

well articulated. The authors lament the lack of a theory of international law with Chinese characteristics, arguing that this absence is not compatible with the objective fact of China's growing economic and political influence or with China's subjective need to enhance her discursive power in the international community, and the purpose of the book is precisely to provide "a Chinese theory of international law".

He and Sun describe China's attitude towards international law as "half believing and half doubting, respectful but estranged", and such an attitude may be understood by taking into account traditional Chinese Confucian culture, China's bitter experience of international law from 1840 until the United Nations' long-overdue recognition of China in 1971, the *realpolitik* of international law, together with an analysis of the two distinguishing features of a Chinese theory of international law: the Five Principles of Peaceful Co-existence initiated by China in 1953 and China's diplomatic principle of "Seeking Common Ground while Shelving Differences". And whilst acknowledging the contribution of the constitutionalization of international law to international legal theory, the authors are deeply skeptical about its practicality in organizing the essentially horizontal international society.

Although this work refers to the privileging of Westphalian notions of state sovereignty, non-intervention regarding internal affairs, and limiting international adjudication, the unique contributions of He and Sun lie in their explaining the underlying rationale of China's approach to international law and their unrelenting focus on the two principles that China has applied in guiding her interaction with other countries. The book examines China's approach from a macro perspective using a wide variety of sources, ranging from the former Chinese paramount leader Mao Zedong's Three Worlds Theory, the South China Sea arbitral award to the Belt and Road Initiative and is essential reading for understanding how leading Chinese international law scholars conceptualize the function of international law in international society, and how and why China uses international law.

doi:10.1017/S2044251321000242

## **The Rise of China and International Law: Taking Chinese Exceptionalism Seriously**

**by Congyan Cai. Oxford: Oxford University Press, 2019. ix + 360 pp. Hardcover: £71.00; available as eBook. doi: 10.1093/oso/9780190073602.001.0001**

Luping ZHANG

School of International Law, China University of Political Science and Law, Beijing, PR China

This book, as part of the law and global governance series, unravels a two-way relationship between China and international law against the backdrop of the rise of China. Professor Cai argues that there is Chinese exceptionalism to international law and such exceptionalism matters. The book has six chapters namely: The Relevance of International Law; State Identity and Legal Policies; Regimes; Institutions; Chinese Courts and Lawfare in the Dispute Settlement. The first two chapters paint upon the canvas of China, to lay a foundation, by analyzing the fundamentals of China's state identity

<sup>†</sup> This article has been updated since original publication and the error rectified in online PDF and HTML versions. A notice detailing the changes has also been published at <https://doi.org/10.1017/S2044251322000017>.

and setting out its historical evolving relationship with international law. The book then highlights two transitions: the transition from norm compliance to norm entrepreneurship via the lens of four regimes, (peace and security, WTO and investment law, human rights, and cybersecurity), as well as the transition from being an institution user (or in Cai's boxes – “outsider”, “partner”, and “member”), to being an institution builder (“sponsor”) with vivid examples in recent years. Further, it deals with how Chinese courts apply international law; and how China engages with international dispute settlement with key examples such as the South China Sea arbitration and the China-US trade war. The conclusion of this book brings out the past memory of American exceptionalism and rests on taking Chinese exceptionalism seriously, signaling the discussion of a new concept – “Eastphalia” vis-à-vis “Westphalia” – thus weighing into the switch of the centre of gravity in international law scholarship. For decades, international law scholars have dwelled on the question “is international law law?” which has been asked, answered, ruminated, and finally redirected. However, we now have an inextricably interwoven yet, less examined question: “is international law international?” as exemplified by Professor Anthea Roberts' book.<sup>1</sup> Professor Cai's book is an attempt to answer this question from observing state practice. This book *per se* testifies to the collective wisdom from research and communication with scholars at New York School of Law, Columbia Law School, Humboldt University School of Law, and Professor Roberts herself. Professor Cai's writing has appeared in many renowned international law journals before, with this monograph exemplifying how well Chinese scholars are now able to engage with mainstream international legal scholarship on an equal footing. Admittedly, Professor Cai is no exception to the rule of writing about international law in an abstract fashion however, this book is a great start to further discussion, and thus begs the writing of a second book with less span, and more focus on one or two issues.

doi:10.1017/S2044251321000254

## HUMAN RIGHTS

### **The UN Convention on the Rights of the Child: A Commentary**

**by John TOBIN. Oxford: Oxford University Press, 2019.  
xliv + 1,823 pp. Hardcover: £305.00; available as eBook.  
doi:10.1093/law/9780198262657.001.0001.**

Irina CRIVET†

Koç University, Istanbul, Turkey

*The UN Convention on the Rights of the Child: A Commentary*, edited by Tobin, provides an in-depth article-by-article analysis of all the substantive provisions of the United Nations Convention on the Rights of the Child (the Convention) and its two Optional

<sup>1</sup> Anthea ROBERTS, *Is International Law International?* (Oxford: Oxford University Press, 2017).

† This article has been updated since original publication and the error rectified in online PDF and HTML versions. A notice detailing the changes has also been published at <https://doi.org/10.1017/S2044251322000017>.