner frontiers, these regions do not stand out by the special administrative systems, or by lying as a middle ground between the inside and the outside, but by the ecology of violence they bore for centuries. Continuing military mobilizations of various kinds have created a relatively isolated violence ecology out of these inner frontiers. In the violence ecology, first of all, we focus on the significant social contributors to militarization, such as the population pressure in the ethnic interfaces, the special tax structure, the constant secret societies, and the recurrent tension between native and migrant groups, etc. These infrastructural fabrications may evolve into breeding grounds for violence under certain historical conditions. The second focus of studying violence ecology is the development of various mobilization mechanisms, which at times respond to social emergencies and promote social peace and economic development at others. For example, the multiplication of clans, the development of business corporates, and the long-distance trade charters across land and on the riverine. These mobilization mechanisms turn into venues to feed violence in special emergencies. Once again, it is regional separatism, that is, the local unity against the central government that loom large

in these social changes. The inner frontier as seen in the studies of the social infrastructures might not add as much to the conceptualization of in-betweenness as the study of Northern China, but the importance of its social form is self-evident.

The next question is, why don't we call those regions special administrative regions but the inner frontier? In addition to the structural differences in the above-mentioned areas, the historical transformations of these areas are noteworthy. Many of the historical transformations were occurring in those regions in almost cyclic fashions. Here I would like to bring into your attention four periodical changes: First, how did the old frontier transform that lost its original function, especially the military function? Take the Ming Dynasty as an example, once the external threats fade away, the military administrative structure which was originally set up to facilitate defense will no longer be sufficient to meet the emerging needs of the country. A typical example is Gansu, which served as the Ming's garrisoned border against the Mongols for almost three centuries. How did it turn into an inner province? This is a case of transforming the older frontier. Second, the expansion of the provincial system has always been thought as a process of administrative centralization. The high Qing, that is, the Yongzheng and Kangxi reigns in the 18th century, saw the most crucial era of the expansion of province. In the process of constructing the provincial system, we should pay particular attention to the path of centralization. Third, the historical continuity and manifestations of areal enclosure well into the 20th century. The internal driving force for the warlordish rule might be called the areal enclosure. In the research on the warlords' rule over the Guangxi Province, Hunan Province and Guangdong Province, some current studies have linked it with the areal enclosure of the previous imperial state. Fourth, civil relationships, such as patriarchal clan, business, sacrifice, etc., under what circumstances are they helpful for governance, and under what circumstances are they making troubles? The discussion of this issue is very important, because it can shed light on both the good and bad sides of civil relations or social relations. This perspective has been adopted by some of the scholars on the Taiping Rebellion.

The four things remind us that the historical transformation of the inner frontier does not happen in any straight way. It does not necessarily happen when a big empire replaces a small empire, nor does it necessarily happen when a modern state replaces an imperial state, but it happens periodically. This morning, Professor Yongle Zhang's new book, *Shifting Boundaries* was discussed in this conference. The book has something to say about what has been offered here about the characteristics of the inner frontier. Why did the Monroe Doctrine appear in China's "inter provincial autonomy" movement in the first half of the 20th century, and also in revolutions henceforth? The historical transformation of the inner frontier was periodical even though we see it as part of the transition from monarchy to nation-state.

To sum up, I think three issues are critical to what I mean by inner frontier: first, semi-indirect governance; second, the construction of civilian governance; third, the reorganization of regional civilization. From these three aspects, a comparison between the north and south of China's internal frontier becomes possible, which contributes to the understanding of China's territorial integrity and regional complexity. I will forego the discussion of more specific historical cases due to time limits.

Thanks!

Commentator: Zhiguang Yin (School of International Relations & Public Affairs of Fudan University, Professor)

Ladies and gentlemen!

The common ground of these four presentations is that they have all taken a comparative perspective in the study of empires. From my disciplinary area, I take particular interest in Professor Weihua Wang's discussion on the theorization of the region. Professor Weihua Wang talked about the difference between the two approaches of understanding the region from the fields of international relations and area studies. Both originate from imperial history and colonial history. This difference is very intriguing. The "rules-based international order" discussed in the field of international relations is highly Eurocentric. It shares a historical lineage with the conviction that Europe is a global empire. Professor Wang further elaborated on the impact on understanding the future development of global regional politics and global order with such a Eurocentric worldview. From this point of view, Professor Wang has set an interesting question for today's discussion, that is, why should we study empires and regions? I encountered a similar discussion while teaching the course "Introduction to International Relations" in Dubai. When I was trying to explain the concepts of "regional", "international", and "national" orders, students there really had hard time understanding the notion of "region"? Their question is, where does the boundary of a "region" fall?

In fact, geopolitical concepts such as "area" and "region" in our toolbox today are epistemologically Eurocentric. The "region" we define revolves around the regional order of Europe shaped by wars, which led to the so-called Westphalian System. For the majority of people outside Europe, this regional historical experience of inter-state order forming is largely unrelatable. In most parts of the world, the formation of a regional awareness, unlike geopolitical concepts, does not solely depend on wars and conflicts; instead, trade and cultural entanglements also play an important part in forming a regional and even a transregional imagination. To my students in Dubai, India is an integral part of their "regional" imagination due to the strong historical trade link. Consequently, such a regional imagination is centered around the Indian Ocean. In addition, regional imagination is not exclusive. Any region could overlap with another. For example, my students in Dubai could also easily associate with the other Islamic countries based on their shared religion, or with the Gulf Cooperation Council due to their blood ties. Undoubtedly, there are bound to be conflicts between regions. For example, the discussion of whether it is the Persian Gulf or the Arabian Gulf is a reflection of the tension between the Gulf states and Iran.

Following this train of thought, Professor Kankan Xie and Professor Mingchao Mao both offered reflections on European empires. Through Professor Xie's presentation, we saw that the area in today's geopolitical sense does not exist in the eyes of the Empire. Professor Xie discussed the anti-communist movement in Southeast Asia. This is closely related to my interest in imperial history. I have learned a tremendous amount of information from Professor Xie's case studies. Professor Kankan Xie's research also confirms that empires do not restrain themselves with boundaries. Instead, it is only bounded by the celestial world. Professor Mingchao Mao's reflection on Germany also touches on a similar issue. Professor Kankan Xie discussed the interaction and connection between the British Empire and the Dutch Empire on anti-Communist issues, as well as the connection between the colonies within the British Empire. Professor Mingchao Mao took Germany as a case study and discussed the first paragraph of the German national anthem

in the introduction. This reminds me of a German propaganda film, *Über alles in der Welt* (1941). The title of this film comes from the first line of the Nazi German national anthem. The film starts with the experience of factory workers working for Siemens, hoping to appeal to all the German working class. The storyline then expands to all the German people, arguing that Germans have an obligation to protect the oppressed Germans around the world. Professor Mao's study helps to reveal such an ethnic-centered worldview in Germany's attempt of regional order building.

Germany's German-centric vision of a global order is similar to today's "America first." At first, "America First" does not seem to be an imperialist policy, but it is essentially a demand for a global hegemony with the interest of the United States as its core. I once said that a Western-centric world order emphasizes nation states when in poverty, but turns to world-empire when in prosperity. This is evident in the history of the development of European empires. Our understanding of empire today is greatly limited by the history of European empires, especially the experience of European empire development in the past 200 years. During the period, all European empires, including the British and German Empires, imagined the world with their own countries as the center. Immediately after the end of World War I, Britain turned its interest from building a global empire to strengthening the "British commonwealth". Isn't the "commonwealth" world order centered on Britain just another version of "British first"? Are these "America first", "German first" and "British first" ambitions of building a strong nation-state with finite boundaries? Of course not, they are all striving for a global empire. Empire building takes different formats in different times and areas, as it is an organic reaction towards reality. In this sense, the cooperation between the British Empire and the Dutch Empire on the issue of anti-communism mentioned by Professor Kankan Xie is not a very strange thing. The cooperation between empires has always been the basic reality of colonial empires centered on Europe. The foundation for such a collaboration is purely based on realpolitik concerns. Such a collaboration can easily break apart due to conflict of interests. For example, although European empires clashed against each other in Africa, they had no problem cooperating in other areas more distanced from Europe. For example, in China and other Asian countries, cooperation between empires was a more regularly used method to exercise and enhance their hegemonic domination. This is also evident in Southeast Asia.

In addition, the European empires' emphasis on labor issues after the abolitionist movement in the mid-19th century led to their cooperation in Southeast Asia. For example, a large number of laborers sent by Britain to its overseas colonies were bought from the Dutch colonies, and the ships that sent laborers belonged to the French. This is more interesting because we have to understand the fundamental shift in the imperial order that occurred in the mid to late 19th century. If we use a term made popular in the field of imperial history studies, it is the age of "informal empires". In Lenin's terms, it was the era when capitalism began to enter the stage of financial imperialism. What are the basic characteristics of financial imperialism? The global unity of the bourgeoisie has become a reality. In this capitalist global unity, the working classes of other countries and people of color became a commodity that can be traded globally. Imperialism as a policy can also find support from domestic working-class people as it could temporarily benefit the working class in the core countries by exploiting the peripherals. As we can see in the German propaganda film *Über alles in der Welt*, it claims that the expansion of the empire is for the benefit of the working class in general. Or, as Cecil Rhodes justifying his

expansion in South Africa in the mid-to-late 19th century, the expansion was for the benefit of workers in the East End of London. However, in the early 20th century, the emergence of a communist global movement, especially the success of the Soviet Revolution, posed a fundamental challenge to this transnational capitalist order. The union of the proletariat, which is transnational and interracial, is a direct threat to the internal stability of capitalist empires. It also poses a threat to the capitalist race-based global structure of oppression. My research also touches upon the intelligence system of the Middle East and the Empire, where there are well-developed intelligence referencing and sharing systems thanks to the vast global network of capitalist empires. To counter such a power, the communist movement must also be organized and global.

Finally, allow me to respond to Professor Geng Tian's presentation, which is of course the area I am least familiar with. Professor Geng Tian's discussion of China's internal frontier provides us with another dimension of empire studies, which is the comparison between empires. For sociological researchers, they are more concerned with the nature of phenomena and the historical motivations and social mechanisms behind them. For international relations scholars, we are happy to see social phenomena as an accomplished fact. Instead, we are more interested in predicting the future. In this sense, within the disciplinary constraints of international relations, we are not particularly concerned with the evolutionary mechanisms of empires themselves. Professor Geng Tian's discussion from a sociological perspective has contributed a very important inner dimension to us, that is, what impact the internal evolution of the empire has on the imperial order itself. At the same time, it gave me great inspiration. Imperial history research itself does not distinguish between global and regional, let alone inside and outside. Of course, we must admit that there are gaps in the operation of the imperial global order, but in the expression of the imperial self-narrative, the universalism of universalism is very emphasized. If we emphasize the universality of universalism, we must admit that the expansion of universalism is universally applicable, and at the same time, it has a very strong explanatory power for internal differences. The study of British imperial history in the late 19th century exhibits such a characteristic. The history of the empire itself was shaped by the worldwide use of Whig historiography, and researchers of British imperial history would be willing to trace their history back to lectures from 1880 to 1884. Empire expansion is essentially an ethnographic process from the inside out.

The study of imperial history in the early and mid-19th century was centered on the area, because all areas were other to the empire, and the empire needed to understand the other. In this process, it is important to distinguish the world inside the empire from the world outside, so as to demonstrate the superiority of imperial rule itself. By the end of the 19th century, this phenomenon had been completely changed, and the rise of imperial history just showed that the empire began to have a global nature in ideology, which connected the inside and outside, and at the same time class also became an aspect of imperial concern. On this point, I will not take up everyone's time. To sum up Professor Geng Tian's discussion, if you take off the hat of international relations, think of it from the perspective of imperial history research. Professor Geng Tian's opinion on the formation of the inner frontier of the empire, the analysis of internal motives is very colorful in imperial history research, and is similar to the methodology of imperial history research. The questioning of the connection between the internal transformation of the empire and the external has great inspiration for the study of regional issues today.

The four speeches together constitute a model for regional studies or the study of global order. Prominent awareness of the problem inspires us to see the connections and differences between regional studies and the rules-based international order; to see the inner connections and world orientations between empires; to see the race-centered expansion of empires; to see the inner frontier and the connection of research methods in imperial history.

Thanks!

Unit 5: Monroe Doctrine and History¹

Moderator: Yuan Kong (Associate Professor, Institute of European Studies of Chinese Academy of Social Sciences)

The first speaker in this panel is Professor Mingqian Li, who will give us a first-hand account of the Paris Peace Conference in 1919 from the perspective of Manley Hudson which will reveal how exciting the game between the great powers. The second speaker, Miss Yue Duo from Peking University Law School who is outstandingly issue-oriented, analyzes the US move from the Monroe Doctrine to Wilsonianism by discussing the two sides of Stephen Douglas' theory of popular sovereignty: formal neutrality and unlimited expansion. I would suggest Miss Yue Duo present more context of the debate and cite more texts to support her arguments; and she can also fully discuss the debate between the former United States President Abraham Lincoln and John Calhoun, as well as clarifying the relationship between infinite expansiveness and geospatial expansion. The third speaker is Mr. Zhuo ZengHua from the School of Law of Tsinghua University who is very informative. The fourth speaker is Professor Jing Wang from East China University of Political Science and Law Scientific Research Think Tank Institute of Social Sciences whose presentation adds another perspective to the historical analysis.

Mingqian Li (Associate Professor, School of Foreign Studies of East China University of Political Science and Law)

Topic: The American Role in the Peace Paris of 1919: Based on Hudson's Private Diary (1918.10-1919.8)

Hello everyone!

My remarks are primarily based on some observations from reading Manley Hudson's private diary on the Paris Peace Conference of 1919.

I will begin with an introduction to Manley Hudson and his diary. Manley Hudson was a member of the Legal Department of the Secretariat of the League of Nations, a legal adviser to the International Labor Organization, a judge of the Permanent Court of Arbitration and the Permanent Court of International Justice, chairman of the International Law Commission, and a member of the Commission to discuss the Russian Refugee Issue. Permanent Court of International Justice, Chairman of the International Law Commission of the United Nations, and a member of the Russian Refugee Committee. His diary began from October 30, 1918. On this day Manley Hudson was appointed to travel to Paris with a United States diplomatic delegation.

When I read Manley Hudson's diary for the first time, I felt that it involved a very large number of people. This reflects a magnificent scale of the Peace Conference at that time, which included some technical officials, legal affairs officials, and other national affairs officials, in addition to the diplomatic representatives sent by each country. The diary mentioned lots of names and institutions. For example, Manley Hudson said that he participated in two or three committees, and sub-committees were set up under committees,

¹ This Unit is translated by Yier Ji (East China University of Political Science and Law) and Xiaofu Li (Associate Editor of FLIA Review). The translations has been modified and confirmed by the speakers.

such as the one on the League of Nations setup. Manley Hudson wrote in his diary that he would have liked most to have served on this committee, but unfortunately, he was not appointed. He was sent to committees on international rivers, international ports, and international waters, interspersed with his service to other committees. In addition, the diary covers a wide range of topics, with a committee and subcommittee for each topic.

One of the more interesting aspects of reading the diaries is that the private diary records not only the author's work but also his personal life. Who Manley Hudson met with each day, what he discussed, and even how he learned French. In his diary, Manley Hudson wrote down some of his observations during the Conference, including his emotional side. For example, he had sympathy for the Germans: he described in his diary the Germans looked sad and bitter when they signed the Treaty of Versailles, and he had some mixed feelings about the French, believing that the French press reported Woodrow Wilson's visit to Paris with prejudice.

When I read the diary for the second time, then I realized that what seemed complicated the first time around was a reference to Wilson's Fourteen Points. Woodrow Wilson proposed the Fourteen Points in a speech to the United States Senate on January 8, 1918, when the United States had already entered the war. Woodrow Wilson had argued in the early days that the United States should stay away from European affairs and remain neutral. For example, when he ran for re-election as president in 1916, his goal was to keep the United States out of the war and away from it, and to be an ally of all countries, including Germany. But as the war turned, when Woodrow Wilson found that Germany tended to win, he began to think about the central issue of peace and war: Why is there war? How can peace be made? In his view, the cause of the war was imperialism, militarism, and the balance of power advocated by the old style of diplomacy. Wilson's Fourteen Points advocated a shift from the old diplomacy to new diplomacy in which there would be no more secret pacts, no more secret alliance treaties, and everything would be open. His thinking centered on building "a world safe for democracy". In his view, a republic was the best system of government for practicing democracy and safeguarding it, not an empire.

Wilson's Fourteen Points also became the basis for Germany to seek an armistice and accept the Paris Peace Conference of 1919. Manley Hudson's diary revolves around these ideas. From this perspective, Woodrow Wilson was also the founder of the Peace with the vision that the Fourteen Points would be accepted by all sides. Against this backdrop, the American diplomatic delegation wanted to depart as soon as possible to set the agenda for the Peace Paris

The diary writes down the process leading to Manley Hudson's agreement with the Allies after he arrived in Paris. They were shocked: "Why should we accept Wilson's Fourteen Points as the basis for Peace when we have already won?" After continuous communication and negotiations, the Allies finally accepted the Wilson's Fourteen Points principles, especially the establishment of the League of Nations, as the basis for the Peace. It is worth noticing that the interests of the Parties were difficult to reconcile. Wilson wanted to establish the peace order he envisioned, with order building as the focus. But Clemenceau was different, and France's aim was clear: to avenge the humiliation suffered by France in the Franco-Prussian War in 1870. Manley Hudson repeatedly wrote in his diary that the French were not interested in an international alliance and that their focus was on demanding reparations and cessions from Germany. British Prime Minister Lloyd George, who was also an integral part of the Peace, feared that France's harsh demands on

Germany would change the balance of power, so he didn't want France to be too severe and was very concerned that Wilson's Fourteen Points of national self-determination would affect imperial interests. Britain was a great colonial empire at the time and was very wary of national self-determination. Lloyd George wanted to maintain the old colonial rule and expand his sphere of influence as much as possible. Orlando, the Italian cabinet prime minister, was largely absent from the core issues discussed in the Peace in the later stages, and the Council of Ten soon became the "Big Four", which soon became the "Big Three" and finally was controlled by three countries.

The main conflict between the United States and France was over Germany. Manley Hudson recorded in his diary the demands of the American delegation that the Peace was supposed to center on the adoption of the Covenant of the League of Nations. France, on the other hand, saw the end of the war and the establishment of the League of Nations as two separate issues, with the termination of the war and the demand that Germany assumes all responsibility for the war being the central issue. France's revenge mentality was clearly reflected throughout the Peace. For example, the final venue of the Peace was the Palace of Versailles. Germany, which had won the Franco-Prussian War in 1871, did not choose to declare victory in Prussia, but ran to the French Palace of Versailles to declare victory, humiliating the French. Then, the French made sure to place the Peace at the Palace of Versailles to humiliate Germany in turn. The alliance was also a disagreement between the United States and France. Manley Wilson was very opposed to alliances but the French, fearing the future rise of Germany, wanted to communicate privately with the United States and Britain for their own security and set up a three-nation alliance for security. Germany's identity was another difference between the United States and France, and Germany's qualification to gain membership in the League of Nations also led to conflicts between the United States and France.

Britain's relationship with the United States was also quite complex. British and America's attitudes regarding parity and colonial empire were very delicate. In addition, the Covenant of the League of Nations itself was based on the Hurst-Miller Draft, with Hurst as the British representative and Miller as the American representative.

The United States, as a mediator and compromiser, kept giving up what it thought it could in exchange for the ultimate goal, which was the formation of the League of Nations. Finally, the United States compromised by signing a treaty of alliance in exchange for France giving up its permanent military occupation of the Rhineland. At the strategic level of the war, the United States rejected the French demand that the German emperor must assume responsibility for the war and war crimes and did not agree to France's demand for huge reparations. The diary recorded very clearly that the Americans wanted Japan to return German rights in China, but Japan threatened the United States with withdrawal from the League of Nations, and Woodrow Wilson, including the entire United States delegation, finally had to agree to Japan's demands for the goal of establishing the League of Nations. In the eyes of the United States, everything was less important than the establishment of the League of Nations.

Finally, I would like to discuss the impact of the Monroe Doctrine. Despite Woodrow Wilson's many compromises with other countries, within the United States, he didn't expect the changes in the election that led the Republican-controlled House Committee on Foreign Affairs not to support his program of international alliances, and the main reason for not supporting it was the belief that Woodrow Wilson had violated the Monroe Doctrine.

Although Woodrow Wilson reiterated the importance of the Monroe Doctrine when he sought Senate approval for the Covenant of the League of Nations in 1919, he repeatedly assured the country that the Monroe Doctrine would not be affected. In the end, the United States Congress refused to ratify the Covenant of Alliance of Nations because it would undermine the Monroe Doctrine. The fact that the Covenant of the League of Nations was not finally ratified does not erase the United States position as the founder, promoter, and even dominant player in the Peace Paris 1919.

Thank you!

Yue Duo (Ph.D. Candidate, Peking University Law School)

Topic: Political Self-Determination and Infinite Expansion: The Internal and External Logic of the Sovereignty of Peoples Doctrine and the Discursive Flux of the Monroe Doctrine

Hello everyone!

The first Chapter of Professor Yongle Zhang's *Shifting Boundaries* focuses on the "be problematized" between Monroeism and Wilsonianism. It is manifested in the discussion that Wilsonianism has generated within the United States: Is Wilsonianism consistent with the Monroe Doctrine? For proponents, Wilsonianism was consistent with the spirit of the Monroe Doctrine and could extend American achievements in Central America and South America to the world. However, for opponents, Wilsonianism would drag the United States into European affairs and could allow Europe to have the opportunities to intervene in the Americas. Thus, in this sense, it violated the spirit of the Monroe Doctrine. At the heart of this controversy is the question of whether the Monroe Doctrine, as a foreign policy, could and should have shifted its range from the "area" of the Americas to the globe.

This debate demonstrates how Americans themselves have thought about the question of "what is the United States" in terms of foreign policy. From the Monroe Doctrine in 1823 to the Wilsonianism in 1917, the point of debates not only in political circles but also in academic circles all over the century was about how to settle and imagine the internal and external order of the United States, with the key events being the Westward Movement and Reconstruction. At the time of the formal emergence of the Monroe Doctrine in 1850, the United States was expanding its federal territory along with the Westward Movement. At the same time, the Free State and the Slave State were in constant conflict and compromise within the American Union. It can be said that during the birth and growth of the Monroe Doctrine, the United States was in a constant state of uncertainty about its external borders and internal conflict. In examining the flow of discourse from Monroeism to Wilsonianism, I attempt to introduce Stephen Douglas's theory of popular sovereignty, a pre-Civil War discourse that settled the internal and external order of the United States. A comparison of the discourses reveals that the Wilsonianism in the 20th century shifted in spatial political consciousness that changed the Monroe Doctrine's range from "regional" to global was not a "spiritual breakthrough" but rather is deeply embedded in the American 19th century's imagination and definition of internal and external order, internal and external space.

I make two main observations: First, the formal neutrality of popular sovereignty is very similar to the discourse of the Monroe Doctrine. But formal neutrality suffers from the problem of alienation, which is oppressive in reality. Second, the infinitely expanding

sense of political space conceived by the doctrine of popular sovereignty was realized in a supra-geographical scheme after the Civil War, and the Monroe Doctrine's change of range can be better understood from this perspective.

Next, I will focus on "Formal Neutrality: Constitutional Self-Determination in the Free World". In the "Lincoln-Douglas" debate in 1858, Stephen Douglas explained "popular sovereignty" in the following way:

The first of those principles that I would proclaim would be in opposition to Mr. Lincoln's doctrine of uniformity between the different States, and I would declare instead the sovereign right of each State to decide the slavery question as well as all other domestic questions for themselves States, and I would declare instead the sovereign right of each State to decide the slavery question as well as all other domestic questions for themselves, without interference from any other State or power whatsoever. (the first debate)

In the Lincoln-Calhoun debate, the debate over the moral principle of constitutionality was crucial; Stephen Douglas, on the other hand, intended to transcend the value debate over the freedom/slaveholding issue by making the "self-determination of the states", in which the states determine their political systems, the institutional basis for federal unity. In the view of Stephen Douglas, the formal unity of the states as political members could guarantee the harmony and peace of the American "union", and this formal unity was the cornerstone of the constitutionalism of the United States. It seeks a space of order in American democracy, and its expansion is based on the knowledge of American democracy. Thus, the formal neutrality of American democracy that popular sovereignty prides itself on is not entirely empty, but rather an inward-looking doctrine that seeks the natural unity of democratic politics within the United States.

The key point of the Monroe Doctrine is "to oppose the intervention of the European powers, especially the imposition of their political system on any part of the Western Hemisphere." In other words, the key of the Monroe Doctrine is the self-determination of political institutions of America which is free from the control of Europe. What is the relationship between the institutional self-determination of the states by Stephen Douglas and the Monroe Doctrine?

Stephen Douglas opposed the signing of the Clayton-Bulwer Treaty between British and American from 1852 to 1853, because it "violated the principles of the Monroe Doctrine". The treaty contained a widely criticized "self-sacrifice clause": neither the United States nor Britain would occupy, fortify, colonize, take over, or exercise any dominion over Nicaragua, Costa Rica, the Mosquito Coast, or any other part of Central America. Stephen Douglas argues that this self-sacrifice clause requires the US to promise to refrain in the future from doing what is in the national interest and duty and is thus a genuine repudiation and rejection of the principles of the American Monroe Doctrine. In this sense, Stephen Douglas's use of the Monroe Doctrine discourse to oppose Anglo-American "Co-governance" of Central America perpetuated the suspicion and fear of Old Europe that had characterized the United States since its founding.

During the parliamentary debate, Stephen Douglas also made a clear critique of the "British home country theory" and implied that Britain intended to continue interfering in the United States by spreading abolitionism to the soil of the New World through cultural influence.

Although Stephen Douglas's view from 1852 to 1853 all directed at foreign affairs, his opinion fully demonstrates his basic judgment in his theory of popular sovereignty,

which took shape in 1858: since the Monroe Doctrine continued the American founding spirit and opposed the reimposition of the European monarchy on the United States, it was only natural that in the context of the “Manifest Destiny” and the ongoing conflict between the North and the South, Stephen Douglass, who supported the Monroe Doctrine, also opposed the imposition of the abolitionist system on the United States by Great Britain - and thus the Abraham Lincoln administration, which essentially intended to abolish slavery. In this sense, to protect the political self-determination of the states was to preserve the political self-determination of the Americas vis-à-vis Europe; to force the unification of state systems was to continue the autocracy of the Old World, contrary to the spirit of American democracy.

As a staunch advocate of federal survival, Stephen Douglas’s call for state self-determination points only to the self-determination of the “free/slavery” system within American democracy, and it is difficult to imagine that states would be free to choose between the “new world” democracy and the monarchy of old Europe. And it is difficult for Stephen Douglas to imagine that any state with such freedom would grant citizenship to blacks in the same way as to whites. Thus, there is a fundamental community presupposition behind the formal neutrality of this self-determination: a new white world as opposed to old Europe.

In 1917, Woodrow Wilson delivered the “peace without victory” speech in the Senate:

I am proposing, as it were, that the nations should with one accord adopt the doctrine of President Monroe as the doctrine of the world: that no nation should seek to extend its polity over any other nation or people, but that every people should be left free to determine its own polity, its way of development--unhindered, unthreatened, uninformed, uninformed, and uninformed. unhindered, unthreatened, unafraid, the little along with the great and powerful.

In *Shifting Boundaries*, Professor Yongle Zhang observes that Woodrow Wilson’s statement doesn’t imply an equal treatment of all forms of government, but holds the assumption that once a person has the right to choose, it will inevitably choose democracy. Thus, Latin America can’t be free to turn to monarchy without risking U.S. intervention. It is easy to see that Woodrow Wilson’s statement, like Stephen Douglas’s theory of popular sovereignty, implies formal neutrality. It was this formal neutrality that allowed Wilsonianism to spread, creating the illusion of national self-determination and obscuring the Civilized Hierarchy that was the political consensus of the West at the turn of the 20th century.

The difficulty of reconciling formal neutrality with the dilemma of substantive heterogeneity is a common source of the bankruptcy of popular sovereignty and Wilsonianism. In the 19th century, Stephen Douglas’s formal neutrality could not obscure the substantive political differences between the North and the South. When it comes to the 20th century, Woodrow Wilson’s “democratic system hypothesis” is unable to respond to the conflict between the sense of equality of oppressed races and people demanding independence and autonomy and the old and new colonial powers demanding a civilized hierarchical order.

Substantive heterogeneity poses a conundrum for the establishment from the power center in the federation and the League of Nations; but for marginalized races and nation-states, formal neutrality is more profoundly oppressive. The profound oppression of blacks behind Stephen Douglas’s formal neutrality and the oppression of weak nation-states

behind Woodrow Wilson's formal neutrality were deeply embedded in a hierarchical order, either explicit or implicit. From property and trusteeship to the "rogue state," the position of marginalized races and peoples was always wrapped up in the principle of self-determination of formal neutrality.

The second point of the popular sovereignty thesis is the expansion of federal freedom. In Stephen Douglas's view, the reason for reconciling the abolitionist/slavery value debate with a positivist program is that:

If we live upon the principle of State rights and State sovereignty, each State regulating its own affairs and minding its own business, we can go on and extend indefinitely, just as fast and as far as we need the territory. The time may come, indeed has now come, when our interests would be advanced by the acquisition of the Island of Cuba. (Terrific applause.) When we get Cuba we must take it as we find it, leaving the people to decide the question of slavery for themselves, without interference on the part of the Federal Government, or of any State of this Union. So, when it becomes necessary to acquire any portion of Mexico or Canada, or of this continent or the adjoining islands, we must take them as we find them, leaving the people free to do as they please-to have slavery or not, as they choose.

Many commentators have been influenced by Stephen Douglas's expression of his vision of a federation as "unlimited expansion" and have argued that Stephen Douglas imagined a "worldwide federal republic". This judgment, in fact, concretizes the political space imagined in Stephen Douglas's discourse into a territorial and geographical space and fails to fully understand the expansionist sense of popular sovereignty.

If we look at the geographical space referred to by Stephen Douglas' expansionism from the perspective of the American political practice in the 19th century, combined with Stephen Douglas's consistent anti-British position since his political career and the scope of the "new territories" he cited in several speeches, we will find that the geographical scope of "unlimited expansion" was actually limited to the Monroe Doctrine's claims for the Western Hemisphere and even the Americas, far from reaching the entire world. However, just as American foreign affairs since the United States address by James Monroe has used the concepts of "Western Hemisphere" and "America" in a relatively vague and ambiguous sense, projecting a variable political space rather than a rigid geographic space. This imagination is based on the liberal ideology of the "New World" versus the "Old Europe" and has a clear confrontation with the "other" of the Old World, which is Europe. In this sense, the geographical space of free expansion may be limited by reality, but the political space of free expansion is truly "unlimited".

In a sense, the difference between Abraham Lincoln and Stephen Douglas before the Civil War was a difference in the means of "free expansion": while Stephen Douglas favored territorial expansion under formal union, Abraham Lincoln was concerned in the early 19th century that if the United States wants to become the leader of the free world, it needs to forge its political institutions so that the "beacon of freedom" could shine in every corner of the world. Although Stephen Douglas's romanticism cannot sustain the American federation in the face of divisive reality, it does provide the spatial boundaries of its future. With the end of global geographic space, the idea of the world as a "Quasi Texas" is no longer realistic, and territorial expansion has become an old dream, but it also allows Stephen Douglas's imaginary, free "unrestricted expansion" to become a truly effective political space and a clear footnote to the Monroe Doctrine. The United States of the 20th century inherited the legacy of both Abraham Lincoln and Stephen Douglas, and it is in a

sense of unrestricted expansion that the Wilsonianism imagines the universalization and expansion of “the United States freedom” in the global political space - and the premise and the means for this is the “truly free American system” forged by Abraham Lincoln.

Thank you!

Zenghua Zhuo (Ph.D. Candidate, School of Law of Tsinghua University)

Topic: The Collision of Chinese and Western International Law Orders in the Perspective of Global History: The Use of Sovereignty and Suzerainty in the Modern Chinese Frontier

Hello everyone!

I will first introduce several research contexts in the history of international law, because in the past 20 years, the development of the history of international law in the West is still relatively fast, and many different research paths and directions have emerged. I will make a brief introduction here.

I believe that one of the most dominant propositions in the current research of the history of international law is to move away from Eurocentrism. From the perspective of Eurocentrism, international law was seen as developed within Europe and gradually expanded worldwide with its overseas expansion. Europe was seen as the geographical, political, and conceptual center of international law. This style of writing is strongly Eurocentric and has been subject to much criticism and rethinking in recent years. As a result, the current study of the history of international law as a whole seeks to rethink this research path. The Third World Approaches to International Law (TWAIL), an approach represented by Antony Anghie, identified a strong link between colonialism and the universalization of international law, arguing that international law was imposed outside Europe to justify colonialism. The TWAIL places the development of international law in the context of the imperial era and points out that international law has developed along with the colonial encounter. Thus, international law is seen as a discourse system that justifies European colonial expansion. Anna Peters, also in the *Oxford Handbook of the History of International Law*, further expands the scope of the history of international law by emphasizing the importance of regions outside Europe. In the Handbook, the history of international law is no longer confined to European public law but a history from a non-European perspective, focusing on regions outside Europe. Peters points out that the purpose of the Handbook is to “transcend Eurocentrism” by focusing on the connections, transformations, networks, and cooperation between different regions and subjects, rather than the division of different eras, periods, and subjects. In addition, the Latin American scholar Arnulf Becker Lorca focuses his research outside Europe, emphasizing the importance of non-European international legal scholars in the history of international law. He argues that international law is a “mestizo” that was shaped by scholars from European and non-European regions, particularly the Americas and Asia.

Of course, these different research perspectives have been criticized to some extent. Although these scholars have tried to be anti-Eurocentric, its critique remains within the Western framework or Eurocentric historical narrative. They still view the non-European regions as passive subjects conquered by Europe. As a result, the reactions from non-Western regions were not reflected in their narratives. The interaction between the European center and the periphery in most cases is one-way direction, and the complex

interaction between Europe and other regions is missing.

In recent years, the study of global history has emerged worldwide. The research of global history rejects the traditional paradigm of region-based research and emphasizes transnational, transregional, and transcultural studies. This “de-national”, “de-regional”, and even “decentralized” paradigm can largely overcome Eurocentrism. Global history does not only emphasize the expansion of the study region or scope, but also the exchange and interaction of materials, ideas, and institutions on a global scale. Therefore, if we examine the history of international law from the perspective of global history, we should pay more attention to the interactions between international law systems, ideas, or concepts in different regions.

Examining the history of international law from the perspective of global history requires greater attention paid to the interaction of international law systems, institutions, and concepts among different regions. Among these, the history of international law in Asia, particularly in China, is well worth exploring. Before the European colonizers entered Asia, East Asia had already developed its own international law order, with China at its center. Since the 19th century, Europe brought its own international law order to Asia, not only breaking the original “world order” (under the Heaven) in East Asia but also replacing it. Of course, this process is not a simple replacement. In the process of collision between Asian “world order” and the European international law system, Western powers not only use European international law to destroy the “world order” but also sometimes recognize and even use East Asia’s international order for certain purposes. In this process, East Asia, China in particular, both absorbed and rejected the European international order. It can be said that the two international orders were in coexistence and collided in this process. These conflicts and struggles were greatly reflected on the diplomatic battlefield, where both China and the Western powers used international law discourses, concepts, and vocabularies to achieve their respective ends, rather than being limited to one discourse or another. Among them, the two international law concepts of “sovereignty” and “suzerainty” have been at the center of the debate.

We know that sovereignty has always been a central concept in international law. Also, suzerainty was a widely used concept in international law during this period. The terms suzerain and vassal originated from European feudal law and were used to describe the relationship between the feudal lord and his vassals, which was a constitutional concept at the time, rather than an international law concept. However, when facing the Ottoman Empire, this concept was used by the Western powers to describe the relationship between the Ottoman Empire and its borderlands. Thus, the concept of suzerainty was given a new meaning in the decline of the Ottoman Empire, where it was used by the European powers to describe “the residual power of the Ottoman sultan over the detached and independent part of the Empire”. In the 19th century, the concept was introduced from the Ottoman Empire to East Asia to describe the relationship between the Qing government and the borderland under its control. In international relations and international law, suzerainty is an ill-defined political concept that has specific connotations in specific cases.

Here, I will borrow this sovereignty and suzerainty to discuss how these two concepts have been applied to China’s frontier in modern times, and in particular, how they have been specifically applied to the issues of Vietnam and Tibet. The first is the issue of Vietnam. Historically, Vietnam was a vassal state of China, and under the suzerainty system, China controlled Vietnam in all aspects, including diplomacy. By the turn of the 19th century,

European colonizers began to enter East Asia in an attempt to control and annex China as well as its vassal states. In this process, the Western colonizers tried to introduce the principles of international law to justify their actions. By emphasizing their independence through treaties with these vassal states and severing these vassal states from the Chinese suzerain system, they denied China's authority over these vassal states and then further controlled and annexed these states. Faced with these tactics of the Western colonizers, the Qing government did not abandon the suzerainty system but insisted on its control over the vassal states. Thus, in the Sino-French negotiations over Vietnam, the status of Vietnam became the central point of contention between the two sides. For France to finally include Vietnam into its protectorate, it was necessary to exclude the Qing government's suzerainty over Vietnam from international law. For the Qing government, Vietnam, unlike the Ryukyus or other vassal states, was geopolitically and strategically important. Therefore, the Qing government took a relatively strong attitude and insisted on maintaining the suzerainty relationship with Vietnam. As can be seen, France insisted on the treaty system of European international law, arguing that France and Vietnam confirmed by a treaty that Vietnam was no longer a vassal state of the Qing Dynasty and that France had gained the right to protect Vietnam. But the Qing government insisted on the traditional suzerain system and insisted that Vietnam was a vassal state of the Qing Dynasty, and France could not deny the Qing Dynasty's suzerain status just because of a treaty that the Qing government did not recognize.

Unlike Vietnam, Tibet has always been seen more as a part of Chinese sovereignty, a frontier under the direct control of the Qing government, rather than as a vassal, which was recognized by the Western powers at the beginning. From the 19th century onwards, the Western powers have not questioned Tibet's status much since the turn of the century. In the diplomatic struggle over Tibet, the Qing government, as the weaker party, actively absorbed the Western concept of international law as a weapon to safeguard its legitimate rights and interests, especially using the concept of sovereignty to oppose the British actions in Tibet. But Britain opposed the Qing government's application of the concept of sovereignty to Tibet out of its own interests. For Britain, since Tibet borders India and has a very important geopolitical position, it doesn't want any party, including the Qing government, to have actual control over Tibet. But the cost of rule in Tibet was too high and it was not cost-effective for Britain to take direct control. Therefore, the best way is to maintain a unique status for Tibet. In the view of Britain, it was in the best interest of Britain not to define the legal status of Tibet clearly, especially to oppose the Qing government's inclusion of Tibet in the scope of sovereignty, and to define the relationship between the Qing government and Tibet in the relatively vague term of suzerainty. Therefore, in the case of Tibet, Britain did not use modern concepts of sovereignty to define the status of Tibet and opposed the Qing government's use of these concepts.

As can be seen from the above analysis, the conflicts between China and the Western powers in East Asia over the 19th century embody the collision and interaction between the two world orders. Faced with the collision of the Western international order, China did not choose to abandon the "world order" completely but tried to maintain its clan relations with its borderland while accepting the Western international order. Therefore, on the one hand, the Qing government established the Ministry of Foreign Affairs and set up a modern diplomatic system to deal with the Western powers. However, in dealing with the borderland relations, especially in the face of the encroachment of the Western powers on

the borderland, the Qing government tried to stick to the traditional Suzerain-vassal system to confront the powers. In addition, the Qing government did not completely reject the Western discourse of international law in dealing with its peripheral relations but absorbed and learned to use this discourse of international law as a way to defend its rights and interests. In particular, it emphasized China's sovereignty over its frontiers as a way to confront Western aggression. It can be seen that the Qing government tried to maintain its Suzerain-vassal system in East Asia within the framework of European international law in the face of the challenge of European international law. At the same time, the Western powers incorporated the Qing government into the European system of international law and used this system of international law to invade or control the Qing government's dependencies on the one hand and used the Suzerain-vassal system for their own purposes on the other. Europe did not completely reject the Suzerain-vassal system of the Qing government, but flexibly used these two different international law discourses in its own interest. It can be said that the collision of these two international orders between Chinese and Western in modern times is a more complicated process, not a simple substitution of one order for the other, but a more complex coexistence, conflict, confrontation, and coordination.

Thank you!

Jing Wang (Assistant Professor, East China University of Political Science and Law Scientific Research Think Tank Institute of Social Sciences)

Topic: The Monroe Doctrine and the Disintegration of the Spanish Colonial Empire

Hello, everyone!

The Monroe Doctrine, introduced by former United States President James Monroe in 1823, is the longest-standing foreign policy in United States history. This policy was relatively moderate in its early years. We know that "America" means both "the United States" and "America." With the name "America for Americans", the United States intended to resist European intervention in the Americas by linking space with the Americas, using the "shield" of the Monroe Doctrine to defend against the "spear" of Europe. 1895 was an important time point. Because, after 1895, the Monroe Doctrine evolved into an active intervention of the United States in the Americas. For example, Spain had vast colonies in the Americas, and the shift in American Monroe Doctrine policy at the end of the 19th century inevitably led to a series of entanglements with Spain. With the time, place, people, and conflicts in place, we can look at what kind of spatial entanglements the United States experienced with Spain at the end of the 19th century, especially from the 1880s to 1890s.

Since we are all familiar with the history of the United States, I will not dwell on it. Instead, I will focus on the background of Spain, so that you can better understand the subject of today's report. At the end of the 19th century, Spain could be said to have been "declining rapidly." The decline of Spain is often blamed on Felipe III and Philip IV ("Felipe IV de España" in Spanish) but in fact, from the unbeatable Carlos I (also known as Charles V) to Philip II, there was a growing trend of Spain's declining power. The signing of the Peace of Westphalia in 1648 marked the formal independence of the Netherlands and the fall of Spain to a second-rate state. In 1808, Joseph Napoleon Bonaparte of France became the King of Spain, bringing the latest political and sociological

ideas and institutions of the Bourgeois Revolution to Spain. From then on, Spain began more than a hundred years of the mutual struggle between conservatism and liberalism. In 1868, the year of the Spanish Glorious Revolution, democracy gradually became an accepted idea by much of the population. It was also in 1868 that Cuba's War of Independence broke out, by which time there were few Spanish colonies left in the Americas after the independence movements of the early 19th century. It was not until 1898 that Spain lost its last few colonies.

In such a context of declining national power, how did Spain, as a stakeholder in that specific diplomatic context, respond in the face of an increasingly powerful United States initiative to intervene in American affairs? It is of greater importance for a comprehensive and in-depth understanding of the American Monroe Doctrine foreign policy at this important point in time. On the one hand, we can understand the Monroe Doctrine more comprehensively, and on the other hand, we can better understand the politics of space and modern politics.

Due to the time constraints, I will focus on the "Arbitration on the Border between Colombia and Costa Rica". The important background to this case is that after the Cuban War (1868-1878), Spain replaced the medieval heresy of conquering religious heretics and the centuries-old Reconquista of the New World with Hispanoamericanismo. Initially, the purpose of the new Spanish foreign policy was to preserve the Spanish colonies in the Caribbean against the growing North American power in the region. One of the most distinguished manifestations of this was Spain's interest in mediating conflicts between Latin American countries.

The border conflict between Colombia and Costa Rica is precisely in the Caribbean. The arbitration case began when Colombia and Costa Rica, which had gained independence in 1819 and 1821 respectively, agreed in 1880 on the San José Convention to arbitrate the dispute over territorial boundaries – Belgium in the first instance and Spain in the second. The United States was furious to learn of the San José Convention, mainly because the arbitration case could "infringe" on the duty-free access to the Panama Canal that the United States had already acquired – based on Article 35 of the Tratado Mallarino-Bidlack Treaty of 1846 between the United States and the Kingdom of Nueva Granada. Although at that time, the main passage for the ocean trade of the United States was the natural channel of Nicaragua, the canal was still an important passage for future ocean trade, and obviously, the United States did not want to compromise its own interests. Therefore, the United States very seriously warned Spain not to arbitrate, and even if Spain did, the United States would not recognize any arbitration results.

During the game between the United States and Spain over the "Colombia-Costa Rica border", we can pay attention to several interesting details. First, the United States quickly and clearly stated that it would not recognize the Spanish arbitration. Second, the United States Secretary of State immediately informed the Spanish Minister that the King of Belgium had renounced the arbitration. Third, the Spanish Minister took the opportunity of the Costa Rican President's visit to Spain to meet with the Costa Rican Ambassador and ask him about his plans, stating that Costa Rica should first talk to the United States. Fourth, the case was still referred to Spanish arbitrating, but both Colombia and Costa Rica ensured that the United States had already acquired an interest in the Panama Canal. Fifth, Spain ultimately failed to arbitrate the "Colombia-Costa Rica border issue" and the case was subsequently referred to the French Republic for arbitration. In this regard, Spain

denounced the Monroe Doctrine of the United States as a hegemonic intervention in the affairs of the Americas only after the failure to arbitrate. Sixth, although the United States creates a warm image of a community of interest with the Americas of the Americas, the reality is only concerned with the interests of the United States in the Americas. A clear example is the border dispute between Colombia and Venezuela, which occurred shortly after the case, because the content of the dispute between these two countries is not very relevant to the United States' interests. The United States is only concerned about the European forces to enter the Americas through this, the actual diplomatic response is lukewarm and basically didn't intervene.

The arbitration case on the border between Colombia and Costa Rica shows a direct relationship between national power and the effectiveness of foreign policy practices. Although in the 19th century, Spain also proposed a policy of "Hispanic America" with a spatial political character. This policy did not prevent the independence movement of the American colonies. The independence movement was a direct result of the rise of the nation-state consciousness. Thus, it is directly related to the fact that Spain could no longer rule the colonies by force. Spain was not the same Spain that had forcibly signed the Treaty of Tordesillas ("Tratado de Tordesillas" in Spanish), which clearly favored Spanish interests when it divided its overseas colonies in 1494 with Portugal. Centuries later, Spain is in a position of obvious weakness concerning the United States, a paradox that it wants to arbitrate but cannot.

In addition, from the arbitration case, we also see that after the independence of spatial politics from the linear civilization theory, nation-states emerged, and the so-called "reasonable conquest" of "lower-order civilizations" by "higher-order civilizations" between the states was no longer the case. Instead, it is a kind of solidarity based on ethnic, geopolitical, and historical factors in the position of equal nations. Spain's "Hispanic-American foreign policy" failed. Did the American Monroe Doctrine work as a unifying force in the Americas? The Monroe Doctrine did not create a "unity of justice" in the Americas at the end of the 19th century, as can be seen in the Colombia-Costa Rica border arbitration case and in several other cases that I was unable to report on today because of time constraints. The nations of the Americas had a strong sense of national sovereignty and were clear that the American Monroe Doctrine was not for the benefit of the Americas. As a result, the countries of the Americas, while defending the United States interests in the Americas based on the United States national power, exhibited a diplomatic display of distrust of the United States.

Finally, returning to the macro-theoretical framework, the linear view of civilization established in the colonial era has been bankrupt. Especially after the independence of Third World countries, the idea of "civilization as the conquest of a higher civilization" no longer holds true. At the end of the 19th century, through the Monroe Doctrine in the Americas, we see a seemingly moderate turn towards unity through spatial communities. At the same time, the American Monroe Doctrine failed to achieve unity in the Americas. Instead, it succeeded in achieving the Monroe Doctrine as a deterrent to European suzerainty intervention in the Americas. This is a side effect of the transition from a linear view of civilization to a spatial politics.

Thank you!

Commentator: Yifeng Chen (Associate Professor, Peking University Law School)

Hello, everyone!

The presentations by the panelists are very interesting. The talks given by Professor Li Mingqian and Miss Yue Duo are closely related to each other, focusing on the expansion of the Monroe Doctrine to the global level. Before World War I, the United States adopted an isolationist posture in international relations, although it began to acquire overseas colonies after the Spanish-American War. After World War II, the United States became fully involved in the international order as a leader in the international community. In the interim period between World War I and World War II, certain tension existed in the United States' foreign policy between remaining regional leadership limited to the American continent and becoming a global empire to guard trade and colonial interests. The process of transforming the United States from regional to global hegemony is well worth examination.

Professor Mingqian Li explores the transformation of American political thought and foreign policy from the Monroe Doctrine to Wilsonianism by examining the first-hand Manley Hudson's diary. Wilsonianism provides an ideological basis for the United States to move from the regional to the global and to lead the world order. On the one hand, Wilsonianism was a response to the foreign policy of socialist Russia. The Russian Decree on Peace of 1917 proposed the abolition of secret diplomacy, the rejection of annexation by force, and respect for national self-determination. In response, Woodrow Wilson also campaigned for open peace treaties, non-secret diplomacy, and a partial acceptance of the idea of national self-determination. On the other hand, Wilsonianism was also a response to the old style of European diplomacy, which purported to replace the principle of balance of power with that of democracy through the establishment of the League of Nations in politics, and to advocate open doors and free trade in economics in opposition to colonial monopoly. Woodrow Wilson's support for the League of Nations was in large part an attempt to generalize the American order to the world while accommodating the traditional European powers. As an attempt to reconcile the League of Nations with the Monroe Doctrine of the United States, Article 21 of the Covenant of the League of Nations emphatically stated that the Monroe Doctrine did not violate the Covenant of the League of Nations, excluding American affairs from the jurisdiction of the League of Nations and leaving intact the Monroe Doctrine of the United States in the Americas. Yet this assurance has not relieved the Congress of the United States from its concerns of the compatibility of the League of Nations with the Monroe Doctrine. The Congress of the United States was also worried that a collective security system would force the United States into war. The United States ultimately did not join the League of Nations. Shortly, the United States turned its support for international organizations to international judicial institutions, including advocating for the Permanent Court of International Justice (PCIJ) in 1921 and promoting the Paris Non-War Pact (Kellogg-Briand Pact) in 1928.

Miss Yue Duo highlights the tension between the Wilsonianism and the Monroe Doctrine. The Monroe Doctrine asserts that "America is America for the Americans" and that the people of America should decide for themselves. Wilsonianism, however, asserts that each nation should decide its own destiny. Of course, Woodrow Wilson presupposed that every nation would choose a republic as a matter of course, a reflection of the "Manifest Destiny" mentality in the American political culture. Miss Yue Duo notes that the concept of Manifest Destiny was espoused in the United States at the time of the

Westward Movement, and soon moved from the territorial to the spiritual level. Both “Manifest Destiny” and the Monroe Doctrine are important spiritual states in American political life. The concept of popular sovereignty of Stephan Douglas sought to provide an argumentative legitimacy for the continued slaveholding and slave trade by Southern states and to allocate power between the states and the Federal government. The debate about popular sovereignty in a deeper sense is a debate about the spiritual idea that organizes and unites the United States at the federal level.

Mr. Zenghua Zeng’s thesis uses a wealth of materials from international law and history. He emphasizes that the global expansion of European international law was not one-dimensional. The expansion of the international law order met resistance and revolt from local orders. The universality of international law was achieved through conquest, not persuasion. But the extent to which the coexistence and interaction of the European international law order with local orders can coexist in the long run is highly contingent. Whether it was France in the case of Annam (“An Nam Bảo hộ Quốc” in Vietnamese) or Britain in the case of Tibet, the acceptance of the Eastern order was very often strategic, an acceptance out of the short-term need for self-interest rather than an endorsement of the value of the order. We must think carefully about implications and limits of coexistence of the two orders. The violence and subjugation behind the interaction and coexistence of the orders deserve more of our attention.

In terms of methodology, the relationship between the Third World International Law Approach and global history (GHI) deserves further reflection. TWAIL, while partially employing the conceptual framework of western international law, is generally more radical in their political stance. When making criticisms, one must consider to what extent it is possible to discard from western discourse. For people living in a post-colonial era, a pressing challenge is how to use international law discourses and concepts without subjecting to epistemological colonization of the West, and to articulate our views in a communicable way. In this sense, the current research of global history may reinforce eurocentrism as the practice of building global history from European history has become the norm. A truly global history requires non-Western countries to respond to the very basic notions of law and order, developing an interactive global history. The simple geographical expansion of European history to a global scale does not constitute a global history, but global colonial history.

I would like to conclude by pointing to a reference that Mr. Zenghua Zeng made in his paper: China practiced “govern by non-governing” while the West placed more emphasis on physical control of territory. China emphasized patriarchal recognition and ritual order, while the West promoted actual control and physical elements such as planting flags, building monuments, and sending troops and colonies. These observations may provide an intellectual space for thinking about both Chinese territorial disputes and the possible future of the world order.

Thank you!

Commentator: Yang Liu (Assistant Professor, Renmin University of China Law School)

Professor Jing Wang brings a particularly important perspective to the panel. In 1895, the United Kingdom and the Bolivarian Republic of Venezuela settled the border issue through arbitration, in which the United States dominated although it did not intervene

directly. This marked Britain's acceptance of the dominance of the United States border in the Western Hemisphere and was seen as the rise of the United States, followed by a series of stories such as Alfred Thayer Mahan's *The Influence of Sea Power upon History*. Professor Jing Wang's research of Spain shows a similar story, revealing to us that third-party arbitration, the essence of international arbitration, is a form of violence to lay down and maintain order. International rules, in this sense, may not represent international justice, and formal justice does not represent political neutrality in substance. We look forward to more and more exciting research after digging into the historical material.

Thank you!

Round Table: Area, Space and Law¹

Moderator: Tianlong You (Associate Professor, School of Ethnology and Sociology at Yunnan University)

Hello, everyone!

Our Round Table, with seven speakers, encompasses a wide variety of topics, including history, geography, law, communications, and more. In terms of geography alone, these papers cover from the Arctic to Australia, from physical space to virtual space. Let's give them a round of applause.

Peng Wang (Director Assistant, Centre for Chinese Foreign Strategy Studies, School of International Studies, Renmin University of China; Research Fellow, the Institute of State Governance, Huazhong University of Science and Technology)

Topic: Berlin Wall, Greater Middle East, and the Indo-Pacific: The Evolving Geographical Pivots of American Grand Strategy

Hello, everyone!

History does not repeat itself, but it rhymes. It remains to be seen whether future historians will look back on 2021 as historians today look back at the fragmentation of Europe's great powers in the first decade of the 20th century. But it is almost certain that in the two weeks of September 2021, there have been five consecutive and intense events that have profoundly shaped the future of global and regional strategy: on September 11, 2021, the United States commemorates the 20th anniversary of 9/11. Not only does this mark the official end of the 20-year war in Afghanistan, but it also marks the end of George Bush's Greater Middle East strategy, perhaps heralding the end of the Post-Cold War Era. Four days later, on September 15, 2021, the United States, the United Kingdom, and Australia announced the formation of AUKUS Alliance, meaning some sort of alliance between the world's three most powerful maritime powers in the Indo-Pacific. The next day, September 16, 2021, the European Union released its Indo-Pacific strategy document, declaring the official involvement as the largest geopolitical force outside the Indo-Pacific region. On September 17, 2021, a summit of the Shanghai Cooperation Organization leaders in the Tajik Capital, Dushanbe, announced that it would begin the process of upgrading Iran from an observer to a full member. Hereto, there are comments saying that the three most powerful land-based powers in Eurasia - China, Russia, and Iran - will also start to coordinate positions and strengthen strategic linkage. A week later, on September 24, 2021, the leaders of the United States, Japan, India, and Australia attended the Leaders' Summit of the quadrilateral security dialogue (Quad) in Washington, D.C, claiming that it would comprehensively strengthen security and economic cooperation among the four countries in the Indo-Pacific region. Although the joint statement did not name China, it was widely seen as aimed at Beijing.

There is nothing new under the Sun. These five geographic events, which are not completely isolated from each other, may provide a glimpse into some historical trajectory

¹ The Round Table is translated by Jiangnan Nie (East China University of Political Science and Law) and Xiaofu Li (Associate Editor of FLIA Review). The translations has been modified and confirmed by the speakers.

of the shift in the center of gravity of our global strategy.

The first part of my statement concerns the geo-strategic heritage and legacy of the United States since its founding.

Since its founding, “Europe first” has been the guiding principle of America’s geography and security strategy. Whether it is Washington’s, father of the United States, isolationism political will to stay out of European affairs, or the Monroe Doctrine’s desire to dominate the Americas alone, its unspoken bulwark against rivals and threats from within Europe. The former tried to avoid being damaged by being involved in the internal strife of Europe in the context of its weakness, while the latter tried to reject the influence of Europe on the Americas in the context of its strength.

With the development of Westward Movement, the United States became a two-ocean country in the mid-19th century. With the conquest of the Pacific Islands, the victory of the Spanish-American War, and the occupation of the Philippines at the beginning of the 20th century, the United States had become involved in Asia and the Pacific. However, the principle of European priority, which is deeply rooted in the United States strategic tradition, has not been eroded.

In the century after the Battle of Manila Bay, after the United States initially established its dominant position in the Pacific after the World War I, after the invasion of the Pacific territories in World War II and the eventual use of its power to defeat Japan and occupy the whole of Japan’s Island, and even after the Korean Peninsula and Indochina were embroiled in two bitter hot wars, “Europe first, Asia second” geostrategic principle stood firm. The root cause, as early as October 1938, in his report to the enlarged sixth plenary session of the Communist Party of China, Mao Zedong had pointed out from the height of the world strategy: “the main center of gravity of the world is in Europe, and the east is an important part surrounding it, whether it is the eve of war or the outbreak of war between the Great Powers, the Great Powers and the small ones in the West will put European problems first on the agenda, while the eastern problems will have to be put second for the time being.”

The second part of my talk is on the Cold War: the Iron Curtain, the Berlin Wall and “Europe First, Asia Second” Principle.

The World War II led to the decline of Europe, the center of the modern world, and the shift of its power to its two wings, flanking countries, including the United States and the Soviet Union with “geographical location and size and the combination of huge military supply potential” to become the only remaining superpower. The focus of the US-Soviet confrontation remains on a divided Europe. American diplomacy has a tradition of “Europe First, Asia Second”, and the “Atlantic First” principle was formally established during World War II by the ABC conference held in Washington D.C. in 1941 by British and American staff officers.

Early in the postwar period, George Kennan listed the United States, the United Kingdom, the Rhein valley countries (France, Germany, and their hinterland), Russia, and Japan as “key areas” that the United States must control because these areas had important industrial capabilities. In contrast, the Soviet Union, America’s archrival during the Cold War, had a demographic and industrial base in Europe. As a result, Europe has become the main battleground between the two camps, remaining at the central place of the U.S. global geostrategy.

Between 1947 and 1949, the basic pattern of the Cold War between the United States

and the Soviet Union was formed. Almost all of the most iconic geopolitical events took place in Europe: the implementation of the Marshall Plan in July 1947, the establishment of the West German state in May 1949, and the establishment of North Atlantic Treaty Organization in August 1949, and “the Soviet Union spurred on by the United States policy, radically reshaped the political and social fabric of Eastern Europe, using its Stalinism to ensure the strictest control imaginable outside of imperial annexation”- efforts that culminated in the creation of the Warsaw Pact in May 1955.

If George Kennan’s *The Sources of Soviet Conduct* was the blueprint for the United States’ Cold War strategy, so was Winston Churchill’s speech about the Iron Curtain, “From Stettin in the Baltic to Trieste in the Adriatic, an Iron Curtain has descended across the continent. Behind that line lie all the capitals of the ancient states of Central and Eastern Europe”, a geopolitical portrait of the post-war Sphere of influence, that is, the global strategic focus of the United States during the Cold War. During the Cold War, which lasted nearly half a century, the United States and the Soviet Union fought fierce and even bloody wars outside Europe, such as the Hot War in Korean peninsula and Vietnam, and proxy wars in the Middle East, Africa, and Latin America, but all this has not changed the established policy of the United States to devote major political, economic, and military resources to the European front against the Soviet Union. To this day, North Atlantic Treaty Organization, which includes the United States and its major European allies, remains the framework of the United States’ primary military alliance.

The third part of my talk is on three decades of transition: the War on Terror, the Greater Middle East democratic transformation and strategic contraction. If the 30 years from the collapse of the Soviet Union in 1991 marks the end of the Cold War, to 2021, is labeled as the “Post-Cold War Era”, it can be further subdivided into three decades.

In the first decade after its victory over the Soviet Union, the United States lacked a geopolitical rival in size. The strategic predilection of Washington strategists for enemy hunting continues to drive the United States to find adversaries around the world -- if not, create one. Thus, during the “enemy-searching period” or “strategic confusion period” of the decade, the United States extended the sanctions and hostility unleashed by the ideological conflict with China in the late 1980s. The theory of so called “China Threat” is on the rise. At the same time, due to America’s ideological pride and prejudice, and absolute confidence in its strength and system, the theory of “China Collapse” which assumes that China without American democracy will eventually follow Soviet Russia’s steps, was also popular in the United States. China threat theory and China collapse theory, although seemingly contradictory, have the same goal in different ways. Together, they have shaped China into a heterogeneous “other”, which urgently needs the United States to evolve and reform its system; at the same time, America should prevent and suppress China strategically. Although relations between China and the United States improved considerably in the later years of the presidency of Bill Clinton, and China passed through the United States in the arduous negotiations to join the World Trade Organization, when the neoconservative George Bush administration came to power, China was quickly redefined as a (primary) threat to the national security and labeled a strategic competitor until 9/11.

The War on Terror is geographically directed against the Taliban regime in Afghanistan in the heart of Inner Asia, thus forcing the United States to create a rigid demand for security cooperation with China, Russia, Pakistan, and Central Asian countries.

Therefore, they must adjust their hard-liner policy toward China. Thus, the United States entered the twenty-year War on Terror, which then evolved into the “Great Middle East War” later. Rebalancing towards China has been delayed for more than a decade.

From October 7, 2001, when the United States airstrikes were launched, to November of that year when the city of Kabul changed hands, the United States quickly won the war in Afghanistan at minimal cost and installed a new regime. However, this military “quick victory” was unexpected but also logically led to a series of political haste and strategic overstretch. First, the United States unilaterally launched the second Gulf War on March 20, 2003, bypassing the United Nations Security Council. It is on the premise that the war against terrorism in Afghanistan had not yet been completely won. In today’s terms, the move essentially marks the end of the United States’ War on Terror and the beginning of a geopolitical-hegemonic war in the Middle East. However, as the United States military focus shifted westward, the Taliban made a comeback between 2003 and 2007, forcing Obama to announce a 17,000-troop surge to Afghanistan in 2009; by 2010, the number of United States troops in Afghanistan has risen to a peak of 100,000; the total number of foreign troops in Afghanistan is 150,000.

On June 9, 2004, a year after the outbreak of the Iraq War, the United States formally presented the Greater Middle East strategy at the group of G8 summit. As the centerpiece of the George Bush administration’s strategy in the Greater Middle East, it aims to bring about political, economic, social, and cultural reforms by peaceful or non-peaceful means to the 22 Arab states of West Asia, North Africa, and Central Asia, as well as to Turkey, Iran, Afghanistan, Pakistan, and the Central Asian states, to change regimes, expand democracy, reshape the regional order, and ultimately ensure the United States national security and global hegemony.

The transition from the War on Terror to the war on the Greater Middle East is not only a technical evolution in terms of geographical scope and means of implementation, but also an essential transformation, which leads to complex regional and global strategic consequences. The strategy of the Greater Middle East has, in effect, abandoned the thrust of the War on Terror and instead sought to democratize the countries of the Middle East in an American way and enlarge the US hegemony in the Greater Middle East region. This process is accompanied by the historical memory of the “Clash of Civilizations” between the Western Christian world and the Muslim world of the Middle East, and the struggle of the so-called democracies against the authoritarianism for more than half a century of the Cold War. The move is sure to turn many of the region’s countries that do not practice American democracy against the U.S. itself. Under Barack Obama’s administration, ideological impulses and the illusory benefits of democratization of the Middle East Trump Seek truth from facts, penny-pinching geopolitical strategy and balance of power considerations, so the United States contributed to the Arab Spring Movement, Tunisia, Egypt, Libya and other neutral, or pro-American, or has given up anti-American to yield to the destruction of the regime. After the reform, the Middle East countries either fell into a long-lasting (civil) war or their newly established “democratic regime” totally embarked on the road of anti-American or anti-Israel under the strong influence of public opinion. Some regimes have even been radicalized in both domestic governance and diplomacy by the popular religious fundamentalism; this, in turn, reinforces the violence and poses a greater threat to the United States, and forms vicious circle constituted by the rising terrorism and the “war on terror” against them. The rise of the Islamic State is one example.

Second, at the operational level, the United States Army's long-term engagement in Afghanistan, an impoverished mountainous country surrounded by a group of former Soviet Union states under Russia's influence and hostile Muslim countries in the heart of Inner Asia, is absolutely a high cost and high-risk operation. This engagement and deployment are substantially a departure from the "insular principles" that the United States has well practiced for more than a century, which normally employs "offshore balancing" as its main means of hegemonic protection. In the past, even at the height of the Cold War, the United States was deeply involved in the "hot war" in the Korean and Indochina Peninsula. Never had such a large army been deployed for such a long time in the inland highlands, far from the coast, against an asymmetric adversary who were guerrilla experts.

Third, in terms of great power relations, at the beginning of the War on Terror, all countries in the world, including China and Russia, extended full sympathy and cooperation to the United States. Putin even had traveled to Central Asian countries to seek support from local airports and military bases for the United States. However, as the war on terror degenerated into a more geographical and hegemonic war in the region of "Greater Middle East", China, Russia, Iran, and other countries generally felt great military pressure, so they held together, and reassessed the United States intentions and threats. As a result, the United States has had to invest huge resources into Afghanistan and Iraq in the absence of international legitimacy and substantive support, thus accelerating the erosion of national power and the onset of domestic crises.

In 2008, Washington strategists were struck by the contrast between the United States financial crisis and China's successful hosting of the Olympic Games. The Indo-Pacific strategy is the latest in a series of strategic moves aimed at rebalancing China in the last decade of the three-decade transition period. To concentrate on balancing China's rise in the Indo-Pacific region, the United States had to shrink from the "democratic bridgehead" (Europe, in) and the "Balkan of Eurasia" (Zbigniew Brzezinski's terms). This long and \$2.3-trillion-cost war in Afghanistan ended two decades after its beginning.

The fourth part of my talk is about the Indo-Pacific: is it an inevitable geopolitical result, as Graham Allison puts it "Destined for War"? Or is it just a self-fulfilling prophecy?

In late 2017, former President Donald Trump launched America's Indo-Pacific strategy with a speech at the Asia-Pacific Economic Cooperation Da Nang Summit: "It is an honor to come to Vietnam -- the very heart of the Indo-Pacific -- to speak to the people and business leaders of the region." Over the next three years, the Indo-Pacific strategy has been constructed, implemented, reinforced, and even attempted to "disincline and lock" its successor, Biden Administration, as the flagship concept of the United States global geo-strategy. There are several milestones of its evolution and development. For example, in May 2018, the U.S. Pacific Command (PACOM) was officially renamed the United States Indo-Pacific Command (USINDOPACOM);¹ January 5, 2021, just two weeks before the end of Trump's reign, Robert C. O'Brien, Assistant to the President Assistant for National Security Affairs suddenly declassified a key secret document, the *United States Strategic Framework for the Indo-Pacific*, which was supposed to be declassified 2042.

After the Biden administration came to power, against the background that both parties regarded China as a "strategic competitor." They not only fully accepted and inherited the Trump administration's Indo-Pacific strategy, but also gave China a new label

¹ Peng Wang: See U.S.-Indo Pacific Command, <https://www.pacom.mil/About-USINDOPACOM/> (accessed on March 20, 2022).

“strategic competitor”; hence, they deepened the connotation and geographical scope of the term “Indo-Pacific” and enriched their strategic toolkits and means of implementation in various aspects. Building on Donald Trump’s revival of the Quad, the Joseph Biden administration linked it to groups such as the Five Eyes, the “D10’ club of democratic countries”, and the newly formed AUKUS in the Indo-Pacific region. They have also drawn together the Association of Southeast Asian Nations and other countries around the Bay of Bengal, and brought in the European Union, North Atlantic Treaty Organization (NATO), and other geographical forces outside the Indo-Pacific region, in the political (ideology and public opinion), diplomatic (alliance enhancement and partnership building), economic (including trade, investment, infrastructure, etc.), military, security, and other fields in an all-round containment of China. “We are in fierce competition with China,” Joseph Biden said bluntly in his 2021 speech on August 31, the end of the war in Afghanistan, “We are dealing with challenges on multiple fronts with Russia. In this competition, what China and Russia most hope to see is that the United States is trapped in Afghanistan for another decade.” Although this argument has the suspicion of leaving without saying good-bye and trying to get out of Afghanistan, it also spells out the direction in which its future strategic priorities will shift.

The final part of my talk is about understanding the implicit and explicit lines of the changing United States Global Geostrategic pivots.

Since the end of the World War II, Berlin Wall, and Baghdad, Danang as three landmarks may have witnessed the change and shift of the United States’ global geostrategic pivots. Meanwhile, there are two lines accompanied to understand the historical cause of this shift.

The explicit line is the United States’ perception, assessment, and response to a primary threat. During the Cold War, when the United States used NATO to hold European allies to confront Soviet Union at the Berlin Wall, the two sides maintained their core forces and strategic pivots in Europe.

The 30-year post-Cold War era as a transition period can be divided into three parts. In the first decade, the United States with its laurel of the “victorious nation of the Cold War” was searching “enemies” and “rivals” everywhere. It once targeted China as its main threat in early 1990s, but 9/11 attack interrupted that strategic perception, and the War on Terror and tyrant waged in the second decade (2001 in Afghanistan and 2003 in Iraq) has further shifted the US strategic focus from the Far East to the Middle East.

However, the “quick victory” of the Afghan war has inspired the ideological impulse of “democratic transformation” and false geopolitical ambitions of the neoconservative decision-makers in Washington. The US military marched into Baghdad and overthrew Saddam Hussein’s regime, marking the substantial transformation of the War on Terror into a geopolitical war aimed at controlling the “Greater Middle East” and expanding global hegemony.

Entering the third decade, the United States faced an insurmountable domestic crisis, the rise of China, and the relative decline of its national power, so it continued to suppress Russia and continued the “Greater Middle East” strategy in the form of “Arab Spring” movement, launched the “Pivot to Asia” Strategy in dealing with rising China. Therefore, if Trump’s speech at the Da Nang APEC summit officially opened the curtain on the Indo-Pacific strategy and the Indo-Pacific era, the Biden administration, based on inheriting the legacy of Trump’s China strategy, will further bring China-US relations and global

configuration among great powers into a new and uncertain era of “strategic competition”.

The implicit line of the United States global geostrategic shift is the shifting world economic center from west to east, which is also an important reason and dynamic for “the great change unseen in centuries” (*bainian weiyou zhi dabianju*). The economic miracle created by China’s reform and opening up for more than 40 years is the driving force behind the historic eastward shift of the global economic center. Currently, there are a series of strategic reviews of frameworks designed by outside-Indo-Pacific great powers, such as Britain, France, Germany, the Netherlands, and the European Union, which clearly point out that the Indo-Pacific region has become the center of global wealth and economic growth now and in the future. So, this vast region, stretching from East Africa in the west to the depths of the Pacific Ocean in the east, from the Pamir Mountains in the north to the Antarctic waters in the south, seems destined to replace Europe and the Middle East as the new focal point of the globe for the next generation.

As for the center of the world, Professor Yan Xuetong has given a clear and practical definition, that is, it must be a region both gathered the most powerful states in the world and a major stage filled with the fiercest international contradiction or competition. From this standard, it is unquestionable that during the Cold War, Europe captured the central place of the world. When it comes to the “Greater Middle East” region, which lacks true world powers, the contradictions between the regional secondary powers, such as Saudi Arab, Israel, Iran, Egypt, and Turkey, as well as outside-region superpowers behind them, such as the United States and the Soviet Union, are substantially concentrated and prominent. Therefore, the United States promotes power expansion by focusing on the “Greater Middle East” in early 20th century in the context of lacking geographical competitors of its same size.

Then, in the context of its own setbacks due to two wars in Afghanistan and Iraq, as well as China’s accelerated rise, the United States re-targeted China as its principal geopolitical competitor, and successively invented “returning to Asia-Pacific”, “Pivot to Asia”, “Indo-Pacific”, and other geostrategic concepts. Whether this move will return to the “Cold War” remains to be seen, but there is no doubt that the international landscape will return to the era of “great power competition”.

This is the retrospection and interpretation of the shift of United States global geostrategic gravity in the postwar era. Shakespeare once said: “All the world is a stage. And all men and women merely players.” Having decided that this is a world of grand chessboard and a clash between titans, the United States appealed to its allies to preempt the stage of the Indo-Pacific so hurriedly, unaware of that it has raised the curtain of an epic competition itself while the true protagonist is about to arrive.

Thank you!

Gui Huang (Associate Professor, Law School, Yunnan University)

Topic: Prohibitive Norms and Exception Clauses of the Data Localization in RCEP

Hello, everyone!

The Regional Comprehensive Economic Partnership (RCEP) came into force in January 2022. The cross-border flow of data is arguably one of the hottest topics in the international community.

Nowadays, academic circles and many countries advocate the free cross-border flow

of data. But in fact, there is no pure and complete cross-border flow of data. Even the United States is also implicit in the indirect nature of data localization related terms. I explain the prohibitive norms and exceptions to the data localization for RCEP, the multi-regional clause that China has just joined.

The first part of my talk today is to comb through the concept of data localization and the specific terms of RCEP, which are not only embodied in one or two terms, but also in some principled terms. The exceptions relate mainly to public policy provisions, the anti-circumvention clause, the parallel clause, and the basic security interest clause. Exception clause is to give the parties and members to determine the local, national conditions, system cultural values, and data governance orientation of the provisions, is an enabling clause. Of course, to say that it belongs to the data localization prohibition exception involves the free space question. What is a prohibitive norm? That is, a state requires the person/entity holding or controlling the data to take appropriate measures to store the data within its territory or to take measures to prevent it from transferring or making the data available outside its territory. This is a relatively common concept, although I refer to some foreign literature, many Chinese scholars also generally agree on the concept of data localization, that is, disallowing or limiting cross-border data flow, or requiring data or computers as computing entities or physical entities to be placed within the territory of the state. This is an understanding of the basic concepts, and due to time, I will not extend the introduction. Where are the prohibitive norms for data localization? RCEP is mainly embodied in Article 12.14 and Article 12.15. Article 12.14 prohibits the localization of computing facilities, such as computers, servers, and other computing physical entities that parties require to be located within their national territory, that is, a contracting party may not require “covered person” (RCEP) to apply a computing facility within the territory of that contracting party or to locate it within the territory of that contracting party. It is a prerequisite for business. Article 12.15 guarantees the cross-border data transfer, that “The Parties shall not prevent cross-border transfer of information by electronic means where such activity is for the conduct of the business of a covered person.”

The prohibition of data localization under RCEP is reflected in the above-mentioned Paragraph 2 of Article 12.14 and Paragraph 2 of Article 12.15. Of course, we can not only read these two norms, but also consider other provisions. For example, in Article 12.1(b) of RCEP, financial institutions are excluded from the application of the localized prohibition, this is mainly because RCEP is based on the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), and to a certain extent, the system and regulatory policy of cross-border data flow are based on the CPTPP. Article 12.2 is the principle and objective, which in principle is to avoid unnecessary barriers to the flow and use of data, that is, to encourage or advocate the free cross-border flow of data. Article 12.3 excludes government procurement, government holdings, and government-collected information from prohibitive norms. For example, information about government procurement, government processing, or information collection is not subject to a rule that prohibits data localization. Article 12.3 provides for “non-conforming measures” and exceptions. Articles 12.7 (Online Consumer Protection) and Article 12.8 (Online Personal Information Protection) are both exclusionary norms.

How to understand the exception clause? How to understand the application of RCEP’s public policy provisions? I consider the RCEP’s public policy provisions from the jurisprudence of the World Trade Organization. In fact, the World Trade Organization cases

give members the right to decide the content and dimension of public policy under full sovereignty. That is, each member has its own interpretation space on public policy issues. The anti-circumvention clause is the right granted to members not to promulgate measures relating to data localization in a manner that would constitute arbitrary or unreasonable discrimination in the application of data localization or in a manner that would constitute disguised trade restrictions.

But there's a limitation. The fundamental security interest's clause is used to prevent members from resorting to data protectionism and to ensure that free trade agreements are not used to violate individual data rights and other fundamental rights. This is modelled on a clause in the EU's General Data Protection Regulation (GDPR) that explicitly protects privacy. The Basic Security Interest Clause is also an exclusionary clause, which is embodied in the consciousness of the members. There is also a bona fide clause, that is, a member may apply the fundamental security interest clause in favor of data ontology, but the application must be in good faith.

Thank you!

Jiayu Wang (Ph.D. Candidate, Peking University Law School)

Topic: The Cooperation Mechanism of the Arctic Council from the Perspective of Functionalism

Hello, everyone!

My interest in what I am going to talk about today began in 2019 when I took the course, "Nordic Law in European Context", at the University of Helsinki as an exchange student. Professor Pia Letto-Vanamo, who taught the course, mentioned the regional philosophy -- Scandinavian Realism -- which played an important role in legal cooperation among the Nordic countries. This philosophy bears a very strong brand of pragmatism, which is also reflected in functionalism, the basic theory of international organization studies. Therefore, I came up with the idea of using this theoretical tool to study the cooperation mechanisms in the Arctic.

My final choice was the Arctic Council, with both the regional nature of the members and the global nature of the issues being addressed and influences, which embodies the necessity to seek a unity of opposites between the global reach of Arctic issues and the regional reach of the Arctic states' sovereignty. To some extent, it is a microcosm of Arctic governance. On the one hand, due to the vulnerability of the polar environment, the habitat of human and other species in the Arctic is significantly affected by global warming, and global coordination and cooperation are essential to address the growing environmental problems. In addition, the melting of glaciers and other geological changes lead to the increase of shipping resources in the Arctic, which will undoubtedly increase the interest of stakeholders in the division of power and rule-building in the region. On the other hand, unlike Antarctica, where territorial claims have been frozen, the implementation of Arctic governance, including the enforcement of laws and policies, largely depends on the countries with recognized sovereignty and sovereign rights in the region. All forms of international cooperation aimed at solving the Arctic problem must be premised on respect for the territorial sovereignty of states. Thus, while maintaining the openness of research and discussion to increase the international attention and participation in regional issues, Arctic governance also requires the necessary coordination among Arctic states and

between the Arctic and non-Arctic states. The latter may be a more arduous task.

The history of the Arctic Council can be traced back to 1991, when the Arctic Environmental Protection Strategy (AEPS) was founded at the initiative of Finland. Esko Rajakoski, Finland's Consultative Ambassador for Environment, Arctic and Antarctic affairs, made it clear that "we do not want to touch those very delicate international problems that have other than an environmental character". The Arctic Council established in 1996 was based on the AEPS framework, inheriting the original rules of procedure, including its observer system and the inclusion of Arctic indigenous groups as the permanent participants.

It is thus obvious that cooperation in the Arctic has been centered around the topic of environmental protection from the very beginning. The reason why the Arctic states, especially the United States and the Soviet Union, were able to put aside their disputes temporarily and participate in the same cooperation mechanism at the end of the Cold War, is that the mechanism has already pre-empts matters other than the environment from the framework of discussion.

In terms of the organizational structure of the Arctic Council, some scholars define it as a three-tier structure, from the top down are the Ministerial Meeting as the decision-making body, the Senior Arctic Officials Meeting as the executive body, and the Permanent Secretariat as the administrative body. However, by performing a textual analysis of the Ottawa Declaration on which it was based and the Rules of Procedure, as amended in 2013, the Ministerial Meeting and the Senior Arctic Officials Meeting are far from constituting the role of decision-making and executive bodies although they do have some work relating to the decision-making and execution of the Arctic Council respectively. Moreover, the Secretariat, while having the characteristics of an administrative body, does not yet constitute the basic structure of the organization, is the product of pragmatism born with the development of the cooperative mechanism itself and the complexification of its work.

According to the rules of procedure, the division of power and responsibility of the Arctic Council does not present as a vertical three-tier structure, nor does it rely on a clear institutional division. It is based on the different rights enjoyed by different participants including the Arctic states the permanent participants, and the observers. It is a framework with the Arctic states as its core, with the consensus rule ensuring that the Arctic states have the final say in decision-making, among which the inclusion of indigenous people's groups as permanent participants enhanced the legitimacy of the Arctic Council and the participation of observers helped to increase its openness and transparency, leaving room for the growth of international cooperation of various environmental projects. And yet the admission of both the permanent participants and the observers was aiming at the implementation of the functions of the Arctic Council and did not change the exclusiveness in decision-making rules of the organization.

Based on the work records and related instruments of the Arctic Council, its daily work can be summarized in three dimensions. The first is the regular research and reporting work carried out by its working groups. Through the collection and collation of scientific data, the Arctic Council can build a long-term, systematic network of Arctic monitoring, and ultimately make a high-quality assessment of environmental problems in the Arctic. This dimension mainly focuses on the Arctic climate and environmental issues and is supported by long-term cumulative technical outputs, to build a functionalist cooperative network among the Arctic states that avoids the destructive effects of political divisions.

The second is the work related to treaty codification. The Arctic Council has helped to bring about the conclusion of three legally binding treaties, including Agreement on Cooperation on Aeronautical and Maritime Search and Rescue in the Arctic, Agreement on Cooperation on Marine Oil Pollution Preparation and Response in the Arctic, and Agreement on Enhancing International Scientific Cooperation in the Arctic. While its role in these processes is merely a platform for negotiation, it could be envisaged that, in accordance with Article 32 of the Vienna Convention on the Law of Treaties, the rules for treaty interpretation, the *travaux préparatoires* of a series of treaties under its auspices, may have an impact on future treaty interpretation as supplementary material reflecting the intentions of the parties.

The third is to take a series of actions in response to an emergency. Take the work of the Arctic Council since the global outbreak of the COVID-19 pandemic in early 2020 as an example. the Arctic Council is actively engaged in the production of “Arctic knowledge” through the coordination of expert, organizational policies, and indigenous people recommendations, thus acting as a sort of “policy shaper” in a particular field.

A Working Peace System, published in the 1940s by Romanian scholar David Mitrany, is regarded as the cornerstone of functionalism in modern international relations theory. It is largely a reflection on the outbreak of the World War II and the failure of the League of Nations, which argues that the international community needed “active organic development” rather than relying solely on “a written act of faith” to acquire “a living body”. Therefore, it advocates circumventing and diluting ideological differences by setting “going lasting instruments and habits of a common international life.” The starting point of functionalism is the inevitable division of labor and cooperation in human society, especially in specific fields such as environment protection, scientific research, and public health, power discourse often needs to be subject to the universal vulnerability of human beings. From this perspective, whether “functional differentiation” in the theory of global governance and/or “fragmentation” of international law may only be a part of the international community with sovereignty juxtaposition as its basic structure, which is a context and reality to which international law needs to adapt rather than a problem that needs or can be solved for the present and for the foreseeable future.

This collaborative approach is typically reflected in the cooperative model of the Arctic Council. First, the content of the Arctic Council’s cooperation depends on the interdependence of the various stakeholders on environmental issues and the resulting mutually beneficial behavior. Second, to ensure the implementation of the organizational function, the Arctic Council has retained a certain degree of openness beyond its regional nature, which is accomplished mainly through the observer system. Furthermore, the operational mode of “working groups - expertise - consensus” in the Arctic Council provides a way to realize the essential technical self-determination in functionalism, which creates favorable conditions for the shaping and dissemination of Arctic knowledge and contributes to the formation of cooperative inertia with lasting influence in Arctic governance.

Admittedly, considering the predicaments in the international cooperation under the COVID-19 pandemic, this research, which was carried out before the pandemic, cannot well explain many of the problems that the international community needs to face today. For instance, does the theoretical paradigm of functionalism, which regards the ethics of cooperation as its core, conceal an existing power structure? Is the cooperation experience

of the Arctic Council generalizable in the absence of the regional philosophical context of Scandinavian Realism? Technology self-determination was once thought to have strong applicability in the fields of environmental protection, public health, scientific research, etc., but the current situation of cooperation on these issues is obviously not optimistic. Functionalism assumes that human beings, guided by reason, tend to cooperate in specific areas, however, the unilateralism that prevailed during the outbreak of COVID-19 raises the question of what, exactly, is preventing human reason from playing a role in the catastrophic events facing the international community? I think this is also a problem that cannot be avoided when studying regional or global cooperation.

Thank you!

Tianyou Xia (Ph.D. Candidate, Wuhan University Institute of International Law)

Topic: AUKUS Trends and Their Impact on China's Overseas Interests

Hello, everyone!

The first part of my statement concerns the establishment of AUKUS. First, the AUKUS Alliance, an acronym for Australia, the United Kingdom, and the United States, was formed on September 15, 2021, as a strategic security alliance. Now, both the United States and the United Kingdom have committed to selling nuclear submarines to Australia, and helping Australia complete its nuclear submarine program.

The second part of my statement is about AUKUS mapping the Joseph Biden administration's global security policy and the concept of foreign governance. The formation of AUKUS reflects the Joseph Biden administration's foreign policy and global governance outlook, which is quite different from that of the Donald Trump administration. The Joseph Biden administration has focused on a return to traditional diplomacy, as opposed to Donald Trump's singular pursuit of unilateralism and renunciation of alliances. Whether it is the Indo-Pacific strategy, the continued insistence on the First Island chain to block China, or the various sanctions imposed on China in the economic and trade fields, entity lists and export controls, for example, reflect the Joseph Biden administration's joint approach to curbing China's growth and disrupting its pace. Second, the Joseph Biden administration has focused on sharing the burden of competition through a system of alliances. In the end, the Joseph Biden administration actively courted major allies to compete with major powers. Australia has served as a pacesetter for the United States, both economically and diplomatically. In addition, from the EU's recent position, the EU may gradually lean towards the United States. The EU and the United States recently set up the EU-US Trade and Technology Council (TTC) to promote supply chain cooperation, in essence gradually excluding China from the US-EU-centered supply chain.

The third part of my statement concerns AUKUS's movements. On September 15, 2021, the leaders of the United States, the United Kingdom, and Australia issued a joint statement, which contains defense cooperation, security cooperation, diplomatic cooperation, science and technology information sharing, deep supply chain cooperation, and the oft-repeated "defense of common democratic values" since Joseph Biden took office. The initial plans for the Australian nuclear submarine program, to be in Adelaide, South Australia, are already clear. The United States and the United Kingdom have provided Australia with plans to produce nuclear submarines and have sent technical experts to help Australia move the project forward. If Australia completes its nuclear

submarine program, it will become the seventh country to have nuclear submarine, after the United States, Russia, China, Britain, France, and India. The advance of Australia's nuclear submarine program directly contributed to the unilateral break-up of its submarine purchase contract with France in previous years. It is a sign that America's circle of allies is also unsolid. Specifically, the first tier is the Five Eyes Alliance, the second tier is France and Germany, and some Southeast Asian countries may be in America's third tier.

In addition, there is a dispute within AUKUS about whether to expand the capacity. The United Kingdom has once said it might include Japan or other countries, but the White House Press Secretary has ruled out Japan and India. However, for the rest of the Five Eyes Alliance, they did not make a negative statement. Canada and New Zealand are likely to join the AUKUS, but New Zealand has always been in nuclear panic and has no core strategic interests in the Indo-Pacific region. It is therefore unlikely that New Zealand will join. Although Canada has no core interests in the Indo-Pacific region, Canada and Russia have a strong strategic competitive relationship in the Arctic region, and it is unlikely that Canada wants to fight Russia alone. In the future, Canada may use the AUKUS platform to constrain Russia.

The fourth part of my statement concerns the impact of AUKUS on China's interests abroad. The formation of AUKUS has had a great impact on China's overseas interests. First, Australia gradually integrated the United States into the Indo-Pacific strategy, as a major piece of China's constraints. Second, it will affect the security and stability of the Indo-Pacific region and pose a potential security threat to China. Third, the development of China's national defense science and technology will face blockade. Fourth, China's international nuclear control capabilities put forward higher requirements.

Finally, because of the possible negative impact of AUKUS on China's overseas interests, China should deal with it from the following aspects. First, one of the basic goals of the establishment of AUKUS by the United States, the United Kingdom, and Australia is to block China's military science and technology, restrain China's military and national defense development, to better carry out its Indo-Pacific strategy. The fundamental way to break the blockade is to cultivate modern military science and technology and build a highly stable and flexible national defense industrial chain. Second, explore the establishment of a regional security guarantee mechanism with east and Southeast Asian countries. In essence, AUKUS is a multilateral security mechanism with the nature of aggressiveness. In the view of defense, China can explore to establish a multilateral regional security mechanism in cooperation with neighboring countries that are jointly affected, exchanging views in depth on regional security issues and national defense issues, promoting technical exchanges and information sharing, establishing a regional emergency coordination response mechanism to ensure common security, and take this as the grasp to close the relations with the Southeast Asian countries. Third, China should strengthen international supervision over the United States, the United Kingdom, and Australia in the International Nuclear non-proliferation Law System. China should disseminate to International Atomic Energy Agency (IAEA). The potential risks and hazards to International nuclear control and global security posed by the United States, the United Kingdom, and Australia's nuclear submarine program, and follow up in real-time with the Australian nuclear submarine program. Once it has landed, immediately request IAEA to develop and implement security measures, and calling on the agency and member states to cooperate in the regulation of Australia's safeguards compliance to achieve effective

regulation within. The mandate of The Statute of The International Atomic Energy Agency, to make Australia's use of nuclear submarines consistent with the transparency requirements of the IAEA Statute and the Treaty on the Non-Proliferation of Nuclear Weapons. Fourth, continue to guide international public opinion, and expose that the United States, Britain, and Australia intend to endanger the illegal nature of global peace and security. China should combine the usual practice of the United States, the adverse consequences of AUKUS implementation, etc., to wage struggles with good reason, with advantage, and with constraint; to debunk in the international community the fundamental motives of the United States, the United Kingdom and Australia for hegemony and power politics around the world, and make full use of China's existing bilateral and multilateral dialogue mechanisms. Platforms such as the Silk Road Economic Belt and the 21st-Century Maritime Silk Road, continuing to guide international public opinion towards the direction of global peace and stability, and to curb the expansion of power behind AUKUS.

Thank you!

Anzelika Smirnova (Ph.D. Candidate, Peking University, School of Journalism and Communication)

Topic: A Study on the “Russian World” Shaping and Russia’s External Communication Strategy — A Case of the Baltic States

Good afternoon.

Since each speaker only has 8 minutes to make an introduction in this session, I will briefly introduce the formation and development of the concept of the “Russian World”, as well as its relevance to the media actions and level of influence in the Baltics. Also, I will share some thoughts about the existing dilemma of the “Russian World” dialogue nation-states.

First, let me introduce the formation and changes of the concept of the “Russian World”.

After the collapse of the Soviet Union, 15 new countries appeared on the world map. By that time, the social structure of almost each of these countries has changed. For example, during the period of 1918/1920 - 1939, before the Baltic States became the Soviet Republics, the three states were independent for the first time and were closer to ethnically homogeneous status. A large number of their populations was composed of major nationalities. By 1991, the social structure of the three countries has changed, where the percentage of Russian-speaking minority population was close to half of the population of all the three states.

In these terms, after the dissolution of the Soviet Union, Russia, as a “successor” of the Soviet Union, regarded the huge group of Russian-speaking population outside Russia as “its own people.” Before the birth of the concept of “Russian World”, Russia used the term “соотечественники” (compatriots) and began to take this as the core idea to engage in dialogue with Russian-speaking minorities who remained in the former Soviet Republics. In 1994, the Boris Yeltsin administration put forward On the Principal Directions of the Federation’s State Policy Towards Compatriots, emphasizing that Russia remains united with the Russian people abroad and stressed that Russia would assist and protect them. That was a start of the establishment of a new national identity with Russian-speaking minorities living in the post-Soviet space on the basis of common “Soviet memory”, language, culture, religion and historical destiny. Researchers consider this as one of the

steps of Russia to maintain the balance of power, consolidate its position and expand influence in the space of Europe, which was the object of competition between the United States and Russia in the late 1990s. The ideological construction behind the compatriot policy is seen as the precursor of the concept of the “Russian World.” At the beginning, the “Russian World” focused on the Russian-speaking minorities living in the space of the former Soviet Republics (“near abroad”, дальнее зарубежье). However, since 1999, the term “Russian People” (русский народ) has appeared in important documents of Russian Federation related to diasporas. The description of “Russian People” has expanded its coverage and included those Russian citizens who live abroad for a long time, Soviet citizens of the former Soviet Union (excluding Russia), as well as the emigrants abroad without Russian citizenship from Russian Empire, former Soviet Union, and Russia. This concept gradually blurred the definition of the “Russian People” and is seen as an attempt to construct a strong, borderless, Russia-centered, Russian-speaking, globalized identity among Russian-speaking population across the world.

When Vladimir Putin was elected president in 2000, the idea of the “Russian World”, put forward by Russian intellectuals Schedrovitsky P. (Щедровицкий П) in Russian World and Transnational Russia, Ostrovsky E. (Островский Е) in Russian World as a Geo-Culture and Gradirovsky S. (Градировский С) in Russia and Post-Soviet States: The Temptation of Diaspora Politics, was adopted by the Putin administration and was further deeply integrated with Russia’s geopolitical strategy, focusing on reshaping the Russia-centered transnational political community.

In the information age, the media, which is regarded as the “fourth power”, often plays a very important role in the realization of the country’s political demand, and it is one of the important platforms to reach the target group, infiltrate ideas and influence it.

Next, let’s take a closer look at the link between “Russian World” shaping and Russian information operations in the Baltics.

Before the collapse of the Soviet Union, the television media environment of the Baltic States was in a status of coexistence of native languages and Russian. After the political environment changed in 1991, the content of media outlets in Estonia, Latvia, and Lithuania were based on the political demands. That is, to leave the Soviet discourse and decline the use of Russian language. However, the Russian-speaking minorities who accounted for nearly half of the total population in the Baltic States still had the demand of watching TV programs in Russian, their mother tongue. This created favorable conditions for Russia to infiltrate into the information space of the Baltic States.

In 1991, the All-Russia State Television and Radio Broadcasting Company (ВГТРК) replaced the Central Television of the USSR (ЦТСССР), took over the original radio and television program production, began to be responsible for ensuring the operation of broadcasting among the CIS countries, and the existing channels continued to be active in most of the former Soviet Republics, including the Baltic States. By 2019, the major nationalities of the Baltic States watched the contents produced by their own countries, while the Russian-speaking population was consuming information as Russian citizens, basically from mainstream Russian television channels and programs. According to statistics, 1/3 of the population of the Baltic States watch Russian channels and see Russian news objective and true.

The details of Russia’s inheritance of the Soviet TV industry seem to have nothing to do with the audience, but in fact, it is difficult for the audience to detect changes in the

output contents of news broadcast and political talk programs that are familiar among many entertainment programs, but which has become an important channel for Russia to establish new identity among the Russian-speaking minority population in the Baltic States and awaken their national identity with Russia. In this way, Russian news broadcasts and political talk shows played a significant role in cultivating the values and ideology.

In the late 1990s, “Вести” (Vesti) and “Время” (Vremya) news broadcasts of the popular Russian channels were most watched among the Russian-speaking minorities in Estonia, Latvia, and Lithuania. The coverage related to the Baltic States on these news platforms mainly focused on the living conditions of the largest minorities in the Baltic States, the Russian-speaking minorities, with particular attention to the policies adopted by the Baltic governments towards them, which magnified issues such as the lack of citizenship of the Russian-speaking minorities, the loss of rights of persons without citizenship to participate in universal suffrage, the eviction of persons without citizenship in the process of property privatization, etc. The choice of contents and narrative style were shaping the image of the Baltic countries as unsympathetic to Russian-speaking minorities, and at the same time, this “concern” for Russian-speaking minorities was creating the impression that Russian-speaking minorities in the Baltic States are a part of the Russian population, injecting the idea that Russian-speaking minorities are difficult to integrate into the civil society of the Baltic States and sowed the seeds of social polarization.

In 2004, the Baltic States joined the European Union and NATO. The relationship between the Baltic States and the West has changed, and this also led to the changes in Russia’s news shaping about the three states. Russian media messages have strengthened the discourse on the violation of the human rights of the minorities in the Baltic States. This includes Latvia’s policy in 2004 that 60% of the content of domestic Russian-speaking schools was to be taught in Latvian and 40% of the content was to be taught in Russian. Media reports had triggered demonstrations by local Russian-speaking minorities against the local government’s language policy. This showed that the guiding power of the news reports in the field of public opinion and social mobilization forces can divide the overall national sentiments.

In 2014, the Crimean crisis demonstrated to the world the importance of media in national identity construction, as well as the influence of “Russian World” information dissemination in this regard. International public opinions on the topic of “whether the three Baltic countries will be the next Ukraine” and similar reports emerged one after another, which increased the sense of crisis among the Baltic States. It also led to a resurgence of their concerns about Russia’s “annexation” of the Baltic States. Before and after the Ukraine crisis, the popular Russian political talk shows “60 Minutes” (60 минут) and “Time Will Tell” (Время покажет) were two very popular programs among the Russian-speaking population of the Baltic States at that time. One of the hot topics of these programs was the internal affairs of Ukraine. The open discussion of the programs and debates in the studio attracted countless eyeballs, and the debates extended to social media to continue the fermentation. According to researchers’ analysis, the image of Ukraine shaped by the Russian media at that time was highly consistent with the local media of the pro-Russian forces in Ukraine, disseminating the thought of Crimea being a Russian land. It is worth mentioning that apart from the heated discussion about Ukraine, another topic of the programs’ “regulars” is the Baltic States.

Since 2014, strained relations between Russia and Ukraine have made the Baltic States

pay close attention to the broadcast contents of the Russian channels. The Ukraine crisis has provided the Baltic countries with the basis to use EU sanctions against Russia for violating the territorial integrity of Ukraine and to deRussify the information space of the Baltic States so that Latvia and Lithuania banned Russia Today (RT). In addition, the Baltic Media Alliance, which holds the broadcasting rights of the most popular Russian channels (FBC, Ren-Tv, NTVMir, etc.) in the Baltic States, was also seen as “a way for Russia to expand its influence”, and Russian channels broadcast in most of the Baltic States between 2020 and 2021 were eventually banned.

In the past 30 years, the news landscape of Russia’s coverage of the Baltic States has been fixed on the style of combining the reports about Russian-speaking ethnic minorities in the Baltic countries, the “reminding” of dependence on Russia’s natural resources, and highlighting the differences between the Baltic States and Russia in their narration of the history of World War II and the Soviet Union, as well as alleging the neo-Nazism in the major nationalities of the Baltic States. The existing dilemma of the “Russian World” dialogue nation-states in the context of the narratives of media is that the “Russian World” is opposite to the pursuit of “returning to Europe” of Estonia, Latvia, and Lithuania, which made the Baltic States to regard it as a part of Russian nationalist foreign policy. As a result, the political sensitivity and vigilance of the Baltic States to Russia have not been relaxed, but continue to be enhanced. This makes it difficult for Russia to create a better dialogue with the nation-states while “Russian World” is drawing a line in-between with the major nationalities of the nation-states.

Thank you!

Lin Yue (Associate Professor, Shanghai University Law School)

Topic: From Stratification to Fractal: The Legal Regulation of Multi-dimensional Cyberspace

Hello, everyone!

I am writing a related paper, so I could only introduce the outline here for you to criticize. In response to the theme of this meeting and Professor Yongle Zhang’s *Shifting Boundaries*, I have made some adjustments to today’s content.

Today, one of the core issues to legal scholars is how to regulate the Internet and information technology, that is, how to regulate cyberspace. But what is cyberspace? Is it some kind of new dimension? Imaginary space? Or is it just a rhetorical space? I do not think the concept is particularly important. We can define cyberspace in different ways. More importantly, what are the effects of the Internet, information technology, and so-called cyberspace on the order of real or traditional space?

There has been a lot of discussions about the internet in the legal community today. There are roughly two schools of thought. One school advocates “the same old stuff with a new label.” That is, to put the values of the traditional legal system into the new technical framework. In cyberspace, for example, we also need to protect the traditional rights and interests of property, privacy, and personal information. People’s understanding of these rights and interests is still based on the experiences, feelings, and social relationships of the pre-internet age. The other school advocates “new bottle new wine.” That is, if the technical conditions of the law change, the value of the law should also be changed. In other words, the legal protection of property, privacy, and personal information in cyberspace are

different from the traditional sense of real space or offline space. The latter view is more in line with the historical materialism of Marxism since it stresses that the material base and the means of production have changed, the base and superstructure and legal system must be adjusted accordingly, and a belief in the immutable nature of existence.

But there is consensus. It is generally agreed that legal regulation should be based on the technical framework of the Internet. Computer and information science researchers generally divide computers and the internet into different technical levels. The International Organization for Standardization (ISO), for example, divides the internet into the top-down application, presentation, session, transport, network, data link, and physical layers. The legal community has simplified the layering of the internet, often at three levels: the top-down content (or application), code (or logic), and physical. At the top, there are games, videos, and text that can interact with human beings. In the middle, there are computer protocols, programs, software, data, and algorithms that humans can not directly understand. At the bottom are physical devices such as mobile phones, computers, Internet cables, routers, and servers. In the details, this division can be many parlances or variations. What matters is what the academic community wants to show (or express) by this division.

For example, if I am using an iPhone, I open Weibo, log in, and post something revealing, insulting, or defamatory. The iPhone as hardware belongs to the physical layer. Apple's IOS, as well as the Weibo, is on the code side. What I say belongs to the content layer. In a legal sense, as a spokesman, I naturally have to bear the corresponding legal responsibility, such as the right to privacy tort liability or the right to reputation tort liability. However, as a social network platform, as the carrier and disseminator of speech, should we also bear the corresponding legal responsibility? This is a very familiar legal issue. Even if Weibo is my co-infringer, there would be a tendency for its liability to be different from that of I as a speaker. Is media the speaker? This is an issue that has been hotly debated in legal circles around the world. You can refer to the research by Professor Yilu Zuo of Peking University. Then there is the question of whether Apple or Huawei, as hardware vendors, should be held liable for what users say? Or are we to assume that the hardware is capable of performing some sort of censorship or filtering function? For example, the V-chip, which the United States uses to protect minors, is intended to directly control speech on the physical plane. For example, a few years ago, Huawei introduced a smartphone, that can help users provide very human services. But that would require all the user's actions on the Huawei phone itself, such as storing and analyzing the actions in the WeChat APP. That raises the question of whether the information users use on WeChat is owned jointly by WeChat and its users, or whether Huawei can get a piece of dividends? Will user licensing of Huawei Force WeChat accept Huawei's participation in data sharing? Can WeChat ban users from using Huawei phones? Therefore, this is also a common network law study of different technical levels that conflict with each other.

At present, the legal settlement of the above-mentioned disputes is mainly based on the layering of internet technology to clarify the rights and obligations of different subjects. We see similar distinctions in personal information protection, as well as in antitrust and unfair competition. Today, however, I would like to continue the legal community's discussion of the layering of Internet technology. I want to talk about the stratification of cyberspace in the context of Professor Yongle Zhang's book. If we define "network space" more broadly, we can regard the telegraph network as a kind of information network space.

And now I am going to show you the telegraph tower that was built around 1790 in

France. This telegraph tower transmits information in the shape of a pole. This is very different from what we think of as a telegraph today, but the basic principle is the same, which is to translate the content into a signal, then send a signal, receive a signal, and finally translate the signal back into something that humans can read directly. The telegraph network was soon replaced by wire and wireless telegraphy. People send messages through morse code. Europe and America are also connected by submarine cables, thus reconstructing the order of time and space. Many legal systems, such as maritime law rules and financial securities rules, must be changed. Throughout the 19th century, the telegraph network continued to grow rapidly. Even in the late 19th and early 20th centuries, people imagined that they could communicate with each other via wireless telegraphs, just as we do with mobile phones today on WeChat.

The problem of network layering also exists in telegraph networks. For example, the British company Marconi had monopoly on the telegraph, requiring customers to use its telegraph, its port services, and its insurance services. There was an interesting story about a German prince who was visiting the United States, but the German telegraph was not compatible with the telegraph in the United States port, which led to some diplomatic disputes. That is, once you control the physical layers, such as cables, lighthouses, ports, telegraphs, etc., it is possible to interfere with the code at the top. The United States and German governments, for example, could have chosen a different code rather than the morse code. And British-controlled telegraph companies may censor messages that are not good for national security. During World War I, when a British warship was sunk by the Germans, the British suspected that the location of the British warship had been betrayed by the German-backed telegraph company. Therefore, who controls the physical layer and how to set up the control and legal order of each technical level of the telegraph network has become a crucial sovereignty issue. At first, the United States and Germany were largely cooperative in trying to resist the British monopoly on the internet. But as the United States grew in power, especially after it acquired a large number of colonies following the Spanish-American War, it began to think about its telegraph monopoly. At that time, some Americans proposed the Telegraph Monroe Doctrine, that is, put the entire Americas into the US-controlled telegraph structure. However, in practice, the United States military (primarily the Navy) and the United States Department of State have different strategies. The military wants its telegraph network to be secure, preferably with a high degree of containment or controllability. The United States Department of State, in particular the United States Department of Commerce, argued for expanding the coverage of the United States commercial telegraph network to include more people using standard American telegraph services. While the latter model carries security risks, the more people and countries that use it, the more power the United States has over them.

Today, when we look at the structure and control of the Internet, the situation is similar. The United States does not need direct control of the world's web physical layer. It is sufficient to achieve a degree of Monroe Doctrine by providing some sort of internationally agreed industry standard. The world believes only in one kind of internet architecture and is less convinced that the internet has other architectural possibilities. When Americans began to imagine the Metaverse, we followed to imagine and perhaps are unable to refuse to imagine. This Monroe Doctrine in cyberspace may have more control than the traditional Monroe Doctrine of territorial states.

The topic of today's talk is just the rudiments of my thinking. What I want to discuss

next, is whether hierarchies tend to die out in cyberspace, especially in more complex cyberspace such as the meta-universe. The decentralization of the blockchain, and the fusion of virtual and real of meta-universe, seem to be trying to break down the hierarchical structure of cyberspace to some extent. If so, then the corresponding relationship of sovereignty and legal relations will also undergo major changes. But the time is up, I will leave it at that.

Thank you!

Wei Zhao (Assistant Professor, School of Law of Tianjin Normal University)

Topic: On Territorial Sovereignty in Cyberspace: The Evolution and Reconstruction of Territorial Jurisdiction

Hello, everyone!

My related paper is in writing, and some superficial views need you experts to criticize. Since the time is limited, I will mainly brief you on the current formation of some points of view.

First, I need to explain why I chose this topic to discuss. My concern primarily originates from the practical conflicts over sovereign jurisdiction in cyberspace. With the rapid development of artificial intelligence technology, it has become easier for data to cross national boundaries, which has led to a heated debate about the legitimacy and applicability of territorial jurisdiction theories. As early as the birth of the Internet, cyberspace has attracted widespread attention. Scholars began to explore the necessity to create new legal rules to address the new territorial issues brought about by the internet.

A few years later, the cross-border flow of information began to trigger real-world cross-border jurisdictional conflicts. The 2000 Yahoo! case, for example, is the culmination of years of legal wrangling over Yahoo's legal obligation to ensure that French viewers cannot view Nazi memorabilia online. And the growing popularity of cloud data storage raises the question of whether the principle of territoriality can resolve disputes over the cross-border flow of information. These conflicts over jurisdiction in practice have led me to ponder over the issue of sovereignty in cyberspace.

Territorial sovereignty has long been defined as the complete and exclusive jurisdiction of a state over all persons, matters, and objects within its territory. But in the digital age, the territory of cyberspace has changed radically. To this end, it is necessary to first sort out the evolution of the concept of territory since modern times. Today's territory has long been seen as a vehicle for executing policy choices by political groups within a given space. Although we still live today in a country with clear territorial boundaries. Every sovereign state has the right to manage its domestic affairs independently. However, *de facto* jurisdiction does not necessarily follow territorial boundaries in the traditional sense. In the digital society, the frequency and arbitrariness of the connecting factors of legal relationships are the biggest challenge and impact to the traditional principle of territorial jurisdiction. We should recognize this shift when discussing the issue of territorial sovereignty in cyberspace. The traditional principle of territorial jurisdiction has obvious deficiencies in the settlement of current cross-border data jurisdictional disputes. Understanding the evolution of territorial meaning can lead to the application of conflict of laws in cross-border data dispute cases, and thus better resolve jurisdictional disputes over cross-border data flow.

At present, the argument about the validity of the principle of territorial sovereignty focuses on the territorial scope of sovereign jurisdiction. Territorial boundaries have been important since ancient times. In ancient times, especially, their importance was much more specific than it is today. Territorial boundaries define the actual authority of the sovereign over people and property and provide conceptual justification for the sovereign's ability to exercise such authority. By contrast, today we use the term "territoriality" to cover the relationship between sovereign jurisdiction and physical space, which is quite different from the past. In some ways, territory today has a broader meaning than territoriality in the past. The old notion of territoriality as a material right still has some importance, especially for law enforcement jurisdictions. Today, scholars are mainly concerned with the jurisdiction of a sovereign state over a given act in space when referring to territorial sovereignty. Previously, the territory was primarily the basis for the understanding and implementation of the fundamental fact of the coercive power of sovereignty. According to this view, the principle of territorial sovereignty defines the scope of the enforcement of legal force by a sovereign state; the content of the principle is relatively unimportant. Over time, however, the territory has come to be seen as a tool for allocating sovereign jurisdiction over people's behavior. This transformation enhances the usefulness of the territory as a criterion for the definition of sovereignty in international law.

To sum up, in the digital society, the frequency and arbitrariness of the connecting factors of legal relations have posed a great challenge and impact on the principle of territoriality. We need to recognize this powerful shift in our approach to territorial sovereignty in cyberspace.

Thank you!

Summary of the 2021 Annual Conference on Global Law and Strategy¹

Yongle Zhang (Tenured Associate Professor, Peking University Law School)

Ladies and gentlemen!

This annual meeting is a forum for young and middle-aged scholars. There are 27 speeches today, involving research on imagination and governing practices in different regions, such as the Monroe Doctrine, Pan-Turkism (“Türkölük” in Turkish), Middle East, Indo-Pacific, Arcticism, Eurasianism, Asia Pacific, Southeast Asianism, as well as cyberspace and the “internal frontiers”, and some scholars have discussed how international jurisprudence relates to regional studies in method. It can be said that the content is extremely rich, and it is difficult to summarize. I am trying to refine some clues on a problem-conscious level.

Our conference is called Global Law and Strategy. Bringing law and strategy together is an unusual research agenda. Law itself is a field that is prone to the Monroe Doctrine, but in recent years, more and more legal scholars are conducting interdisciplinary research. The reason is that this is an era of reform - the international order is undergoing profound changes, and China is more and more deeply involved in the formulation of international rules, but China’s ability to export rules cannot fully match the needs of practice. To “make up for the shortcomings”, we need to “enrich the mind” for ourselves.

In what sense can this era be called the era of reform? This does not mean that the system of rules based upon legal positivism is undergoing radical changes. Legal rules and academic discourse are increasingly systematized and can silently hide vastly different schemes for the distribution of benefits under seemingly indistinguishable rules. Therefore, the “reform” will not show particularly dramatic differences at the level of rules, the key lies in the details. International rules have the function of distributing benefits and carrying the imagination of competing spatial orders. Therefore, we need a kind of strategic thinking, and strive to grasp the spatial order as a whole and grasp those competing interests’ distribution schemes. For example, in the controversies between developing countries and developed countries over the “carbon emission” scheme, fierce struggles can be seen, involving different concepts of human rights, especially the institutional arrangements for the right to development. Many thrilling and substantive games are implemented in the rule-making process, which may only show some very subtle and unobtrusive differences. China believes that only by working with other countries to liberate and develop productive forces can she develop herself better, while some countries are trying to perpetuate their vested interests and status by suppressing the development of other countries’ productive forces. Therefore, to promote common development world-widely, a struggle at the level of rules is required. Understanding this struggle requires strategic thinking and vision.

The theme of the conference was “region”, and the Institute of Area Studies of Peking University was one of the organizers. The preparation of this conference is based on a series of previous studies, for example, in the field of international legal history, our academic community has been preparing for several years, and many new studies have been

¹ The Summary is translated by Ziqi Sun (Hangzhou Minglang Film & TV Production Co., Ltd.) and Xiaofu Li (Associate Editor of FLIA Review). The translations has been modified and confirmed by the speakers.

published. We have colleagues who have done very good research on imperial history, global history, and regional history, and try to connect regional and country studies from within their own disciplines. This annual meeting is a combination of several existing research communities, and at the same time, new friends have joined to focus on “region”, an academic concept with radiation and growth potential.

How to understand the concept of “region”? In the previous remarks, you can see different ways of defining “regions.” A “region” can be a space beyond a nation-state, a trans-ethnic state, or a certain space within a nation-state. The common point is that it contains a certain kind of hybridity and mobility, including different groups of people, different lifestyles, and memories of history; the recognition of this space as an integrated “one” requires a specific cognitive mechanism. More importantly, there are different subjects in history, who have different and competing imaginations about regional space, and the distinction between “inside” and “outside” has a certain relativity. There are also disciplinary differences. For example, some scholars of international relations tend to regard empire as a domestic political entity, which includes a clear distinction between “inside” and “outside.” This is understandable, since no matter how large an empire is, its foreign policymaking power is usually concentrated in the rulers of the suzerain. Other disciplines may have different definitions. For example, from a legal point of view, a colony is often in a vague zone - from the perspective of domestic law, it is often defined as international, and according to international law, it looks like domestic. If we start from the perspective of ethnology and focus on different ethnic groups, the relativity and flexibility of inside/outside will be more obvious. I think it is a good thing to have this diversity. Everyone can start from their own research needs and make their own definitions, while maintaining openness and stimulating new thinking through mutual reference.

But we always have to ask, why does the concept of “region” bring problems? If a high degree of homogeneity of the area is assumed from the outset, this concept probably has less intellectual appeal. The region is problematic precisely because of the diversity of its internal composition and the hybridity and fluidity contained within it. If it is to be integrated into one, it will take efforts in discourse and actions, and it will be necessary to confront many different actions and discourses attempting to construct “one” in a competitive way. There is no single answer as to which region a country is in. For example, when China interacts with Japan and South Korea, she can emphasize that everyone belongs to East Asia, but if Russia is added, she may emphasize “Northeast Asia”, and when interacting with Laos, Cambodia, and Thailand she may emphasize “Southeast Asia.” When dealing with India and Nepal, she may emphasize “South Asia”, and when dealing with Kazakhstan and Afghanistan, she may emphasize “Central Asia.” When dealing with Africa, she may emphasize “Afro-Asia”, and when dealing with Latin America, it may be “Asia, Africa and Latin America.” However, other countries also have regional orientations towards China. For example, the Pan-Turkism in Turkey will classify parts of China as its sphere of influence. Recently, the United States and its allies put forward the concept of Indo-Pacific, with the intention to contain China. Thus, “one” is based on the integration of “many”, and there are often competing versions of “one”.

Why do some definitions of “One” prevail over other definitions of “One” and become the dominant way of defining them? Herein lies the issue of hegemony. In history, there are “imperial eyes”, centered on a certain power, projecting a certain homogeneity extending from itself into a space, naming it a region. Therefore, we can see the original Monroe

Doctrine in the Western Hemisphere, Germany's Großraum, Japan's Asiatic Monroe Doctrine, and so on, all of which are radiating from a kind of "imperial eyes." Businessmen, missionaries, explorers, colonists, and other people look at the conquered or to-be-conquered areas from the "imperial eyes", which produces a series of regional studies and a series of legal rules for building regional order. Much research of imperial history, as well as the "global history" that grew up on the basis of imperial history, have implied such "imperial eyes."

Some western imperial historians often confuse the ancient China-centered tribute system with European colonial empires. However, compared with the modern colonial empires, the homogenization dynamics within the ancient tributary system centered on China is quite weak. The Middle Kingdom established different relationships with the surrounding vassals according to their proximity and distance, emphasizing "conform to the customs" and "conform to the appropriateness." It was only when the western colonial empires invaded that there was a relatively large homogenization momentum within the tributary system. The Qing government made a series of efforts to preserve the tributary system under the impact of European international law.

Since there is a top-down gaze, there can also be a bottom-up gaze. In the 20th century, China developed her cognition and definition of regions from the perspective of the weak and the resisters. For example, there are discussions in China about the solidarity of "Afro-Asia" and even "Asia-Africa-Latin America", and the discussion of "the third world." In the 20th century, China produced both socialist internationalism and third world internationalism. In terms of decolonization and the pursuit of independence, China shared many common languages with a series of ex-colonial countries and nations with different social systems. It can be said that the establishment of the discipline of international relations in People's Republic of China is itself associated with such internationalist practice.

Over the past few decades, the two types of internationalism have gradually faded out. However, with the proposal of the Silk Road Economic Belt and the 21st-Century Maritime Silk Road and "a community with a shared future for mankind", the legacy of the discourse and practice of internationalism in the 20th century has gradually becomes important. Just a few weeks ago (December 3, 2021), the railway from China to Laos opened, and our neighbor Laos changed from a land-locked country to a land-linked country. However, the western media are still talking about "debt trap" and "resource plunder", as if China's role in the Indochinese Peninsula is no different from that of the French, British and American colonists. This is not the case. China is trying to bring tranquility and prosperity to her neighbors. The relationship between China and her neighbors, compared with the relationship between the United States and Mexico, can be said to be worlds apart. For example, it is impossible for China to insert a "poison pill" clause into a free trade agreement with its neighbors.

Therefore, this involves a question: what kind of "new world" is China's regional thinking heading towards? Both the ancient Chinese concept of all-under- heaven and the experience of internationalism in the 20th century will influence the imagination of the new world. Today's meeting also discussed the need to learn from the EU experience. Professor Weihua Wang contends that the European experience has very significant historical limitations. In the future, China should consider solving problems on a case-by-case basis and shape new rules in a moderate way. Professor Xianhua Wang has a concept called

“common domain”, which has not been fully developed today. While not the backbone of today’s discussion, it deserves further development in the future. All relevant discussions have the potential to continue to grow in knowledge.

Thank you!

Zhiguang Yin (School of International Relations & Public Affairs of Fudan University, Professor)

Hello, everyone!

Today’s discussion is truly interdisciplinary in nature. All panelists have focused on the anomalies in the universal narrative. For social studies scholars, finding a set of normative concepts to interpret the complex social and historical phenomena has always been the basic drive for our curiosities. We are constantly eager to pursue universality, namely a discourse, a model, or a theory to interpret the complex empirical experiences. For scholars of law, history, and international relations, we are always aspired to finding a universal epistemology to understand the past, present, and even predict the future.

However, as Professor Yongle Zhang mentioned just now, we are in an era of reform. This reality requires us to put the toolkit we comfortably rely on to comprehend the empirical world under scrutiny. All the abnormal phenomena we recognize are more like an interrogation against the old world’s view. They are cracks in the old world where new understandings of the incoming world order germinate.

Many participants today touched on the issue of Eurocentrism in the old worldview. As far as my research is concerned, one of the important ways to break away from Eurocentrism is to find anomalies in prevailing narratives. In Professor Yongle Zhang’s research, we can see that the Monroe Doctrine traveled from the United States, to Germany, and then to Japan. The receptions of Monroe Doctrine in these areas form an image that fits perfectly with the discourse of hegemonic world order. However, in the case of China, exceptions emerged. Many western observers hope to find the image of Japan in the story of China’s rise. Hence, a common question is: “Will the rise of China inevitably lead to China becoming a hegemon and thus a new ‘Japan’”? In Professor Yongle Zhang’s analysis, we clearly see that China will not become another Japan. Such an abnormality clearly shows the Western-centric nature of the theories we rely on to understand the world.

“What went wrong?” we might then ask. For me, a more interesting question is what went wrong with the crystal ball, our epistemology, we relied on to examine the world? In the past 20 years, there has been a very fashionable trend in European and American academia - de-western centrism. Most recently, such a trend manifested through the so-called “cancel culture”, waging ‘culture war’ against events or categories relating to colonization, class, race, and gender. Most of these cultural wars are petty bourgeois campaigns holding the banners of “anti-xx.” From another angle, these seemingly revolutionary cancel culture and cultural wars are still essentially regional activities centered on the experience of western society. Both its momentum and influence are largely limited to the petty bourgeois in Western society. The main issues, problematics, and methods centered only on western historical narratives and political models. Interestingly, in this series of discussions and movements, such a Western centric trait is completely disguised by the language of universalism. This superficial opposition to the hegemony of Western-centrism essentially conceals the real epistemological hegemony of Western-centrism.

How could hegemony disguise itself through the language of universalism? For this point, the objectification of imperial history can provide some inspiration. It can help us understand how the epistemology of the old-world came to be. At the end of the 19th century, in a letter to the Cambridge University Press, Lord Acton expressed the need to compose a comprehensive Modern history in English. He argued that the development of England had shown that the times had come to a point where it was necessary to write an English universal history. This “English universal history” enjoys absolute authority. Therefore, it requires only a very small number of footnotes. By developing this universal narrative of a modern history of the world in English, the British historians constituted a British centralism in the imagination of a human development. Such an intellectual centralism was accompanied by the British military and economic expansion across the world. This universal view of history takes the British historical process as a template, defines “modern”, and indicates that all events, people, and even regions in the world would not be included in this universal history without starting a “modernization” process similar to the British historical experience. The general assumption is, the roadmap to modern is clearly laid out by the British historical experience, the only remaining questions are when and in what form other regions entered modernity, and how to explain the motivation and premise behind this “modernization.”

This example reminds us that empire-centered hegemonic narratives not only try to dominate space, but more importantly, they try to dominate our imaginations of time and political order in every way. They constrain our past, present, and future.

How to counter this hegemonic narrative? The first thing is to admit that universalism itself is hegemonic. To understand this, it is necessary to analyze the basic principles on which the universal order was established in the formation of the European/Western-centered universal history. What we have touched now includes discussions of racism and financial imperialism. These detailed analyses can help us understand the nature of this hegemonic world order. Many of the presentations at today’s conference manifest such a strong sense of subjectivity to discover abnormal phenomena in the general order. This is very encouraging.

In addition, Professor Yongle Zhang also mentioned in his summary that we need to pay attention to the confusion and fluidity in imperial space or regional space. I very much agree with this. The title, Cijiang Erjie (*Shifting Boundaries*) comes from *The Book of Songs*, and the complete quote is “Wu Cijiang Erjie er. Chen Chang Yu Shi Xia.” (There is no boundary, it changes with time and circumstances.)" This seems to go against the training we received as students of social sciences and the humanities. After all, boundaries marks are our safety zones and provide us with a set of easily applicable analytical tools, consequently making problems seem less daunting.

However, after breaking the boundaries, we will find that the tools at our disposal are ineffective. Since “there is no such boundary”, we must face the reality of “Chen Chang Yu Shi Xia (陈常于时夏, norm transforms with the ever-changing circumstance).” As researchers, we hope that the normal world can move forward according to theories and normative rules. Consequently, we hope to be prophets holding a “crystal ball” capable of predicting the future. However, we are always playing catching-up with the real world. Such prophecy almost always ends up becoming the language of the hegemon. Around the 1990s, there was a triumphalist frenzy in European and American political science circles, believing that the development of world history has come to an end and the code of

modernization has been cracked. In just 30 years, however, this triumphalist ecstasy was challenged by reality. Therefore, as social science researchers, our self-confidence in the comfort zone can often be shattered by abnormal phenomena. In the process of analyzing the abnormal phenomena of history, the further step is to actively confront and reflect on the limitations of our own epistemology. As mentioned by Professor Yifeng Chen in his comment before, it is a real reflection on Eurocentrism.

Since Eurocentrism is not just about having a spatial center, resistance to it cannot stop at shifting perspectives from Europe to other parts of the world. The biggest impact of Eurocentrism on us is the change in our overall epistemology, which basically coincides with the time period when the composition of *The Cambridge Modern History* began in the late 19th century and the early 20th century. The temporal and spatial imaginations of the non-Western world are dispelled and replaced by a Western-centered historical and political universalist narrative. It imprisons our mind. For a long time, we, at least I, myself, have been dancing with this shackle without being aware of this for a long time. How to break free from this shackle of epistemology, it may be that we further come to the epistemology in the process of historical research or discussions of various relationships, the analysis of the “chang (常, norm)” in “Chen Chang Yu Shi Xia” or various abnormal phenomena. Earth-shaking transformation, and the opportunity or motivation for us to learn.

Finally, I would like to end my comment by bring our attention to the China-Laos railway mentioned by Professor Zhang. Just after the China-Laos railway opened to traffic, I saw a picture of a group of kids standing in front of a roll of American bombs dug up during the construction of the China-Laos railway. These bombs are taller than the kids. This is a perfect display of the difference between our ideal world order and the hegemonic one dominating the world in the past two hundred years.

The world of hegemony has always revolved around a dictator from above. Bombs dropped from the sky by the United States symbolize the so-called justice sent from the sky by the dictator. Coincidentally, after the end of the First World War, Herbert George Wells wrote a political fantasy novel called *The Shape of Things to Come*. In his vision of a perfect world peace order, there is a dictator above the clouds. This dictator was like a fatherlike figure and prophet at first, helping the world to move towards rationality and civilization. When civilization is achieved, the dictator rises to the sky and becomes a godlike watcher and guardian. This also distinguishes it from ordinary tyrants and dictators.

For the imagination of the world order, in the Western-centered world view, whether it is from the left or the right, there may be no way for a long time to break away from the above-mentioned meta-narrative, which can only imagine the world peace via the presence of a world monarch dictating everyone from above. I think this is fundamentally different from the idea of popular sovereignty, including what Dazhao Li described, and what Chairman Mao later echoed—the future of this world should be an equal confederation of different regions. The conception and understanding of the new world may still be an unfinished project. We look forward to further discussions. This concludes my summary of Professor Yongle Zhang’s summary.

Thanks!

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