



Introduction

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Building on the concept of the ancient Silk Road networks, President Xi Jinping formally announced the Belt and Road Initiative (BRI) in September 2013, with the aim of strengthening the cooperation between China and other countries along the old Silk Road on a wide range of issues, in particular the fields of trade and investment. The BRI, covering more than sixty countries in Asia, Africa and Europe, encourages economic integration in the region leading ultimately to the formation of a new regional trading and investment bloc.

This initiative currently attracts considerable academic and policy attention. It is believed that the BRI is instrumental in promoting economic cooperation and cultural exchange among countries along and beyond the road. One of the central themes under the initiative is rule of law, which has important implications for the public and individual good in both the domestic and international arenas. While sufficient discussions have taken place on the economic and domestic legal aspects of the initiative, it is no less important to consider other aspects of the initiative, in particular to look at what changes it might bring to the field of international law and international governance.

International law is playing an increasingly important role in furthering economic reform and development in China. Focusing on both comparative pragmatic and theoretical aspects of international governance and rule of law under the BRI, this edited volume brings together scholars from China and other jurisdictions along the road to share their perspectives and discuss its future impact from the perspective of international law.

Using a holistic point of view to examine China's role in the field of international governance and rule of law under the BRI, this edited volume seeks alternative analytical frameworks that not only take into account legal ideologies and legal ideals, but also local demand and sociopolitical circumstances, to explain and understand China's legal interactions with countries along the road so that more useful insights

can be gained in predicting and analysing China's and other emerging Asian countries' legal future. Authors from Germany, Korea, Singapore, Mainland China, Taiwan and Hong Kong contributed to this volume, with the intention of fostering academic dialogue and conducting intellectual exchange in the identified sub-themes.

The theme of international governance and rule of law in China under the BRI was further divided into sub-themes, where Chinese legal development will often interact/conflict/integrate increasingly with the world's legal order/powers: (i) convergence of international rules; (ii) development of substantive international rules and China's contribution; and (iii) development of international dispute resolution. Correspondingly, this edited volume is divided into three parts. The first part (two chapters) provides macroscopic discussions on the impact of the BRI and convergence of relevant rules in the region. The second part (eight chapters) focuses on specific areas for cooperation under the initiative, including trade and investment, finance, environment and space. The last part (three chapters) examines different aspects of dispute resolution mechanisms under the BRI.

Some scholars in the areas of international law, international public relations or international politics have already contributed various academic works related to the BRI. Research topics related to the initiative strategy, and its impact on domestic and international aspects are prevalent in China among Chinese scholars. On the one hand, the initiative is positioned as a top-level and long-term development strategy by the Chinese government. On the other, Chinese scholars get easier access to first-hand information concerning recent development trends in the initiative; thus, they have the advantage of being in a position to produce more research in the field.

With the principle of rule of law taking a more prominent position, the initiative will no doubt bring change to China's role in international relationships in a wider and more comprehensive manner. This adjustment will affect China's attitude towards international governance. This edited volume includes contributions not yet published elsewhere, representing the latest research in legal reforms and development in China with special focus on international legal relationships. These contributions will lead to a better understanding of the ongoing legal adjustment and provide a fuller picture of the developing Chinese legal system under the BRI at the international level. It will be an excellent resource for the study of Chinese law and the Chinese legal system under this increasingly globalised society.

More importantly, the extensive coverage of the chapters organised in such a book format is more reader-friendly for scholars, and avoids the time-consuming search for various journal papers published on the theme of the BRI. Furthermore, this edited volume can fill the gap left by insufficient research and discussions concerning the rule of law in the BRI in respect of topics such as: legal frameworks; implementation of international law, rules and agreements; the integration of new rules with existing rules; related IPR customs enforcement; and others. The scholars involved in this book project can also take the opportunity to generate more creative ideas through mutual exchange, and present valuable academic discussions to the readers.

Jingxia Shi (Chapter 1) examines the kind of role international law can play in promoting the implementation of the BRI and argues that China should attach more importance to international law in order to create a more friendly environment to strengthen the implementation of the initiative. In analysing why and how international law can promote the initiative, Shi makes reference to the theory of international public goods (IPGs) and studies the role of international law in providing these IPGs. The analysis is premised on the examination of whether the initiative has the characteristic of non-rivalry and non-excludability, and thus can be regarded as IPGs. Shi concludes with some suggestions on how China can move forward in formulating new-generation international economic and trade rules and how the BRI can serve as an optimal opportunity for China to develop into an active player in international rule-making.

Samuli Seppänen (Chapter 2) re-examines received perceptions on Chinese conceptions of sovereignty and argues that the received narrative is flawed in two significant ways. First, it overemphasises the distinction between the ‘absolutist’ and ‘relativist’ conceptions of sovereignty. Second, it fails to account for the performative nature of Chinese uses of sovereignty. Seppänen argues that the absolutist statements on sovereignty by Chinese leaders are better seen as performative acts rather than as logical propositions about the actual nature of sovereignty. The ‘Three Nos’ doctrine, as part of the BRI, is used to illustrate the argument that absolutist statements about sovereignty are intended for international use and they are not constitutive of conceptions of state power within China.

Jaemin Lee (Chapter 3) points out the importance of a proper framework under the BRI. Depending on how the initiative is implemented and through which legal vehicles, Lee posits that we may need to answer such questions as whether such a new cooperative agreement and regime

are indeed compatible with provisions of the World Trade Organization (WTO) agreements, free trade agreements (FTAs) and bilateral investment treaties (BITs).

Sarah Wersborg (Chapter 4) picks up the enforcement of the Anti-Monopoly Law in China as a starting point to examine the latest developments in administrative and private enforcement of the law under the BRI. Wersborg not only reflects on the developments of the Anti-Monopoly Law, but also analyses the practical implications of the enforcement of the law to date by the authorities and courts.

Kelvin Hiu Fai Kwok (Chapter 5) looks at China's BRI from the perspective of cooperation in trade liberalisation and anti-trust enforcement between China and other countries which form part of the initiative. It argues that the initiative can only succeed in achieving its goal of 'unimpeded trade' with three essential components: (i) reduction in transportation costs for foreign imports; (ii) removal of government-imposed trade barriers by cooperation in trade liberalisation; and (iii) elimination of anti-competitive behaviour of private firms which affects cross-border trade by cooperation in anti-trust enforcement.

Wei Shen (Chapter 6) investigates whether the Belt and Road Initiative can be used to solidify China's efforts to frame a global investment governance regime, alongside its aggressive stance in negotiating BITs with the United States and the EU as well as regional investment treaties in Asia Pacific. Sheng concludes that deepening China's BIT network in the regions covered by the BRI is crucial for widening China's outbound investment in these regions.

Christopher Chen (Chapter 7) explores legal challenges and business opportunities for Chinese banks in the face of continuing efforts of financial integration in Southeast Asia under the Association of Southeast Asian Nations (ASEAN) framework, amid China's grand BRI in 2015 and the establishment of the ASEAN Economic Community effective from 2016. Chen outlines the current development in banking regulations and financial integration in ASEAN, and discusses how current regimes and legal obstacles might affect Chinese banks in the future.

Yue Peng (Chapter 8) examines the relationship between the loans of multilateral development financial institutions (MDFIs) and the Asian Infrastructure Investment Bank (AIIB). To facilitate the AIIB's cooperation with the MDFIs, Peng argues that the AIIB should follow current models established by World Banks, and the International Finance Cooperation and Asian Development Bank, and apply laws in line with the different characteristic of loan agreements.

Yongmin Bian (Chapter 9) investigates the role of environmental impact assessment (EIA) in the governance of Nu-Salween river in order to identify the flaws in the current approaches and experience for sustainable use of shared water. EIA law has been implemented for more than a decade in China; but scholars cast doubt on its effectiveness. Bian's comparative study of the Chinese and Burmese approaches to EIA reveals one dilemma for the Chinese government: although its domestic governance for the environment has not been very successful, foreign investors may be required to follow higher or even best practice in the unfolding of the BRI. As such, with a big share of investments coming from the Belt and Road region, China will in the end come up with more policies to stimulate green development under the BRI.

Yun Zhao (Chapter 10) takes up the task of examining the role of regional cooperation in the Asia-Pacific region and discusses how such regional cooperation can contribute to the maintenance of space security. Zhao outlines the principles and guidelines that should be followed in future regional space cooperation. He concludes by stating that regional space cooperation is a vital element in furthering security in outer space and that the Asia-Pacific region should further strengthen space cooperation under the BRI.

Focusing on the East Asian region, Yuhong Chai (Chapter 11) analyses and discusses the role of the regional dispute resolution model for international disputes. Chai's comparative study shows that an appropriate model for resolving international civil and commercial disputes in the region can be established. Chai elaborates on how to deal with the relationship between regional dispute resolution and international dispute resolution from the perspective of competition and cooperation.

Weixia Gu (Chapter 12) argues that 'true' harmonisation of the public policy exceptions is necessary to promote a cogent and coherent system of arbitral enforcement across the globe and, hence, harmonisation of international commercial arbitration. It is perceived that the BRI actually provides the incentive and reason to contemplate the possibility of a regional or 'geo-legal' harmonisation of public policy in cross-border arbitral enforcement in Asia, against the backdrop of a prevalence of harmonisation of arbitration laws in Asia. Gu concludes that while the presence of different legal systems and cultures in Asia offers formidable challenges, harmonisation of public policy exception in cross-border arbitration in Asia will yield greater benefits in trade and investment interests both with respect to China and extending to Asia alongside the Belt and Road jurisdictions.

Shengli Jiang (Chapter 13) explores the ways to effectively and reasonably resolve international trade disputes brought by China and other countries along the Belt and Road. Jiang argues that it is not feasible to resolve the trade disputes by simply copying or directly resorting to the existing global or regional trade dispute settlement mechanisms and that a new international mechanism should be established to meet demand. Jiang proposes that an appropriate mechanism should be established in a flexible form, which would take arbitration and diplomatic measures as its main dispute settlement channels. Jiang further suggests that the new mechanism should set up a specialised dispute settlement institution, taking ‘optional compulsory jurisdiction’ over the disputes.

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