

China, the shared future of mankind and the issue of migrants and refugees*

by

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1. The conceptual framework: the shared future of mankind

The recent Congress of the Chinese Communist Party, held in Beijing, marked a very important evolution in the political international thinking, enucleating the concept of the “shared future of mankind”. Indeed, this concept is absolutely central in the documents of the Congress, beginning with the Report of its Secretary General Xi Jin Ping.

It is worth recalling that such a concept is evoked in the framework of the two great goals to be achieved, namely the building of a “moderately prosperous society”, on one hand, and the great success of “socialism with Chinese characteristics” on the other.

The first goal implies the commitment of the Chinese Communists to seek happiness for the Chinese people and rejuvenation of the Chinese nation. However, this commitment takes place in a complex and changing international context.

There is, in other terms, a mutual dependence between the national and the international sphere. This is true for every State but is even more true for a State like the Popular Republic of China given its dimension and paramount importance in the framework of the present international community. On the other hand, this is also an undeniable effect of the process of globalization which intensified the interconnections among States and emphasized the dependence of local phenomena from worldwide factors and causes.

Analyzing the achievements accomplished in the last five years, Xi Jin Ping’s Report enunciates an important concept, that is “law-based governance”. This constitutes no doubts a major feature of the Chinese strategy, along with economic growth, supply-side structural reform, infrastructures, modernization of agriculture, innovation-driven development strategy and the new institutions of open economy.

It is worth to mention that the rule of law is put together with socialist democracy, which is characterized by the direct role of the people and by the coexistence and synergy among various factors such as the improvement of the party leadership, the expansion of intraparty democracy

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and the development of socialist consultative democracy. Such participation in public affairs corresponds to the consolidation of rule of law, consisting in soundness of legislation, strict enforcement of law, impartiality of justice and observation of law by everyone. The point of convergence between participation and rule of law is to be seen in the development of systems to apply checks and oversights over the exercise of power. In fact the problem of controlling power through a system of democratic participation of the people is nowadays a major issue at stake at national and international level¹.

It is also worth underscoring that the emphasis put on the rule of law constitute a relative recent acquisition of the Chinese political thinking. Anyhow, it also represents a very strong feature of the present leadership.

This point is confirmed by the importance attributed by the Report to public awareness of the rule of law. The Report further affirms that the efforts to build a government, a country and a society based on that are mutually reinforcing. Of course, given the paramount importance assumed by the Popular Republic of China in the international arena, also the need to affirm the rule of law at that level should be mentioned.

In fact, the evocation of a “shared future of mankind” which is present in the Report implies the need to assert a new international order based on the rule of law. This is clear, for instance, in the reference to the “driving seat in international cooperation to respond to climate change” which is contained in the part of the Report devoted to the “notable progress made in building an ecological civilization”. On the other hand, it is clear that no solution to the environmental problems can be found at merely national level.

Therefore, it is easy to argue that a shared future of mankind must base itself on common rules, that is rule of law at international level. However, it is worth recalling that the first quotation of the concept is made, in the Report, with reference to the initiatives adopted by Chinese diplomacy in order to secure “a favorable external environment for China’s development”. Such initiatives are the Belt and Road Initiative, the Asian Infrastructure Investment Bank, the Silk Road Fund, the First Belt and Road Forum for International Cooperation, the 22nd APEC Economic Leaders’ Meeting, the G20 2016 Summit in Hangzhou, the BRICS Summit in Xiamen, and the Fourth Summit of the Conference on Interaction and Confidence Building Measures in Asia. In these and other occasions China encouraged a new global government.

Which should be the main goal of this global government? The Report states clearly that the development must be people-centered. In this sense “the principal contradiction facing Chinese

¹ See Fabio Marcelli (ed.), *Participatory democracy and social rights in a multipolar world*, Rome, Tempi Moderni, 2018.

society in the new era is that between unbalanced and inadequate development and the people's ever-growing needs for a better life".

It is important to underscore that the standpoint from which China takes such stances is that of a country which still considers itself a developing country, emerging from a liberation struggle against imperialism and colonialism. In this framework takes place the dream of national rejuvenation, purporting to bring China again to the heights of its past glory, preceding the unfortunate events beginning with the Opium War of 1840 which marked the beginning of a period of decadence and submission, ended only with the Revolution of 1949, nearly hundred years later. This goal was achieved after 28 years of "painful struggle" through a New Democratic Revolution toppling the "three mountains" (imperialism, feudalism, bureaucratic capitalism).

Socialism with Chinese characteristics, therefore, remains the framework in which to act ("the fundamental institutional guarantee for progress and development in contemporary China") avoiding two opposite risks: that of isolation and rigidity and that of changing the nature and abandoning the system.

For the sake of our analysis it is worth to underscore two features of socialism with Chinese characteristics: the goal of law-based governance and that of building a diplomacy in order to foster a new type of international relations and build a community with a shared future of mankind.

These aspects are to be evaluated in the framework constituted by the 14 points enunciated by the Report: 1. Ensuring Party leadership over all work. 2. Committing to a people-centered approach. 3. Continuing to comprehensively deepen reform. 4. Adopting a new vision for development. 5. Seeing that the people run the country. 6. Ensuring every dimension of governance is law-based. 7. Upholding core socialist values. 8. Ensuring and improving living standards through development. 9. Ensuring harmony between human and nature. 10. Pursuing a holistic approach to national security. 11. Upholding absolute Party leadership over the people's armed forces. 12. Upholding the principle of "one country, two systems" and promoting national reunification. 13. Promoting the building of a community with a shared future for mankind. 14. Exercising full and rigorous governance over the Party.

2. Meaning and content of the shared future of mankind

It is now worth concentrating our attention on point 13. First of all it contains a very important statement of principle: the Chinese dream cannot be seen as separated from the dreams of other peoples. That means that it can be realized only "in a peaceful international environment and

under a stable international order". This goal is articulated in a series of concepts: to uphold justice pursuing shared interests; to foster new thinking on common, comprehensive, cooperative and sustainable security; to pursue open, innovative and inclusive development that benefits everyone; to boost cross-cultural exchanges characterized by harmony within diversity, inclusiveness and mutual learning; to cultivate ecosystems based on respect for nature and green development. Summing up, China will continue its effort for peace, development and international order. These three aspects are closely interrelated. There is no peace without development, no development without peace, and neither peace nor development without an international order.

The concept of international order, that is international legal order, is to some extent new in the elaboration of doctrine and represents a meaningful step forward in the evolution of mankind and of legal thought in particular. Traditionally, international law theoreticians were used to base the international norm on the will of the State, not recognizing any type of collective productions of norms not requiring the acceptance and/or the approval by every State concerned. This kind of reasoning was accepted also by the Soviet doctrine of international law, which interpreted it as a sort of guarantee of the independence of Socialist countries vis-à-vis the rest of international community.

The XIX Congress of the Chinese Communist Party apparently reversed this old-fashioned approach to international society and to global issues. This new way of thinking represents a big contribution to the development of socialist thinking and to international community as such, in the light of the urgent need for a solution of global issues.

The approach based on the revalorization of international legal order is also antithetical to the so-called "contractualization" invoked by private powers in order to elude the obligations imposed by international law². While not necessarily and entirely hostile towards soft-law, which may constitute in some circumstances an useful tool³, the Chinese approach, in conformity to the principles contained in the Chinese Constitution⁴, contemplate of course the full submission of private sphere to public decisions.

² See Robert Charvin, *Relations internationales, droit et mondialisation*, Harmattan, 2000, p. 33.

³ See Liu Hua Wen, *International Human Rights Law, Soft law and the National Human Rights Action Plans in China*, in Fabio Marcelli (ed.), *Participatory democracy and social rights in a multipolar world*, pp.

⁴ See Article 6 "The basis of the socialist economic system of the People's Republic of China is socialist public ownership of the means of production, namely, ownership by the whole people and collective ownership by the working people. The system of socialist public ownership supersedes the system of exploitation of man by man; it applies the principle of 'from each according to his ability, to each according to his work'.

In the primary stage of socialism, the State upholds the basic economic system in which the public ownership is dominant and diverse forms of ownership develop side by side and keeps to the distribution system in which distribution according to work is dominant and diverse modes of distribution coexist".

The concept of the shared future of mankind is more thoroughly coped with in a subsequent part of the Report, under Title XII, “Following a Path of Peaceful Development and Working to Build a Community with a Shared Future for Mankind”.

The first consideration to be done in this framework is that in the perspective of the Report “wellbeing of the Chinese people” and “human progress” are seen as two faces of the same coin. They go hand into hand and You cannot imagine an increase of the wellbeing of the Chinese people not implying human progress more in general and human progress in general which doesn’t promote the wellbeing of the Chinese people, as well as of the other peoples inhabiting our planet.

This point is very important since mankind is divided into different sovereign States enjoying each one own conditions due to various historical, political, social, cultural and economic factors. Of course it is not possible to erase completely such differences which constitute aspects of present reality, but it is very important to enunciate in formal and explicit way, like the Report does, the interdependence among the destinies of the different countries on one side and that of mankind in the whole on the other side.

Moreover, reaffirming such fundamental global compromise, the Reports states that “to make new and greater contributions for mankind is our Party’s abiding mission”. That is, the Chinese Communist Party assumes a compromise transcending the Chinese borders. Such a compromise represents on one hand a coherent development of the internationalist tradition of the communist left, but, on the other hand, appears nowadays more necessary than ever in order to cope efficaciously with the challenges of globalization, requiring a concerted approach among all the different States and peoples of the world.

The fundamental values to be asserted are peace, development, cooperation and mutual benefit. These are at the same time the main goals enshrined in the United Nations Charter and in fundamental Treaties and Declarations of Principles approved by the United Nations General Assembly. It is however worth underscoring the special importance given to “mutual benefit”. Such an ideal implies a refusal of conflicts and the adoption of a cooperative approach which is reaffirmed by the mention of “win-win cooperation” which is an eminent characteristic of the new international relations to be built, together with mutual respect, fairness and justice. Friendship and cooperation on the other hand are to be developed on the basis of the Five Principles of Peaceful Coexistence.

Article 7 “The State-owned economy, namely, the socialist economy under ownership by the whole people, is the leading force in the national economy. The State ensures the consolidation and growth of the State-owned economy”.

It is well known that these Principles were at first conceived in the framework of the bilateral Sino-Indian relationship. They include mutual respect for each other's territorial integrity and sovereignty, mutual non-aggression, mutual non-interference in each other's internal affairs, equality and cooperation for mutual benefit, [peaceful co-existence](#). Such Principles derive directly from the ones contained in the United Nations Charter (sovereign equality, non-recourse to force, cooperation, non-interference in internal affairs).

The international scenario changed profoundly in the last years, but the Report reassert the fundamental goals: peace and development. These goals are to be pursued in a framework characterized by some trends: global multi-polarity, economic globalization, IT application and cultural diversity, while countries are increasingly interconnected among themselves.

On the other hand, these positive aspects are counterbalanced by some problematic factors like the lack of energy of global economic growth, the widening of the gap between rich and poor, hotspot issues arising in some regions and the spreading of unconventional security threats like terrorism, cyber-insecurity, major infectious diseases and climate changes. All common challenges to face as human beings.

In this situation isolationism represents a vane illusion: “No country can address alone the many challenges facing mankind; no country can afford to retreat into self-isolation”.

Therefore, the Chinese Communist Party calls on all peoples of the world to build an “open, inclusive, clean and beautiful world that enjoys lasting peace, universal security and common prosperity”. To this end every Cold War approach should be rejected and dialogue promoted, privileging communication over confrontation and partnership over alliance. Economic globalization should be made more open, inclusive, and balanced. Diversity of civilizations and environment should be respected. The idea of whatsoever superiority should be abolished and replaced with coexistence, implying exchanges, mutual learning, reciprocal respect and common cooperation.

In accordance with this model of conduct China is developing global partnerships, expanding the convergence of interests with other countries, promoting coordination and cooperation with other major countries, working to build a framework for major country relations featuring overall stability and balanced development. Chinese relations with its neighbors will be guided by the principles of amity, sincerity, mutual benefit and inclusiveness. Exchanges and cooperation will be relaunched and reinforced at every level, promoting the direct initiative by people's congresses, Chinese People's Political Consultative Conference Committees, the military, local governments and people's organizations.

On one hand China will build a new platform for international cooperation, especially through the One Road one Belt initiative, and on the other hand it will increase its cooperation with the other developing countries in order to contribute to the reduction of the development gap.

China stands for shared growth, democracy at international level, reasserting the principle of sovereign equality among States, and supporting United Nations in playing an active role.

The concept of “shared future of mankind” is connected with a powerful vision of harmony in international relationships, articulated in catchwords like “mutual benefit” and “win-win cooperation”. At the same time this approach constitutes the best and most suitable way of revitalizing the ideals of the founders of United Nations in the new context of globalization the beginning of the third Millennium. Of course the fundamental idea contained in this approach doesn’t exclude the need to struggle against other approaches which don’t at all imply neither mutual benefit, nor win-win cooperation. In order to enucleate more precisely the related problems we have to recur to the fundamental notion of common goods and common values of mankind which represent the necessary basis of every cooperative approach⁵. Reviving the concept of peaceful coexistence represents a powerful obstacle to the attempts of some Western States to revive the colonial policies of interventions under the shroud of human rights protection and the doctrine of so-called responsibility to protect.

Such goods and values represent a very wide array of goals and situations. In some instances they are already incorporated in an objective normative regime, in other cases they still represent an aspiration which needs to be translated into precise norms. It is undeniable that struggling to overcome the dangers of the present historical era, such as climate change, terrorism, tendencies to war and growing inequalities, consists fundamentally in protecting and developing the common goods. On the other hand all history of mankind is characterized by the research of cooperation, which has been realized with growing efforts and alternate outcomes, configuring permanent structures such as the existing international organizations. However, the new challenges posed by globalization require a step forward in this construction.

As pointed out by Fernando Moreno Bernal, “history of mankind is the development of cooperation and coordination in ever bigger territorial frameworks. From villages to cities-States, kindgoms, empires and, finally, globalization. Here we are”⁶. We have to carefully specify that the

⁵ On these concepts see my intervention at the XIV Conference on international law promoted by Cass in Beijing on the topic “International Law in a new era: innovation, change and development” 2 and 3 December 2017. See <https://www.youtube.com/watch?v=MOwL-rgvVrw&feature=youtu.be>.

⁶ « La historia de la Humanidad es el desarrollo de la cooperación y coordinación en ámbitos territoriales cada vez más amplios. De aldeas a ciudades-estado, reinos, imperios y, por fin, la mundialización. En esta situación nos encontramos ». Cfr. <http://www.other-news.info/noticias/2018/03/fsm-2018-lucha-por-la-hegemonia-en-la-narrativa-del-99/#more-14612>.

overcoming of the international structure based on the coexistence among sovereign and independent States is not at all necessary, but that, at the same time, we need a qualitative leap in international cooperation, and the concept of shared future of mankind seems of particular support to this end.

3. The issue of migrants and refugees and the shared future of mankind

The issue of migrants and refugees is nowadays at the very heart of international political and legal debate. On one side we find the States receiving the most of the human flow originating from the poorest areas of the world and on the other the States interested in finding an equitable solution of the problem. In order to cope with it in an efficient way we must be aware of the fact that such a flow is a structural element of the present international situation. It is determined, in fact, by a series of factors which are deeply entrenched in the relationship existing among the different States. We can mention the growing inequalities existing at territorial and social level, the armed conflicts and the increasing environmental degradation due to climate change, loss of biodiversity, pollution and other.

This situation is, by the way, very different from the one experienced by the international community in the aftermath of World War II when the existing international norms on refugees were adopted.

Therefore, we can say the legal framework at disposal in order to handle the problem is extremely inadequate and obsolete. Hundreds of thousands of individuals are abandoning their homes and villages in order to escape death, oppression and misery but their legal status is only partially covered by existing conventions, in particular the Geneva Convention of 1951, as revised in 1967.

Public opinion in western countries is deeply divided on the issue. Right-wing parties call for the mobilization against what they call the "invasion" of people of different ethnicity and culture. Such parties deny that there is a duty of solidarity imposing to richer countries to pay attention to the needs of migrants and asylum seekers.

Others propose to help them "at their home", but this idea sounds rather hypocritical since it is well known that the main causes of the increasing flow of migrants and refugees reside in the reality of international system as fashioned by dominating Western countries through colonialism, neocolonialism, imperialism and the exploitation of natural resources for the benefit of multinational enterprises based in those countries leading to environmental degradation and the suppression of traditional economies.

China, at its turn, is of course an important actor in the issue for various reasons. Because it is a country traditionally giving birth to an important flow of migrants but also because in more recent times it converted itself to a country of reception of migrants and refugees. Moreover, the recent thinking of China in international issues is characterized the concept of shared future of mankind and there can be no doubts that migrations, including those of asylum-seekers, form an important part of such future. To be more clear, the features of such a shared future depend in a determinant way on which kind of solution will be given to the issue of migrants and refugees. Will they be received and integrated or not? Will their human rights be satisfied or not? Which kind of international norms, if any, will be shaped in order to address such essential problems? At any rate it is sufficient clear to anybody that the increasing flow of migrants and refugees is a result of globalization and therefore a global power like China has to give its contribution to its solution.

4. The Global Compact on Migration and the Chinese position

The Global Compact on Migration represents the most recent attempt of the international community to cope with the issue of migrants and refugees. The process leading to the adoption of the Compact had begun with the meeting held on 19 September 2016 in the framework of the United Nations General Assembly which approved the Declaration for Refugees and Migrants⁷.

This Declaration took into considerations the various reasons of the “large movements of refugees and migrants”, recognizing that such movements had their origin in a combination of distinct causes, such as conflicts, hunger, poverty, climatic change and the mere wish to find more favorable economic conditions. On the other hand the Declaration ascertained the huge dimensions of the phenomenon, recalling that “2015, their number surpassed 244 million, growing at a rate faster than the world’s population. However, there are roughly 65 million forcibly displaced persons, including over 21 million refugees, 3 million asylum seekers and over 40 million internally displaced persons”.

The Declaration dictated various commitments applicable to the issue, distinguishing among commitments applicable to refugees and migrants, commitments applicable to refugees and commitments applicable to migrants.

Notwithstanding such a distinction, it is worth mentioning that the Declaration enucleates a series of commitments addressed to all migrants, whether migrants in strict sense or refugees. The core of the commitments concerning both categories are on one side that of ensuring a “people-centred, sensitive, humane, dignified, gender-responsive and prompt reception for all persons

⁷ https://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/71/1.

arriving in our countries, and particularly those in large movements, whether refugees or migrant” and, on the other, of respecting and protecting fully “their human rights and fundamental freedoms”.

In the light of the present situation in the Mediterranean, but also in other seas, it appears rather meaningful to emphasize the commitment “to intensifying international cooperation on the strengthening of search and rescue mechanism”. Moreover the Declaration contains a general commitment to “to combating xenophobia, racism and discrimination in our societies against refugees and migrants”.

The UN Compact on migrations was developed on the basis of the New York Declaration through a wide and articulated process of consultations, stocktaking and negotiations ending with the Marrakesh Conference which finally adopted the Compact on the 10th of December 2018⁸.

It reiterates the commitment expressed by the New York Declaration dedicating a specific point to human rights, in the following terms: “The Global Compact is based on international human rights law and upholds the principles of non-regression and non-discrimination. By implementing the Global Compact, we ensure effective respect, protection and fulfilment of the human rights of all migrants, regardless of their migration status, across all stages of the migration cycle. We also reaffirm the commitment to eliminate all forms of discrimination, including racism, xenophobia and intolerance against migrants and their families”.

The Compact further enunciates 23 principles concerning migrations: (1) Collect and utilize accurate and disaggregated data as a basis for evidence-based policies (2) Minimize the adverse drivers and structural factors that compel people to leave their country of origin (3) Provide accurate and timely information at all stages of migration (4) Ensure that all migrants have proof of legal identity and adequate documentation (5) Enhance availability and flexibility of pathways for regular migration (6) Facilitate fair and ethical recruitment and safeguard conditions that ensure decent work (7) Address and reduce vulnerabilities in migration (8) Save lives and establish coordinated international efforts on missing migrants (9) Strengthen the transnational response to smuggling of migrants (10) Prevent, combat and eradicate trafficking in persons in the context of international migrations (11) Manage borders in an integrated, secure and coordinated manner (12) Strengthen certainty and predictability in migration procedures for appropriate screening, assessment and referral (13) Use migration detention only as a measure of last resort and work towards alternatives (14) Enhance consular protection, assistance and cooperation throughout the migration cycle (15) Provide access to basic services for migrants (16) Empower migrants and societies to realize full inclusion and social cohesion (17) Eliminate all forms of discrimination and promote evidence-based public discourse to shape perceptions of migration (18) Invest in skills

⁸ See <https://www.iom.int/gcm-development-process>.

development and facilitate mutual recognition of skills, qualifications and competences (19) Create conditions for migrants and diasporas to fully contribute to sustainable development in all countries (20) Promote faster, safer and cheaper transfer of remittances and foster financial inclusion of migrants (21) Cooperate in facilitating safe and dignified return and readmission, as well as sustainable reintegration (22) Establish mechanisms for the portability of social security entitlements and earned benefits (23) Strengthen international cooperation and global partnerships for safe, orderly and regular migration.

To sum up the innovative aspect of the Compact is that of establishing a framework for the global governance of migration, but at the same time to dictate some general principles by which the policies of the different States should be inspired. On the other hand the States remain responsible for their policies in the respect of the principle of State sovereignty.

China's position on the Compact is balanced and presents some positive aspects. The most positive one is that China did not refrain from being part of the Compact as unfortunately other States did, among them important recipients of migrants such as United States, Australia, Israel and Italy. China emphasized the non-binding character of the Compact and the fact that it does not create new obligations but at the same time reiterated its commitment to implement the objectives asserted by the Compact⁹.

5. Conclusions

In conclusion, the support by the government of the People's Republic of China to the International Migration Compact is perfectly in line with the "shared future of mankind" approach. As considered by a commentator, China "started to demonstrate growing interest in a greater role in refugee affairs, in contrast to the United States' weakening commitment to leading the international community in helping refugees"¹⁰. And the support to the Compact is accompanied by concrete measures of help to refugees, such as the decision to give US\$1 billion to international organizations for refugee-related projects in Asia and Africa taken by Xi Jng Ping in the framework of the Belt and Road Forum for international cooperation¹¹.

As declared by the Counsellor of China Mission to United Nations, "China advocates the establishment of a new type of international relations based on mutual respect, fairness, justice and win-win cooperation, and the building of a community of shared future for mankind. This

⁹ <https://www.efe.com/efe/english/world/china-to-adopt-un-s-global-migration-pact-according-its-own-conditions/50000262-3838973>.

¹⁰ Lili Song, Strengthening Responsibility Sharing with South-South Cooperation: China's Role in the Global Compact on Refugees (<https://academic.oup.com/ijrl/article/30/4/687/5258095>).

¹¹ Ibidem.

concept serves as an important guide to the improvement of the global effort to address the refugee problem”¹².

Responding therefore to the growing role and responsibilities of China in the international community, the position taken on the issue also reflects some basic features of the “shared future” approach, that is promotion of rule of law on one side, and respect for the role of States and their sovereignty on the other. In line with that, China also rejects any attempt to exploit the issue of refugees in order to attempt or implement undue and illegitimate interventions in the internal affairs of other States.

¹² Mentioned *ibidem*.