

A Bid to Shape the Future of International Law and Society?

China's position regarding the South China Sea arbitral proceedings and its evolving position within the society of states assessed through the prism of the English School

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ABSTRACT

To ask the question whether China will change, or fundamentally overthrow, our global order was not the purpose of this study. Rather, its objective was twofold. First, it endeavoured to sketch a blueprint for an approach based upon English School theory, with which China's peaceful rise within international society could be assessed. This resulted in the framework of the 'acceptance-test' and a 'thin-thick' perspective on international society. Second, it was to apply that framework, which is able to show whether a state is adhering to and accepting the rules and practices of the social structure – or the primary institutions – that underpins global politics, to China's conduct with regard to the 2016 arbitral award pertaining to the territorial disputes in the South China Sea.

Through an assessment of a patchwork of primary sources, such as government white papers, speeches by officials, media coverage, and academic literature, this study shows that Beijing is displaying a pattern of acceptance of the institution of international law, an institution generally considered to be a sine qua non to the existence of international society. However, in the South China Sea, China is accepting it only insofar it does not potentially affect its alleged sovereignty rights over the land features in the most contested maritime area in the world, contrary to the 2016 arbitral award. I argue that China herewith advocates a very limited, or 'thin,' interpretation of international law. In fact, by maintaining its consistent legal collision course, it is forcefully trying to (re)shape international law. Thus, Beijing undeniably behaves like a reformist revisionist power, with regard to the 2016 arbitral award.

Notably, this study argues that this conduct is in fact in alignment with Beijing's policy of peaceful development under Xi Jinping. Furthermore, China's position is partially explained by diving deeper into the historical and cultural contexts, especially by paying attention to the 'Age of Humiliation,' that has left the Chinese leadership with a fierce determination not to ignore even trivial violations of its territorial rights. Taking into account that the distribution of power must not be neglected, this study argues that international society is, at least partially, acquiescing to the rise of a new major power. Overall, this study was able to provide a more nuanced and historically rooted view on the question how Beijing's position with regard to the arbitral award affects and affected its relationship with the rules and practices that underpin international society. Moreover, it sketched a comprehensive framework with which other case-studies arising out of the debate on the question whether a peaceful Chinese rise is possible may be assessed.

Keywords: *China's (peaceful) rise – 2016 arbitral award Philippines v. China – South China Sea – English School theory – International Relations*

TABLE OF CONTENTS

INTRODUCTION	7
a) China's peaceful development and the South China Sea	7
b) Bringing 'international society' into the picture	9
c) Employing a case-study for gauging China's position in international society	12
d) The case-study toolbox	13
TRACING THE DEVELOPMENT OF CHINA'S DOCTRINE OF PEACEFUL RISE AND PEACEFUL DEVELOPMENT	15
1.1. Introduction	15
1.2. The ascension of 'peaceful rise'	17
1.2.1. China's modern encounters with Western international society	17
1.2.2. The need for new diplomacy: foreign perceptions of China's novel global position	22
1.3. PRD officially embraced by the Chinese leadership	24
1.3.1. The idea of a 'peaceful rise' emerges	24
1.3.2. PRD accepted as China's national strategy	25
1.4. Maintaining course on the peaceful development road under Xi Jinping?	27
1.4.1. Introduction: what is peaceful?	27
1.4.2. Xi and peaceful development: unmistakable changes in Beijing's foreign policy	28
1.5. Evaluation	30
THEORETICAL FRAMEWORK: THE ENGLISH SCHOOL AND ITS DISCONTENTS	31
2.1. Introduction	31
2.2. Theory and foundations	32
2.2.1. Introduction and main concepts of English School theory	32
2.2.2. What does the Triad yield: theoretical pluralism	38
2.2.3. Discontents of the English School approach	40
2.3. Using the English School approach as a prism for China's rise	41
2.3.1. The pluralism/solidarism debate	41
2.3.2. Primary institutions as principal tool of analysis	43
2.3.3. China and constantly evolving international society	45
2.4. Evaluating the English School approach	47

CHINA'S ENTANGLEMENT IN INTERNATIONAL SOCIETY AND THE SOUTH CHINA SEA	48
3.1. Introduction	48
3.1.1. Identifying sources capable of expressing primary institutions	48
3.1.2. Applying the 'thin-tick' perspective and the 'acceptance-test'	48
3.2. The South China Sea and the arbitral award 'Philippines v. China'	49
3.2.1. Claiming the most contested maritime area of the world	49
3.2.2. Initiation and conclusion of the arbitral proceedings	50
3.3. Analysing the Chinese government's position	52
3.3.1. The first Note Verbale to the United Nations	52
3.3.2. Rejecting the arbitration: China can say no	53
3.4. Moving beyond unipolarity?	57
CONCLUSION	60
BIBLIOGRAPHY	64

Introduction

a) China's peaceful development and the South China Sea

The guideline of 'peaceful development' (*heping fazhan*) is China's carefully crafted foreign policy doctrine or 'grand strategy' through which Beijing strives to reassure its neighbours of China's benign intentions and to present a kinder, gentler image of China, to the world.¹ A concrete manifestation of the guideline is the one-trillion dollar-project of China's Belt and Road initiative. This project involves Chinese infrastructure development and investments in countries in Europe, Asia and Africa.² Underlying Beijing's tactical soft power strategy is a well thought-out plan of fostering a peaceful international environment that is most conducive to developing Beijing's domestic and international position.³ Indeed, some assert that China's rapid development is inextricably linked with its capability to accommodate itself to existing rules and structures within international society.⁴ Conversely, others strongly wonder whether it will remain possible for China to maintain its current rise in a peaceful manner.⁵ In any case, the PRC's ascension as a

¹ Y. Wang, 'China's Response to the Unipolar World: The Strategic Logic of Peaceful Development', *Journal of Asian and African Studies* 45 (2010) 5, p. 554.; B.S. Glaser and E.S. Medeiros, 'The Changing Ecology of Foreign Policy Making in China: The Ascension and Demise of the Theory of 'Peaceful Rise'', *The China Quarterly* 190 (2007), p. 291.; F. Zhang, 'The rise of Chinese exceptionalism in international relations', *European Journal of International Relations* 19 (2011) 2, p. 311.; Y. Zhang and W. Feng, *Peaceful Development Path in China* (Singapore: Springer, 2019).

² For a more extensive overview on the Belt and Road initiative see: Y. Wang, 'Offensive for defensive: the belt and road initiative and China's new grand strategy', *The Pacific Review* 29 (2016) 3, pp. 455-463.; C. Ploberger, 'One Belt, One Road – China's new grand strategy', *Journal of Chinese Economic and Business Studies* 15 (2017) 3, pp. 289-305.; H. Yu, 'Motivation behind China's 'One Belt, One Road' Initiatives and Establishment of the Asian Infrastructure Investment Bank', *Journal of Contemporary China* 26 (2017) 105, pp. 353-368.

³ Wang, 'China's Response to the Unipolar World', p. 554. It is also asserted that for China, soft power largely serves (or strives) to reduce alarm among other states concerned about China's new-found hard power. See: J. deLisle, 'Soft Power in a Hard Place: China, Taiwan, Cross-Strait Relations and U.S. policy', *Orbis* 54 (2010) 4, p. 493.

⁴ See: A.I. Johnston, 'Is China a Status Quo Power?', *International Security* 27 (2003) 4, p. 49.; B. Buzan, 'China in International Society: Is Peaceful Rise Possible?', *The Chinese Journal of International Politics* 3 (2010) 1, p. 5.; Q. Yaqing, 'International Society as Processes: Institutions, Identities, and China's Peaceful Rise', *The Chinese Journal of International Politics* 3 (2010) 1, pp. 129-131.

⁵ See: A. Waldron, 'After Deng the Deluge', *Foreign Affairs* 74 (1995) 5, pp. 148-153.; J.J. Mearsheimer, 'China's Unpeaceful Rise', *Current History* 105 (2001), pp. 160-162.; A. Goldstein, 'Power transitions, institutions, and China's rise in East Asia: Theoretical expectations and evidence', *Journal of Strategic Studies* 30 (2007) 4, pp. 640-642.

global power is one of the most important and debated subjects in contemporary international relations scholarship and current global affairs.

Arguably, the most important issue pertaining to the question whether China will remain able to rise peacefully today, is its stance and conduct regarding the South China Sea (hereinafter referred to as "SCS") disputes. The SCS has been at the forefront of an enduring and highly complex dispute, which is no longer just about territory, but also about broader maritime rights, resources, the validity of the legal framework governing the dispute, and increasingly, the role of China as a major power in the Asia Pacific and the world as a whole. In this dispute, the cast of claimants is large and varied, the legal bases for the claims made are mixed, and security, military, and economic stakes are high. Indeed, no international maritime dispute has attracted so much attention in recent years.⁶

In the SCS, Beijing claims territorial sovereignty over two groups of islands and maritime rights over related waters.⁷ The Philippines, one of the parties involved in the dispute, unilaterally requested the competent arbitral tribunal under the United Nations Convention on the Law of the Sea (hereinafter referred to as "UNCLOS") to adjudicate and declare that China's claims were invalid.⁸ Notwithstanding China's robust rejection of any litigation brought forward regarding its claims, an arbitral award was delivered in favour of the Philippines on 12 July 2016, considered to be a hallmark development in this highly complex dispute.⁹ Although considered ground-breaking by international legal scholars,

⁶ M.T. Fravel, 'China's Strategy in the South China Sea', *Contemporary Southeast Asia* 33 (2011) 3, p. 292.

⁷ J. Shen, 'China's sovereignty over the South China Sea Islands: A Historical Perspective', *Chinese Journal of International Law* 1 (2002) 1, pp. 145-146.; See also: Fravel, 'China's Strategy in the South China Sea', p. 293-294.; And for a concise overview of the dispute: A.D. Ba, 'Staking Claims and Making Waves in the South China Sea: How Troubled Are the Waters?', *Contemporary Southeast Asia* 33 (2011) 3, pp. 269-291.

⁸ The Philippines requested the United Nations Convention on the Law of the Sea (Annex VII) Arbitral Tribunal to adjudicate on China's maritime claims. Such adjudication is binding to signatories to the Convention and any award delivered is final, binding and without appeal. Importantly, all parties to the South China Sea disputes, including China, are signatories to the Convention. See: United Nations, Treaties Depository. Retrieved on 10 May 2019: https://treaties.un.org/pages/ViewDetailsIII.aspx?src=TREATY&mtdsg_no=XXI-6&chapter=21&Temp=mtdsg3&clang=_en. Although China contends that it has excluded jurisdiction of the Arbitral Tribunal, the Court found jurisdiction on various submissions brought forward by the Philippines. See: S. Talmon, 'The South China Sea Arbitration and the Finality of 'Final' Awards', *Journal of International Dispute Settlement* 8 (2017) 2, pp. 388-401.

⁹ See: L. Bautista and A.A. Arugay, 'Philippines v. China. The South China Sea Arbitral Award: Implications for Policy and Practice', *Asian Politics & Policy* 9 (2017) 1, p. 122.; C. Schofield, 'A Landmark Decision in the South China Sea: The Scope and Implications of the Arbitral Tribunal's Award', *Contemporary Southeast Asia* 38 (2016) 3, p. 340.

due to the legal clarity that it has brought to the disputes, China has repeatedly insisted on its position of 'four no's': no participation, no acceptance, no recognition and no enforcement. Instead of moving away from the SCS, China is expanding its maritime presence and constructs military outposts and bases on contested atolls throughout the area China considers to be its own.¹⁰ That gentler image put forward by the policy of peaceful development has therewith effectively made way for a perception of a more assertive and disruptive China in global and regional affairs.

b) Bringing 'international society' into the picture

If China openly defies this binding arbitration ruling, does this mean that the SCS is bound to enter into a new period of uncertainty? And what are the consequences for China's evolving position within the global society of states? This study underscores that the choice China is facing with regard to the SCS will be of great significance for its policy of peaceful development. Effectively, Beijing has two options. On the one hand, it may approach the dispute with its narrative of peaceful rise and harmonious world. On the other hand, it may pursue a policy of military growth and territorial expansionism (Chinese perspective: protectionism), with a relative disregard for the concerns of its direct neighbours and other great powers such as the United States.

China seems to have opted for the latter. Its newfound assertiveness (or 'Realpolitik approach') with regard to the SCS, attributed to (among others) Beijing's growth in military and economic power, 'triumphalism' in the wake of the Western financial crisis, and a heightened sense of nationalism under the leadership of President Xi Jinping, is already greatly troubling neighbours and the major powers of the world.¹¹ One historian,

¹⁰ A.W. McCoy, 'Circles of Steel, Castles of Vanity: The Geopolitics of Military Bases on the South China Sea', *The Journal of Asian Studies* 75 (2016) 4, pp. 975-1017.; T. Philips, 'Photo's show Beijing's militarisation of South China Sea in new detail', *The Guardian*, 6 February 2018. Retrieved on 10 May 2019: [https://www.theguardian.com/world/2018/feb/06/photos-beijings-militarisation-south-china-sea-philippines](https://www.theguardian.com/world/2018/feb/06/photos-beijings-militarisation-south-china-sea-philippines;).; Kyodo News, 'China has built seven new military bases in South China Sea, US navy commander says', *South China Morning Post*, 15 February 2018. Retrieved on 10 May 2019: <https://www.scmp.com/news/china/diplomacy-defence/article/2133483/china-has-built-seven-new-military-bases-south-china>.; S. Dingli et al., 'China's Maritime Disputes', *Council on Foreign Relations*, 2019. Retrieved on 10 May 2019: https://www.cfr.org/interactives/chinas-maritime-disputes?cid=otr-marketing_use-china_sea_InfoGuide#!/chinas-maritime-disputes?cid=otr-marketing_use-china_sea_InfoGuide.

¹¹ R. Cruz de Castro, 'The Risk of Applying Realpolitik in Resolving the South China Sea Dispute: Implications on Regional Security', *Pacific Focus* 27 (2012) 2, p. 262.; K. Morton, 'China's ambition in the South China Sea: is a legitimate maritime order possible?', *International Affairs* 92 (2016) 4, p. 910.; M. Yahuda, 'China's New

Gregory Moore, metaphorically reasons that ‘for Washington and for China’s neighbours, the question is quite simple: Is a rising China going to follow in the footsteps of Otto von Bismarck or Kaiser Wilhelm II?’ Moore also asserts that the SCS will be a crucial test-case for China’s doctrine of peaceful development, as it concerns an arena where Beijing’s choices will impact its relations with its neighbours, other great powers and especially the United States.¹²

Evidently, the broad debate that this study will touch upon is that of China and (its position within) the global order.¹³ More precisely, this study considers China’s evolving relationship with international society its main research focus. The idea that China will inevitably rise to ‘rule the world’ and shape it to reflect Chinese ideas and interests has already gathered a number of proponents.¹⁴ Others suggest that China only ‘seeks a gradual modification of Pax Americana, not a direct challenge to it,’ where it would push only for moderate change in a responsible manner so as to not destabilize international society.¹⁵ Also within China’s own borders there is considerable diversity in

Assertiveness in the South China Sea’, *Journal of Contemporary China* 22 (2013) 81, p. 446.; S. Breslin, ‘China and the global order: signalling threat of friendship?’, *International Affairs* 89 (2013) 3, p. 615.

¹² G.J. Moore, ‘Bismarck or Wilhelm? China’s Peaceful Rise vs. Its South China Sea Policy’, *Asian Perspective* 42 (2018) 2, pp. 265-283. Moore argues that ‘no other strategic context offers as important a test case for the peaceful (or not-so-peaceful) rise of China rhetoric that has emanated from Beijing for the last few years.’ See also: J. Kim, ‘Territorial Disputes in the South China Sea. Implications for Security in Asia and Beyond’, *Strategic Studies Quarterly* 9 (2015) 2, p. 107.; R.D. Kaplan, ‘The South China Sea is the future of conflict’, *Foreign Policy* 188 (2011), pp. 76-85.; Z. Hong, ‘The South China Sea and China-ASEAN Relations’, *Asian Affairs* 44 (2013) 1, pp. 38-39.; S. Zhao, ‘China and the South China Sea Arbitration: Geopolitics Versus International Law’, *Journal of Contemporary China* 27 (2018) 109, p. 14.; J. Kemp, ‘South China Sea disputes test China’s Peaceful Rise’, *Reuters*, 31 May 2015. Retrieved on 17 May 2019: <https://www.reuters.com/article/southchinasea-maritime-diplomacy-kemp/column-maritime-disputes-test-chinas-peaceful-rise-kemp-idUSL5N0YJ34W20150528>.

¹³ Breslin, ‘China and the global order’, pp. 615-634.; G. Chin and R. Thakur, ‘Will China Change the Rules of Global Order?’, *The Washington Quarterly* 33 (2010) 4, pp. 119-138. See also: J.S. Nye Jr., ‘Is the American century over?’ *Political Science Quarterly* 130 (2015) 3, pp. 393-401.; A. Komlosy, ‘Prospects of Decline and Hegemonic Shifts for the West’, *Journal of World-system Research* 22 (2016) 2, pp. 463-483.; C. Layne, ‘The US-Chinese power shift and the end of Pax Americana’, *International Affairs* 94 (2018) 1, pp. 89-111.; A. Acharya, ‘Power Shift or Paradigm Shift? China’s Rise and Asia’s Emerging Security Order’, *International Studies Quarterly* 58 (2014) 1, pp. 158-173.

¹⁴ See: M. Jacques, *When China rules the world: the end of the western world and the birth of a new global order* (New York: Penguin, 2009).

¹⁵ R. Schweller and X. Pu, ‘After unipolarity: China’s visions of international order in an era of U.S. decline’, *International Security* 36 (2011) 1, p. 53.; B. Womack, ‘China and the Future Status Quo’, *The Chinese Journal of International Politics* 8 (2015) 2, pp. 134-137.; Breslin, ‘China and the global order’, p. 616.; Even more nuanced: E.S. Steinfeld, *Playing Our Game. Why China’s Rise Doesn’t Threaten the West* (Oxford: Oxford University Press, 2010).

opinion regarding the nature of the world order and what China's role could or should be in global affairs. Although some scholars view recent Chinese diplomacy as increasingly assertive and challenging of the status quo in the Asia Pacific, which could reflect the end of China's 'peaceful development' policy, Beijing still firmly adheres to its carefully crafted diplomatic guideline.¹⁶

This foreign policy doctrine clearly constitutes a fruitful topic for international relations scholars to theorize about. Realists may argue that, notwithstanding such a policy, a rising power will sooner or later challenge the current hegemon and the existing international hierarchical order.¹⁷ Liberals are prone to worry more about China's political system, and although they would assert that existing international institutions have already constrained China's behaviour, uncertainty remains to exist due to the anarchical nature of the international system.¹⁸ This study will take a different approach and follows in the footsteps of the English School (hereinafter referred to as "ES") and its principal idea of international society. For scholars belonging to this long-standing and distinctive school within the field of international relations, international society is about the (process of) institutionalization of shared interests and identity amongst states. These scholars envision states as sentient actors enmeshed in an ongoing and evolving dialogue with each other, and due to the fact that these states accept and shape the institutions that govern interactions between themselves, they form some kind of social order. Hedley Bull, a leading scholar of the School, aptly labelled this the 'anarchical society' of states.¹⁹ This

¹⁶ Yahuda, 'China's New Assertiveness in the South China Sea', pp. 446-459; J. Zhang, 'China's new foreign policy under Xi Jinping: towards 'Peaceful Rise 2.0''?, *Global Change, Peace and Security* 27 (2015) 1, p. 5.

¹⁷ See, among others: J.J. Mearsheimer, *The Tragedy of Great Power Politics* (New York: W.W. Norton 2001); Mearsheimer, 'China's Unpeaceful Rise', pp. 160-162.; R. Gilpin, *War and Change in World Politics* (Cambridge: Cambridge University Press, 1981).; O.F.K. Organski and J. Kugler, *The War Ledger* (Chicago: University of Chicago Press, 1980).; K. Waltz, *Theory of International Politics* (Reading: Addison-Wesley, 1979).; More nuanced: C. Glaser, 'Will China's Rise Lead to War? Why Realism Does Not Mean Pessimism', *Foreign Affairs* 90 (2011) 2, pp. 80-91.

¹⁸ See, among others: R. Keohane and J.S. Nye, *Power and Interdependence: World Politics in Transition* (Boston: Little, Brown & Co., 1977); G.J. Ikenberry, 'The Rise of China: Power, Institutions, and the Western Order', in R. Ross and Z. Feng (eds.), *China's Ascent: Power, Security, and the Future of International Relations* (Ithaca and London: Cornell University Press, 2008), pp. 89-114.; G.J. Ikenberry, 'The Rise of China and the Future of the West', *Foreign Affairs* 87 (2008) 1, pp. 23-37.

¹⁹ H. Bull, *The Anarchical Society: A Study of Order in World Politics* (New York: Columbia University Press, 1977).; Buzan, 'China in International Society', p. 6.; B. Buzan, 'From international system to international society: structural realism and regime theory meet the English school', *International Organization* 47 (1993) 4, pp. 327-352.; Together with Yaqing I emphasize the importance of understanding international society as encompassing many reciprocal processes. See section 2.3.3. and Yaqing, 'International Society as Processes', pp.

study sketches a blueprint for using an ES approach to questions arising out of China's rise. By showing how this approach can be beneficially applied to the contemporary and pressing matter of the ascent of China linked to disputes in the SCS, this study is able to contribute to the field of ES theory.

c) Employing a case-study for gauging China's position in international society

To ask the question whether China will overthrow our current global order is not the purpose of this study. Rather, by taking into account its adherence to the policy of peaceful development, it is to investigate how China's conduct with regard to the 2016 arbitral award is affecting both its position as well as the practices within international society. By showing how Beijing's conduct is in alignment with both its own policy and the rules and practices that underpin the society of states, this study is capable of contributing to the debate on China's evolving position both globally and regionally, and the question whether it will remain possible for China to maintain its peaceful rise. At the outset it must be mentioned that there are several rules and practices, or primary institutions, that underpin international society. This study, however, primarily focuses on the institution of international law, since binding arbitration in essence is a manifest expression of international law. Moreover, the idea of international society is often traced back to the writings of Hugo Grotius, and in its core, is rooted in the idea that international law constitutes a community of states participating in the international order.

Barry Buzan, a renowned proponent of the ES, has already endeavoured to assess China's rise from an ES perspective.²⁰ He argues that a peaceful, rising power which does not fundamentally alter the current international society or order presupposes that power's acceptance of the primary institutions of international society. According to that logic, Buzan argues that a peaceful rise will be particularly difficult for China, as it means that Beijing must accept international society's changed and changing primary

130-131. Another remark that should be made is that the ES differs from (social) constructivism. Although both approaches take into account ideational factors and identity confrontation the ES offers methodological pluralism which constructivism does not. For the idea that global politics is in essence socially constructed I refer to: A. Wendt, 'Anarchy is what States Make of it: The Social Construction of Power Politics', *International Organization* 46 (1992) 2, pp. 391-425.

²⁰ B. Buzan, 'China's rise in English School perspective', *International Relations of the Asia-Pacific* 18 (2018) 3, pp. 449-476.; Buzan, 'China in International Society', pp. 5-36. He did so in a general sense and did not employ a particular case-study.

institutions, which often do not coincide with China's own preferences.²¹ On the face of it, the saga of the SCS disputes does indeed appear to render such acceptance quite difficult.

It was already made clear that this marginal sea that is part of the Pacific Ocean is considered a crucial testing ground for China's policy of peaceful development. This study assumes that, by extension, it also constitutes a suitable case-study to gauge China's position within the society of states – as China's conduct there affects not only its relations with neighbouring states but also with other great powers, and could therefore be regarded as a potential 'tipping point' in the relationship between China and the (Western) world. Accordingly, this study adds both a theoretical and an empirical element to the debate, by addressing the potential implications of China's conduct regarding the 2016 arbitral award for both the Chinese doctrine of peaceful development and for Beijing's position within international society. Through the prism of the ES, the assessment following out of this case-study will shed more light on the question regarding the possibility of a peaceful Chinese rise.

d) The case-study toolbox

In order to effectively address the question posed above, attention must first be paid to China's policy of peaceful development. How did China's encounters throughout the past two centuries with international society bring about the international context in which this policy could emerge? And how did it evolve since Zheng Bijian first advanced the concept of 'the development path of China's peaceful rise' in 2003? Using both secondary sources as well as Chinese government white papers, speeches by officials, and media coverage, answers to these questions shall be formulated in the first chapter.

In the second chapter, the concept of international society and the ES will be discussed in more detail. Criticisms thereto related will be given consideration, and most importantly, this section will sketch how a 'thin-thick' interpretation of international society in conjunction with an 'acceptance test' is able to show how China's conduct in the SCS relates to its relationship with international society – and in particular with regard to international law. Subsequently, in the third chapter, this blueprint culminates in an assessment of primary government and media sources and academic materials pertaining to the Chinese stance regarding the initiation and conclusion of the 2016 arbitral proceedings *China v. Philippines*. In this respect, it must be mentioned that I do not speak

²¹ In particular those of democracy, human rights, and transnational solidarity norms. Buzan, 'China in International Society', pp. 15, 17. In contrast see 2.3.3. and Yaqing, 'International Society as Processes', p. 130.

or read Chinese. Sources published in Mandarin thus cannot be discussed in detail. Fortunately, since Beijing is adamant in gaining international support for its refusal of this international arbitration case, it publishes nearly all its statements and position papers in English, on a specially dedicated website.²² After assessing these materials, this study is then able to shed light on the potential implications for Beijing's relationship with international society *and vice versa*. As a result, this will offer a nuanced and evidence-based contribution to the broader debate on the possibility of a peaceful Chinese rise, in our global order.

²² Ministry of Foreign Affairs, People's Republic of China, 'The South China Sea Issue:' <https://www.fmprc.gov.cn/nanhai/eng/>.

1.

Tracing the development of China's doctrine of Peaceful Rise and Peaceful Development

1.1. Introduction

The debate regarding the nature and direction of Chinese foreign policy, in both popular as well as academic communities outside China, has been vigorous in recent years. One influential strand within these debates mainly contends that recent Chinese diplomacy has evolved from being fairly non-confrontational towards becoming increasingly assertive.²³ It is this alleged newfound assertiveness – and the perceived challenge it poses to the status quo of the regional order in the Asia Pacific region – that has led some authors to assert that Beijing's carefully crafted doctrine of 'peaceful development or peaceful rise' (hereinafter referred to as "PRD") effectively has come to an end.²⁴ This branch within the debate is challenged however, by those who dispute the claims about this increasingly assertive Chinese foreign policy, and who 'argue that recent Chinese foreign policy has been essentially no more assertive than before and has so far been fundamentally status quo oriented', or that the notion of China's new assertiveness has been socially constructed by foreign commentators, rather than being an 'objectively true phenomenon.'²⁵

Notwithstanding this ongoing debate, developments in Chinese foreign policy, especially with regard to PRD, are continuously scrutinized in academic circles, policy

²³ Wang, 'China's Response to the Unipolar World', p. 554.; Zhang, 'China's new foreign policy under Xi Jinping', p. 5.; Yahuda, 'China's New Assertiveness in the South China Sea', pp. 446-459.; C.A. Thayer, 'China's New Wave of Aggressive Assertiveness in the South China Sea', *Center for Strategic & International Studies*, 30 June 2011. Retrieved on 5 April 2019: <https://www.csis.org/analysis/china%E2%80%99s-new-wave-aggressive-assertiveness-south-china-sea>.

²⁴ Yahuda, 'China's New Assertiveness in the South China Sea', p. 446.; A.L. Friedberg, 'China's Recent Assertiveness: Implications for the Future of US–China Relations', Testimony before the Senate Foreign Relations Committee, 25 June 2014, Washington, DC. Retrieved on 21 May 2019: <http://www.foreign.senate.gov/download/friedberg-testimony-06-25-14>.; T.F. Christensen, 'Advantages of an Assertive China: Responding to Beijing's Abrasive Diplomacy', *Foreign Affairs* 90 (2011) 2, pp. 54-67. More nuanced are: A. Poh and M. Li, 'A China in Transition: The Rhetoric and Substance of Chinese Foreign Policy under Xi Jinping', *Asian Security* 13 (2017) 2, p. 84.

²⁵ A.I. Johnston, 'How New and Assertive Is China's New Assertiveness?', *International Security* 37 (2013) 4, pp. 7-48.; M.D. Swaine and M.T. Fravel, 'China's Assertive Behaviour – Part Two: The Maritime Periphery', *China Leadership Monitor* 35 (2011) 32, pp. 1-29.; B. Jerdén, 'The Assertive China Narrative: Why It Is Wrong and How So Many Still Bought into It', *Chinese Journal of International Politics*, p. 87.; H. Okuda, 'China's "peaceful rise/peaceful development": A case study of media frames of the rise of China', *Global Media and China* 1 (2016) 1-2, pp. 121-138.; Poh and Li, 'A China in Transition', p. 84.

communities, and the popular media.²⁶ Great quantities of ink have been spent in the process of examining what China's 'peaceful rise' implies for the rest of the Asia Pacific, for the United States, and for the world. An apt example concerns the – highly debated – rollout of the One Belt One Road initiative, but one can also point towards the creation of the Asian Infrastructure Investment Bank, which constitutes an extension of Beijing's long-standing framework of peaceful development in its own right.²⁷ According to PRC documents, this framework is founded upon the notion that China's development and stability are in fact contingent on shared prosperity with its international economic partners.²⁸

In the ensuing sections, the policy of PRD will be investigated more closely. What preceded the emergence of this cornerstone in Chinese foreign policy? How did China's relationship with international society weigh into the equation? And how and why has the policy evolved once it became formalized, in particular since Zheng Bijian first advanced the concept in 2003? To answer those questions, this chapter will draw extensively on scholarly publications, governmental publications such as white papers and speeches by Party officials, and popular media coverage. With a clearer understanding of China's perceived 'grand strategy'²⁹ of peaceful development and of what peaceful means to Beijing

²⁶ To illustrate, see: W.H. Overholt, *The Rise of China: How Economic Reform Is Creating a New Superpower* (New York: W.W. Norton & Company Inc., 1993); N.D. Kristoff and S. Wudunn, *China Wakes: The Struggle for a Soul of a Rising Power* (London: Nicholas Brealey, 1994); M. Brown et al., *The Rise of China* (Cambridge MA: MIT Press, 2000); H. de Blij, *Why Geography Matters: Three Challenges Facing America: Climate Change, the Rise of China, and Global Terrorism* (New York: Oxford University Press, 2006); C. David, *China Rising: Peace, Power, and Order in East Asia* (New York: Columbia University Press, 2007).

²⁷ See: Yu, 'Motivation behind China's 'One Belt, One Road' Initiatives', pp. 353-368.; M. Callaghan and P. Hubbard, 'The Asian Infrastructure Investment Bank: Multilateralism on the Silk Road', *China Economic Journal* 9 (2016) 2, pp. 116-139.; L.H. Chan, 'Soft balancing against the US 'pivot to Asia': China's geostrategic rationale for establishing the Asian Infrastructure Investment Bank', *Australian Journal of International Affairs* 71 (2017) 6, pp. 568-590.

²⁸ PRC Government, Information Office of the State Council, 'China's Peaceful Development', Beijing, September 2011. Retrieved on 4 April 2019:

http://english.gov.cn/archive/white_paper/2014/09/09/content_281474986284646.htm.; See also: M. Ferchen, 'China Keeps the Peace. How Peaceful Development Helps and Hinders China', *Foreign Affairs*, 8 March 2016. Retrieved on 4 April 2019: <https://www.foreignaffairs.com/articles/china/2016-03-08/china-keeps-peace>.

²⁹ See: M.D. Swaine and A.J. Tellis, *Interpreting China's Grand Strategy* (Santa Monica: RAND Corporation, 2000); A. Goldstein, *Rising to the challenge: China's grand strategy and international security* (Stanford: Stanford University Press, 2005); B. Buzan, 'The Logic and Contradictions of 'Peaceful Rise/Development' as China's Grand Strategy', *The Chinese Journal of International Politics* 7 (2014) 4, pp. 381-420.; M. Clarke, 'Making the Crooked Straight: China's Grand Strategy of "Peaceful Rise" and its Central Asian Dimension', *Asian Security* 4 (2008) 2, pp. 107-142.; Wang, 'China's Response to the Unipolar World', pp. 554-567.

and its counterparts in international society, this study will be better able to deal with the question whether the Chinese position regarding the SCS dispute arbitral proceedings of 2016 is in fact in alignment with its PRD, and ultimately, how that relates to China's position within the global society of states.

1.2. The ascension of 'peaceful rise'

It is generally accepted that there has been a sharp turnaround in China's relationship with international society since the late 1970s.³⁰ In order to understand how and why China's policy of peaceful development became part of official Chinese foreign policy, attention must first be paid to China's attempts to reform and adapt itself internally, and to evolutions within international society resulting from both changes in the Western world and from the process of globalisation.³¹ In this section, a short outline of China's encounters with Western international society throughout the nineteenth and twentieth century shall be sketched. This serves as a prelude to the discussion of the formal development of this foreign policy doctrine in the following section.

1.2.1. China's modern encounters with Western international society

The first period that is dealt with here is often referred to as the 'Century of Humiliation', from a Chinese perspective. Stretching from the middle of the nineteenth century (the Opium Wars) to the middle of twentieth (World War II), China had to come to terms with a Western international society that was faster and significantly more successful than itself.³² At the beginning of this period, China suffered defeat by the British, and faced military pressure from the West, internal political fractures, and the reduction from empire to quasi-colonial status, first by Western nations and the USSR, and later by Japan. As a result, throughout this century of humiliation, Beijing sought to adapt to, and gain status within, international society. Just after the Second World War (1939-1945), while being embroiled in a heavy civil war, China succeeded in joining this Western-led

³⁰ Glaser and Medeiros, 'The Changing Ecology of Foreign Policy-Making in China', p. 292.; Buzan, 'China in International Society', pp. 13-14.

³¹ See also: Buzan, 'China in International Society', p. 8.

³² W.I. Cohen, 'China's rise in Historical Perspective', *Journal of Strategic Studies* 30 (2007) 4-5, pp. 687-691. For a more extensive work regarding this period, I refer to: D. Scott, *China and the International System, 1840-1949. Power, Presence and Perceptions in a Century of Humiliation* (New York: SUNY Press, 2008). See also: G.W. Gong, *The Standard of 'Civilization' in International Society* (Oxford: Clarendon Press, 1984), pp. 136-163.; Z. Yongjin, 'China's Entry Into International Society: Beyond the Standard of "Civilization"', *Review of International Studies* 17 (1991) 1, pp. 3-16.

community on fairly equal terms, which is reflected by being given a permanent seat on the UN Security Council.³³

The notion of a century of foreign humiliation is important to mention, as it haunts China's threat perception to this day. This is especially true when it comes to its approach to territorial disputes, such as the SCS conflict.³⁴ Since the establishment of the PRC in 1949, Chinese leaders have been determined not to ignore even seemingly trivial violations of its alleged territorial rights. In this respect, two American scholars note that 'China advocates a policy of peaceful resolution of international disputes, but Chinese leaders emphasize the importance of sovereignty and territorial integrity as 'core interests' where compromise is impossible.'³⁵ And for Chinese people, narratives of a century of humiliation have primed them to perceive virtually all Western behaviour through a prism of victimization.³⁶ These enduring features in Chinese foreign policy perceptions are important for understanding China's present conduct in the SCS.³⁷

The next period that is dealt with here covers China's revolutionary phase under Mao Zedong and, for a large part, the Cold War. Indeed, this period is somewhat antithetical to any notion of a peaceful rise, and literature on international society primarily deals with this period in Chinese history by connecting it to topics such as the

³³ I refer to it as 'fairly equal', as China became part of a system that was based upon Western norms and values. The system was undeniably dominated by European powers and the US. See: S. Zhao, 'Rethinking the Chinese World Order: the imperial cycle and the rise of China', *Journal of Contemporary China* 24 (2015) 96, p. 976. And indeed, to the disgust of Winston Churchill, US President Franklin Roosevelt insisted upon designating China as one of the 'Big Five' in the United Nations Security Council. See: Cohen, 'China's rise in Historical Perspective', p. 691.; Buzan, 'China in International Society', pp. 8-9. It should be mentioned here that China's seat was given to the defeated Nationalist government in Taiwan until 1972.

³⁴ R.C. de Castro, 'The Risk of Applying Realpolitik in Resolving the South China Sea Dispute: Implications on Regional Security', *Pacific Focus* 17 (2012) 2, p. 266.; Zhao, 'Rethinking the Chinese World Order', pp. 981-982.; A.A. Kaufman, 'The "Century of Humiliation," Then and Now: Chinese Perceptions of the International Order', *Pacific Focus* 15 (2010) 1, pp. 1-2.; A.S. Whiting, 'The PLA and China's Threat Perceptions', *The China Quarterly* 146 (1996), p. 600.

³⁵ D.C. Gompert and P.C. Sanders, *The Paradox of Power: Sino-Strategic Restraint in an Age of Vulnerability* (Washington D.C.: National Defense University, 2011), p. 40, in: Cruz de Castro, 'The Risk of Applying Realpolitik', p. 267.; Kaufman, 'The "Century of Humiliation" Then and Now', p. 11. This is also aptly illustrated by a press release by the Chinese government dated 25 July 2009, where it asserted that the concept of "responsibility to protect" must not contravene state sovereignty: 'Implementing "responsibility to protect" must not contravene state sovereignty', *Xinhua News Agency*, 25 July 2009. Retrieved on 8 April 2019: https://www.china.org.cn/international/2009-07/25/content_18201835.htm.

³⁶ P.H. Gries, 'Problems of Misperception in U.S.-China Relations', *Orbis* 53 (2009) 2, p. 223.

³⁷ See also: Kaufman, 'The "Century of Humiliation" Then and Now', p. 26.

Cold War and revolution.³⁸ The communist victory in 1949 led China to abandon its earlier aspirations to integrate in international society and to its leadership taking sides against the West in the Cold War. Buzan understands the Cold War to be a major conflict between the West and the Communist bloc over the future shape of international society.³⁹ Indeed, Odd Arne Westad aptly labelled it ‘a clash of ideas and cultures as much as a military and strategic conflict.’⁴⁰ Initially, Mao and the Soviets forged an amicable relationship, forming the Communist side of the then bipolar world. China’s rise had begun again.⁴¹

Yongjin Zhang, a Sino-British historian, sets out in detail this new form of encounter with Western international society and asserts that after 1949 there existed a two-decade period of ‘alienation’ under Mao.⁴² As Beijing constantly posed itself as a challenger to the international system, the period of 1949-1970 ‘was characterized by the exclusion of China from universal institutions and organizations.’⁴³ The Sino-Soviet alliance, however, was troubled from the beginning. To illustrate, during the Korean War (1950-1953), the People’s Liberation Army suffered enormous losses – with estimations ranging up to 800 thousand casualties (including Mao’s own son) – while the Soviets chose not to confront the Americans. In addition, the USSR required China to pay huge sums for the tardy assistance it received. Fault lines in the alliance already became apparent.⁴⁴ Eventually, around the mid-1960s, Sino-Soviet polemics instigated the PRC’s alienation from the Soviet bloc.⁴⁵

In addition to this split between China and the USSR, China started to face pressing domestic challenges – both in a political as an economic sense. By 1970 the

³⁸ Buzan, ‘China in International Society’, p. 11.

³⁹ *Ibid.*, p. 11.

⁴⁰ O.A. Westad, ‘The Cold War and the international history of the twentieth century’, in: M.P. Leffler and O.A. Westad (eds.), *The Cambridge History of the Cold War* (Cambridge: Cambridge University Press, 2010), p. 13.

⁴¹ S.G. Zhang, ‘The Sino-Soviet alliance and the Cold War in Asia, 1954-1962’, in: M.P. Leffler and O.A. Westad (eds.), *The Cambridge History of the Cold War* (Cambridge: Cambridge University Press, 2010), pp. 354, 362.

⁴² Y. Zhang, *China in International Society Since 1949: Alienation and Beyond* (New York: St. Martin’s Press, 1998), p. 44-45. See also: Buzan, ‘China in International Society’, p. 11.

⁴³ Zhang, *China in International Society Since 1949*, p. 57.

⁴⁴ Cohen, ‘China’s rise in Historical Perspective’, p. 694.

⁴⁵ Zhang, ‘The Sino-Soviet alliance and the Cold War in Asia’, p. 375.; This study cannot discuss the Sino-Soviet split in full detail. For this, I refer to: S. Radchenko, ‘The Sino-Soviet split’, in: M.P. Leffler and O.A. Westad, *The Cambridge History of the Cold War* (Cambridge: Cambridge University Press, 2010), pp. 349-372.; L.M. Lüthi, *The Sino-Soviet Split. Cold War in the Communist World* (Princeton: Princeton University Press, 2010).; Z. Shen and Y. Xia, ‘The Great Leap Forward, the People’s Commune and the Sino-Soviet Split’, *Journal of Contemporary China* 20 (2011) 72, pp. 861-880.

country had become severely impoverished and exposed to serious security threats, in the aftermath of the 'Great Proletarian Cultural Revolution.' This revolution constituted a socio-political movement largely precipitated by Mao himself through which he aimed to preserve Chinese communism, by way of purging any remains of capitalist and traditional elements from Chinese society.⁴⁶ In 1981 the Chinese Communist Party (hereinafter referred to as "CCP") officially declared that this revolution 'was responsible for the most severe setback and the heaviest losses suffered by the Party, the state and the people since the founding of the People's Republic.'⁴⁷

In other words: China needed to get back on track. To that end, it had to abandon its policy of economic self-reliance, and get back in touch with international society. Increasing tensions between China and the Soviets, Richard Nixon's belief in rapprochement with China and Mao's declining health paved the way for the reduction of tensions and gradual mutual accommodation between Beijing and the Western world. In 1971, the American national security adviser conceded to Beijing its demand for American abandonment of Taiwan, which prepared for Nixon to meet with Mao and the Chinese premier Zhou Enlai in 1972. What followed was a tacit alliance between China and the US, which constituted 'a major shift in the Cold War balance of power' – and contributed to the ultimate collapse of the Soviet Union.⁴⁸ And after Mao's death in 1976, reformers led by Deng Xiaoping increasingly started to 'downgrade the class-based discourse of China's radical years (...) and, strongly driven by domestic reactions against the extreme radicalism of the Cultural Revolution, returned to engaging with (Western) international society.'⁴⁹

⁴⁶ C. Jian, *Mao's China and the Cold War* (Chapel Hill and London: The University of North Carolina Press, 2001), p. 84.; Cohen, 'China's rise in Historical Perspective', p. 698.; Buzan, 'China in International Society', p. 12. Violent struggles ensued the revolution, with millions of people persecuted, displaced, and subordinated to abuses (e.g. arbitrary imprisonment, torture, hard labour).

⁴⁷ Chinese Communist Party Central Committee, 'Resolution On Certain Questions In the History Of Our Party Since The Founding Of The People's Republic Of China', 27 June 1981. Retrieved on 12 April 2019: <https://china.usc.edu/chinese-communist-party-central-committee-%E2%80%9Cresolution-certain-questions-history-our-party-founding>.

⁴⁸ Cohen, 'China's rise in Historical Perspective', p. 698. See also: N.B. Tucker, 'Taiwan Expendable? Nixon and Kissinger Go to China', *Journal of American History* 92 (2005), pp. 109-135. Interestingly, it was not until the mid- and late 1980s that Beijing and Moscow moved towards normal state relations. See: Jian, *Mao's China and the Cold War*, p. 84.

⁴⁹ D. Armstrong, *Revolution and World Order: The Revolutionary State in International Society* (Oxford: Oxford University Press, 1993), pp. 182-184.; Buzan, 'China in International Society', p. 12.

In order to further integrate in international society the key theme of Chinese foreign politics after the revolutionary phase became that of 'reform and opening up'.⁵⁰ Abandoning the revolutionary resistance to the West was justified as integration within the existing order would provide the best means for national economic development.⁵¹ Beijing quickly realized that this necessitated stability in its international relations both globally and regionally.⁵² Moreover, integration would enhance China's sovereignty, as it would provide access to the institutional fora where global politics were decided (that could affect China's autonomy).⁵³ Given the notion of the 'century of humiliation,' for China, it was a principal concern to be able to assert its independence and territorial integrity through these platforms. Indeed, one could say that Beijing got back on its pre-1949 track of integrating itself with international society. However, it now operated from a position of much greater strength. To illustrate this, in 1964, with minimal assistance from the outside world, China managed to detonate its first nuclear device, acquiring 'one of the essential symbols of great power status in the atomic age.'⁵⁴ Moreover, due to China's economic growth and the speed with which it became a crucial participant in the international trade system, the country quickly established itself among the world's (economic) leaders.⁵⁵ Importantly, operating from a position of greater strength also meant that internal reforms now began to drive changes in external policy 'rather than being driven mainly by external pressure as was the case earlier.'⁵⁶

The central domestic reform here concerned prioritizing economic development: the standard of living of the Chinese people was to be dramatically improved.⁵⁷ To achieve

⁵⁰ Buzan, 'China in International Society', pp. 11-12.; Cohen, 'China's rise in Historical Perspective', p. 699. It remains the dominant idea in Chinese politics to this day. See: J.W. Legro, 'What China Will Want: The Future of a Rising Power', *Perspectives on Politics* 5 (2007) 3, p 525. The Soviet-style planned economy became substituted for a 'socialist market economy.' See: M. Goldman and R. MacFarquhar (eds.), *The Paradox of China's Post-Mao Reforms* (Cambridge MA: Harvard University Press, 1999).

⁵¹ E.S. Downs and P.C. Saunders, 'Legitimacy and the limits of nationalism: China and the Diadyu Island', *International Security* 23 (1998/1999) 3, pp. 114-146, in: Legro, 'What China Will Want', p. 525.

⁵² Zhang, *China in International Society since 1949*, pp. 102-125, 194-243, in: Buzan, 'China in International Society', p. 12. One could assert that maintaining the policy of revolutionary rise, antagonistic to the Western-dominated status quo, would be too costly due to large military expenditures and loss of potential trade relations with other countries.

⁵³ Legro, 'What China Will Want', p. 525.

⁵⁴ Cohen, 'China's rise in Historical Perspective', p. 697.

⁵⁵ *Ibid.*, pp. 699-700.

⁵⁶ Buzan, 'China in International Society', p. 12.

⁵⁷ Glazer and Medeiros, 'The Changing Ecology of Foreign Policy-Making in China', p. 295.

such development, China needed to adopt and accept prevailing Westphalian standards and international institutions – and did so quite successfully. Consequently, this led some to argue that China was pushed to becoming a *status quo* power that increasingly grew into international society not just on instrumental grounds but also on ideational ones (as these adopted standards underscored norms such as sovereignty and territorial integrity which actually were of paramount importance to Beijing).⁵⁸ To completely Westernise itself, however, was no priority and necessity for the Chinese. Postmodern developments such as human rights and the Responsibility to Protect (R2P) did not fit in in China's quest for 'a stable and workable blend of modernising reforms and 'Chinese characteristics'.⁵⁹ As a result, it is generally agreed upon that since the late 1970s, there have been ongoing tensions between China's adaptations and the evolution of international society – but also that China's conduct to date has been mostly integrationist.⁶⁰ Chinese membership in international organizations has soared, Chinese leaders travel frequently around the globe and Beijing has adopted an activist diplomatic agenda as well as a good neighbour-policy.⁶¹ It is within this particular international context that the concept of a peaceful rise was able to emerge.

1.2.2. *The need for new diplomacy: foreign perceptions of China's novel global position*

Around the mid-1990s, some foreign commentators already had been firm believers in China having a grand strategy.⁶² Goldstein argued that by 1996 China had evolved a 'fairly

⁵⁸ See section 2.3.3. Yaqing suggests that China is becoming a *status quo* power as it accepts not only the rules of the game for instrumental reasons, but also ideationally, because at least partly it accepts those rules as valid. See Yaqing, 'International Society as Processes', p. 153. See also: P. Zhongqi, 'China's Changing Image of and Engagement in World Order', in: S. Guo and J.F. Blanchard (eds.), *Harmonious World and China's New Foreign Policy* (New York: Rowman & Littlefield, 2008), pp. 39-63.; F. Huiyun, 'Is China A Revisionist Power?', *Chinese Journal of International Politics* 2 (2008) 3, pp. 333-334.; Johnston, 'Is China a Status Quo Power?', pp. 5-56.

⁵⁹ Buzan, 'China in International Society', p. 13.

⁶⁰ Legro, 'What China Will Want', p. 517.; Buzan, 'China In International Society', p. 13.; See also: A. Kent, 'China's international socialization: The role of international organizations', *Global Governance* 8 (2002) 3, pp. 346-364.; Johnston, 'Is China a status quo power?', pp. 5-56. On the one hand, one could assert that China's newfound assertiveness (see section 1.1) now opposes this (mostly) integrationist thought – an assertion this study will address in the ensuing chapters. On the other hand, I refer to section 2.3.3. for my argument that international society must be understood as encompassing many processes in which not only China is adopting Western-inspired standards, but also processes in which the Western world could face the need to (at least partially) accept non-Western institutions.

⁶¹ Wang, 'China's Response to the Unipolar World', p. 554.

⁶² On the definition of grand strategy see: Goldstein, *Rising to the Challenge*, p. 239.; S.G. Brooks, G.J. Ikenberry and W.C. Wohlforth, 'Don't Come Home America: The Case against Retrenchment', *International Security* 37

clear grand strategy aimed at pursuing its own development and rising peacefully within a US-dominated order.⁶³ According to Goldstein, that strategy served as primarily transitional, meaning that it would get China through a challenging period of relative weakness without bringing about 'China threat' reactions from neighbouring states and great powers. Finally, he argued that due to this long transition period, it could not be predicted what would happen after China had risen. Swaine and Tellis took a similar view, and branded China's strategy as 'calculative.'⁶⁴ Others plainly asserted that China posed a long-term danger for the Asia Pacific and the world as a whole. Overall, there existed a growing uncertainty in Western debates about the type of rising power China would become.⁶⁵

As a result of this growing uncertainty and of the upturn in Chinese interactions with the international community, Chinese officials themselves started to consider foreign perceptions of their state's international behaviour. They began to take note of the above mentioned growing uncertainty in Western debates. Accordingly, beginning in the late 1990s, 'Chinese scholars and analysts began to appropriate Western thinking and terminology by publicly writing and talking about China's rise.'⁶⁶ Furthermore, they recognized that their Asia Pacific neighbours viewed certain policies as a source of potential instability in the region. To put it differently: China began to grasp its significant role in 'security dilemma' dynamics in the Asia Pacific and the world as a whole.

Goldstein, Buzan, Swaine and Tellis aptly capture Beijing's strategic problematic at this stage: (i) there existed an urgent need to develop; (ii) this necessitated quick global engagement or integration within international society; (iii) which could lead to China's neighbours and great powers being unsettled or feeling threatened by the successes of

(2012/2013) 3, p. 11.; C.S. Gray, *War, Peace and International Relations: An Introduction to Strategic History* (London: Routledge, 2012), pp. 283-290. In essence, a grand strategy consists of a set of core aims, 'that define the national interest in terms of both domestic goals and how state and society are to relate to the wider world, and relating those ends to the means that the state and society has available.' See: Buzan, 'The Logic and Contradictions', p. 385.

⁶³ Goldstein, *Rising to the Challenge*, in: Buzan, 'The Logic and Contradictions', p. 383.

⁶⁴ Swaine and Tellis, *Interpreting China's Grand Strategy*, pp. 151, 182.

⁶⁵ See: D. Roy, 'Hegemon on the Horizon?: China's Threat to East Asian Security', *International Security* 19 (1994) 1, pp. 149-168.; D. Shambaugh, 'Containment or Engagement of China? Calculating Beijing's Responses', *International Security* 21 (1996) 2, pp. 180-209.; Glazer and Medeiros, 'The Changing Ecology of Foreign Policy-Making in China', p. 292-293. For a clear outline of that debate I also refer to: D. Roy, 'The "China Threat" Issue: Major Arguments', *Asian Survey* 36 (1996) 8, pp. 759-771. During the mid-1990s, the journal *International Security* published on China in nearly every issue.

⁶⁶ Glazer and Medeiros, 'The Changing Ecology of Foreign Policy-Making in China', p. 293.

development in such a large country; and (iv) that could result in a downward security spiral threatening the global engagement on which the global economy depended⁶⁷ If these issues were not addressed in a satisfactory manner, Beijing would put its own goals in terms of economic development, safeguarding the CCP leadership, and safeguarding China's sovereignty, in jeopardy.⁶⁸

1.3. PRD officially embraced by the Chinese leadership

1.3.1. *The idea of a 'peaceful rise' emerges*

Clearly, Beijing needed to send out a message that it would not destabilize the international order or oppress its close neighbours. Zheng Bijian, a former high-ranking CCP executive, and a renowned Chinese political theorist, was sent to the US by Party leadership in December 2002, to discuss with Bush administration officials American views on China's emerging role in global affairs. Following his return to the PRC, Zheng submitted a report in which he advanced the concept of 'the development path of China's peaceful rise.'⁶⁹ It advanced three core principles:

'China must unswervingly advance economic and political reforms centering on the promotion of socialist market economy and socialist democracy to ensure an institutional guarantee of its peaceful rise; China must boldly draw on the fruits of human civilization while fostering Chinese civilization to ensure cultural support for its peaceful rise; and China must carefully balance the interests of different sectors, securing a coordinated development between urban and rural areas, between different regions, between society and the economy, and between man and nature, to create a social environment for China's peaceful rise.'⁷⁰

In Zheng's view these principles should ensure that China would avoid confrontational relations with any of the major powers, which was a principal concern amongst Bush

⁶⁷ Goldstein, *Rising to the Challenge*, pp. 374-383.; Swaine and Tellis, *Interpreting China's Grand Strategy*, pp. 384-391.; Buzan, 'The Logic and Contradictions', p. 384.

⁶⁸ Buzan, 'The Logic and Contradictions', p. 390.

⁶⁹ C.R. Hughes, *Chinese Nationalism in the Global Era* (London and New York: Routledge, 2006), pp. 142-143.; Glazer and Medeiros, 'The Changing Ecology of Foreign Policy-Making in China', p. 294. He did so after concluding that there existed a lot of uncertainty and polarized views on China's emerging role in global politics.

⁷⁰ Z. Bijian, 'A New Path for China's Peaceful Rise and the Future of Asia', *Bo'ao Forum for Asia*, 3 November 2003. Retrieved on 11 April 2019:

<https://www.brookings.edu/wp-content/uploads/2012/04/20050616bijianlunch.pdf>.

administration officials. Rather, socialism and capitalism would compete with each other and learn from each other while maintaining peaceful relations.⁷¹ According to Zheng, while historically the rise of a new great power often destabilized the international order, China's rise would be different as it would seek a unique path to gain great power status peacefully. And soon after his initial speech in 2003, these principles, brought together in the concept of China's peaceful rise, had become an active part of public discourse on Beijing's foreign policy.⁷²

1.3.2. PRD accepted as China's national strategy

December 2003 marked the first official endorsement of Zheng's peaceful rise theory. In a speech given at Harvard University, the then Chinese Premier Wen Jiabao declared that China is:

‘A rising power dedicated to peace... While opening still wider to the outside world, we must more fully and more consciously depend on our own structural innovation, on constantly expanding the domestic market, on converting the huge savings of our citizens into investment, and on improving the quality of the population and scientific and technological progress to solve the problems of resources and the environment. Here lies the essence of China's relative peaceful rise and development.’⁷³

Only two weeks later, on 26 December 2003, President Hu Jintao also embraced the concept of peaceful rise.⁷⁴ Increasingly, high-ranking senior party officials began to reiterate Zheng's theory. In a further effort to clarify and develop this new cornerstone of China's foreign policy Premier Wen Jiabao explained five aspects of the concept during a

⁷¹ Bijian, ‘A New Path for China's Peaceful Rise’, pp. 1-2.

⁷² Glazer and Medeiros, ‘The Changing Ecology of Foreign Policy-Making in China’, p. 297.; Hughes, *Chinese Nationalism in a Global Era*, p. 142.

⁷³ W. Jiabao, ‘Turning Your Eyes to China – Speech by Premier Wen Jiabao at Harvard University’, 10 December 2003. Retrieved on 11 April: <https://www.fmprc.gov.cn/ce/ceun/eng/xw/t56090.htm>.

⁷⁴ He did so in a speech at a forum in commemoration of Mao Zedong's 110th birth anniversary on 26 December 2003 in Beijing. Retrieved on 11 April 2019:

<http://academics.wellesley.edu/Polisci/wj/308S/Readings/HuonMao110.htm>. Two months later, on 23 February 2004, President Jintao further elaborated on PRD at the tenth collective study of the Politburo, urging Chinese leadership to ‘persist in the development path of peaceful rise and the peaceful foreign policy of independence and self-reliance.’ See: Glazer and Medeiros, ‘The Changing Ecology of Foreign Policy-Making in China’, p. 298.

press conference attended by foreign media. In short, they held, and still hold, that China takes advantage of world peace to develop itself, while safeguarding this peace at the same time. Second, Beijing's development should be based on its own efforts and resources. Next, it acknowledges that China's rise cannot be achieved without the rest of the world: maintaining the opening-up policy is of paramount importance. Fourth, China's rise is not a short-term policy: it will require a long time and hard work of many generations. Finally, and most importantly, 'the rise of China shall never pose a threat to any other country or be achieved at the expense of any particular nation. China does not seek hegemony now, nor will it ever seek hegemony even after it becomes more powerful.'⁷⁵

Indications that the Chinese leadership had concerns about 'peaceful rise' soon emerged. Four months after Hu Jintao's initial embrace of the concept, he promised on 24 April 2004 that China would now follow a peaceful development path. Top CCP leadership made a decision to no longer use Zheng's terminology in official speeches and government documents. In December 2005, the State Council issued a white paper entitled 'China's Peaceful Development Road.'⁷⁶ The doctrine of peaceful development was therewith made official, although peaceful rise as a term has not vanished from (Chinese) public discourse until today. Consequently, it appears that the diplomatic strategy encapsulated in Zheng's original concept was not affected by the choice to alter its terminology into an 'even less threatening and more quiescent' slogan.⁷⁷ Indeed, both concepts merely are two ways of expressing the same process.⁷⁸ In 2011 the PRC again formally declared its commitment

⁷⁵ W. Jiabao, 'Premier Wen Jiabao's Press Conference at the Conclusion of the Second Session of the 10th National People's Congress (NPC)', 15 March 2004. Retrieved on 15 April 2019:

https://www.fmprc.gov.cn/mfa_eng/topics_665678/lianghuizhuanti_665904/t80119.shtml. I also refer to: PRC Government, Information Office of the State Council, 'China's Peaceful Development'. This is the most recent PRC document on PRD, which reiterates China's stance on seeking hegemony: 'China strives to make its due contribution to world peace and development. It never engages in aggression or expansion, never seeks hegemony, and remains a staunch force for upholding regional and world peace and stability.'

⁷⁶ See, for example, PRC Government, Information Office of the State Council, 'China's Peaceful Development Road', Beijing, 22 December 2005. Retrieved on 4 April 2019:

http://www.gov.cn/english/2005-12/22/content_133985.htm.

⁷⁷ R. Delliós and R.J. Ferguson, *China's Quest for Global Order. From Peaceful Rise to Harmonious World* (Lanham: Lexington Books, 2012), p. 2.

⁷⁸ L. Jianfei, 'Wei heping jueqi zhengming (A rectification of peaceful rise)', *Liaowang xinwen zhoukan*, 2 January 2006, p. 62, in: Glazer and Medeiros, 'The Changing Ecology of Foreign Policy-Making in China', p. 301.

to peaceful development through another white paper. China's 'grand strategy' had become formalized.⁷⁹

1.4. Maintaining course on the peaceful development road under Xi Jinping?

1.4.1. Introduction: what is peaceful?

It is widely perceived that under the rhetoric of peaceful development – or the so-called 'charm offensive' diplomacy – China managed to materially improve its relationship with the outside world.⁸⁰ This is already evidenced by enormous economic growth over the past decades which is mainly due to China's export markets and a sharp and sustained increase in productivity.⁸¹ But the transition from peaceful rise to peaceful development in 2005 did express a fundamental shift in Beijing's self-perception of its security policy. It had become more focused on the present than on the past. In more recent years, the need for globalization, interdependence and cooperation remain underscored, but changes in Xi Jinping's foreign policy show a much more assertive character than the pre-2011 notion of peaceful development. Thus, it is important to define what peaceful, in relation to China's rise, now entails. The word peaceful itself is often defined as 'being free from disturbance or not involving war or violence.' Needless to say, if war or (mass-scale) violence is involved, we can easily conclude that Beijing is not maintaining course on its peaceful development road.

As we have seen, literature on the question whether China's rise will remain peaceful focuses mainly on security implications as observed outside China. This external security perception is, inevitably, not the same as how the Chinese themselves understand what a peaceful rise must encompass. In this section, I therefore focus on how Chinese foreign policy under Xi has changed and whether there is still reason to believe in China maintaining its course on the road of peaceful development. These are important

⁷⁹ As evidenced by the white papers: PRC Government (2005), Information Office of the State Council, 'China's Peaceful Development Road,' and PRC Government (2011), Information Office of the State Council, 'China's Peaceful Development.'

⁸⁰ For example, see: J. Kurlantzick, *Charm offensive: How China's Soft Power is Transforming the World* (New Haven: Yale University Press, 2007).; D. Shambaugh, 'China Engages Asia: Reshaping the Regional Order', *International Security* 29 (2004/2005) 3, pp. 64-99.

⁸¹ See also: World Bank, Annual GDP Growth, which shows a sustained positive growth in GDP since 1977: www.data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG?end=2017&locations=CN&start=1961&view=chart.

questions, as it is generally agreed upon that since the Chinese leadership transition in 2012 there have been significant changes in Chinese foreign policy.⁸²

1.4.2. *Xi and peaceful development: unmistakable changes in Beijing's foreign policy*

To this date, Beijing firmly stresses its commitment to peaceful development. On 19 September 2018 Xi Jinping declared that China would 'unswervingly take the road of peaceful development and remain a builder of world peace, a contributor to global development and a defender of the international order,' a statement clearly echoing Zheng's initial thought on Chinese foreign policy, albeit with different terminology.⁸³ Consequently, it cannot be argued that Beijing has opted for a fundamental departure from PRD. However, three important changes that have occurred in the practice of Chinese diplomacy, can be discerned.

First, a greater dedication to forcefully protecting national interests is widely perceived. Xi stated, in a speech to a Politburo study session on PRD in January 2013, that 'China will keep walking on the peaceful development road, but we must not forsake our legitimate rights and interests, must not sacrifice core national interests (...) no countries should expect us to swallow the bitter fruit that undermines our sovereignty, security, and development interests.'⁸⁴ Surely, protection of national interests is perceived as a default foreign policy objective by governments worldwide. This newfound emphasis on core interests is striking, however, since it follows from a longstanding concern in Chinese society that the commitment to PRD might constrain China in taking legitimate action to protect its legitimate interests.⁸⁵ Xi is now effectively addressing those concerns, and it is to be expected that China 'will display an increasingly tough stance when dealing with disputes with other countries.'⁸⁶ Importantly, those concerns have been reinforced by

⁸² R. Aoyama, 'One Belt, One Road: China's New Global Strategy', *Journal of Contemporary East Asia Studies* 5 (2016) 2, p. 4.; Zhang, 'Chinese new foreign policy under Xi Jinping', p. 6. See also: Y. Xuetong, 'From Keeping a Low Profile to Striving for Achievement', *Chinese Journal of International Politics* 7 (2014) 2, pp. 153-184, where this prominent Chinese scholar argues that Xi Jinping's more assertive foreign policy-making has resulted in an international environment even more conducive to China's national rejuvenation.

⁸³ 'Xi reaffirms China's commitment to peaceful development path', *Xinhua News Agency*, 19 September 2018. Retrieved on 18 April 2019: http://www.xinhuanet.com/english/2018-09/19/c_137479505.htm.

⁸⁴ Zhang, 'China's new foreign policy under Xi Jinping', p. 9. See also: Editorial, 'Xi Jinping emphasizes strengthening the military and defending "core interests"', *BBC*, 12 March 2014. Retrieved on: 22 April 2019: https://www.bbc.com/zhongwen/simp/china/2014/03/140312_xi_jinping_core_interests.

⁸⁵ Glazer and Medeiros, 'The Changing Ecology of Foreign Policy-Making in China', pp. 301-305.; Xuetong, 'From Keeping a Low Profile to Striving for Achievement', pp. 153-184.

⁸⁶ Zhang, 'China's new foreign policy under Xi Jinping', p. 10.

a perception in China that, due to the commitment to PRD, some regional countries such as the Philippines and Vietnam have taken provocative actions in the SCS disputes.⁸⁷

Second, China's commitment to PRD has increasingly become conditional, meaning that China's peaceful rise is now premised on other countries' reciprocal commitments that enable China to remain a peaceful riser. In the same 2013 speech as mentioned above Xi also mentioned that other countries must now commit themselves to the peaceful development road if they seek to peacefully co-exist with China. Indeed, several speeches by Chinese leaders have emphasized requests for such reciprocal strategic assurance.⁸⁸ The initial main focus of PRD has herewith shifted from avoiding 'China-threat' reactions to creating an international community most conducive to China's own development.

Finally, an overarching new trend in Xi's foreign policy is that of 'bottom line thinking', which has been defined by the State Councillor Yang Jiechi as 'working for the best but preparing for the worst.'⁸⁹ It essentially holds that China stands firm to safeguard its core interests by setting some kind of diplomatic red line that cannot be crossed. It clearly did so in the SCS disputes, by simply denying the 2016 arbitral award any legitimacy. Indeed, it is this new trend that is perceived as a catalyst for Beijing's increasingly tough approach to territorial disputes such as those in the SCS. Premier Li Keqiang stated in relation thereto that 'we will respond firmly to provocations' that undermine stability in the SCS.⁹⁰ Overall, these three new trends show that the policy of peaceful development still is firmly in place. However, under Xi Jinping's leadership, it has changed in the sense that it is not only a road that China is travelling on, but a road on which China expects other international actors to travel also, for it to be a success.

⁸⁷ Stated by the Deputy Director of the Middle East Research Institute of Shanghai University: L. Zhongmin, 'Commentary: China's peaceful rise is not a guarantee for the protection of the South China Sea', *Sina News* (translated into English). Retrieved on 29 April 2019: mil.news.sina.com.cn/2011-06-27/0849654058.html.

⁸⁸ X. Jinping, 'Xi Jinping's speech at the opening ceremony of the Boao Forum for Asia AC 2013: Working Together Toward a Better Future for Asia and the World', *Boao Forum for Asia*, 9 April 2013. Retrieved on 22 April 2019: <http://english.boaoforum.org/mtzxxwzzen/7379.jhtml>; L. Keqiang, 'Li Keqiang's speech at the opening ceremony of the Boao Forum for Asia AC 2014. Jointly Open Up New Vista's for Asia's Development', *Boao Forum for Asia*, 10 April 2014. Retrieved on 22 April 2019: http://www.chinadaily.com.cn/china/2014-04/11/content_17425516.htm; See also: Zhang, 'China's new foreign policy under Xi Jinping', pp. 10-11.

⁸⁹ Y. Jiechi, 'Innovations in China's Diplomatic Theory and Practice Under New Circumstances', *Qiushi (Organ of the Central Committee of the Communist Party of China)*, 21 January 2014. Retrieved on 21 May 2019: http://english.qstheory.cn/magazine/201401/201401/t20140121_315115.htm.

⁹⁰ A. Browne, 'Chinese Premier Li Warns Southeast Asia Nations Against 'Provocations'', *Wall Street Journal*, 11 April 2014. Retrieved on 28 April 2019: <https://www.wsj.com/articles/chinese-premier-li-warns-southeast-asia-nations-against-provocations-1397117117>.

1.5. Evaluation

Historians generally agree that China's relationship with international society has changed significantly since the late 1970s. From being shunned as part of the communist bloc in the then bipolar world, China became an important player on the global stage. A new challenge posed itself therewith to Chinese foreign policy officials and the Party leadership. It now faced the existence of an (increasingly negative) external security perception. Both neighbouring states as well as great powers started to worry about what type of rising power China would become. To counter this downward trend, Beijing promised to the world that it would walk on the road of peaceful development, that it would safeguard world peace, that it would be open for trade and otherwise mutual beneficial relationships, and that it would never pose a threat to another country or seek hegemony through its rise. Indeed, PRD, a concept deeply embedded in the process of reform and opening up and pre-Cold War Chinese concerns of sovereignty and territorial rights, has been a great success in many ways. China is now broadly considered to be a major or great power.

As a result, Beijing today can afford becoming more assertive in global affairs – and ample commentators are debating on the question whether PRD is still adhered to in the present. This study argues that this is the case, but also highlights that the rationale behind Beijing's foreign policy doctrine has changed. It no longer serves predominantly to avoid 'China threat' reactions from neighbouring states and other great powers. Due to the changes in party leadership, China becoming a major (economic) power, and the Western financial crisis, among others causes, PRD has changed significantly since Zheng Bijian first advanced the concept in 2003. The emphasis on improving the external security perception of China has shifted to an emphasis on creating an international environment most conducive to China's own interests – and Beijing now expects other countries to commit themselves to the road of peaceful development as well. Indeed, it can convincingly be argued that China is employing a more proactive and assertive approach to global affairs – something that great powers and neighbouring states already feared prior to the enactment of PRD. How this relates to the relationship between China and international society will be explored in the ensuing chapters.

2.

Theoretical Framework: The English School and its Discontents

2.1. Introduction

At the outset it should be highlighted that no specific theory alone is adequate for a comprehensive understanding of China's rise in the Asia Pacific and the international arena as a whole. Indeed, only a combination of material interests (such as power, interests, geopolitical considerations) and ideational factors (such as national identity, ideas, values) in both a domestic as well as a systematic context may enable us to deepen our understanding of such an evolving global and regional phenomenon, and by extension, Beijing's current behaviour in the SCS. Competing theoretical perspectives will inevitably offer different answers to important questions arising out of these disputes. This study will not amplify the sometimes far-stretching theoretical confusion, but will provide a meaningful and evidence-based contribution to the debate on China's peaceful rise. It will do so through the lens of the ES theory sketched in the present chapter.

It should be mentioned that some scholars argue that significant events and momentous changes in world politics are often closely linked to the development of international relations theory. They assert that China's rise should therefore be studied as an 'up-stream theory-generating event.'⁹¹ Notwithstanding this fruitful line of thought, this chapter will set out why the ES is in its own right a suitable theory for the SCS case-study. With such a crowded patchwork of literature and materials on the topic of China's rise, and in relation thereto on its conduct in the SCS, it may seem difficult to find a theory that offers both an analytical approach for interpreting international dynamics as well as a basis for a normative analysis. It is the ES approach that, notwithstanding its own shortcomings, provides such a framework.⁹² Its unique approach does not seek to create testable hypotheses about state behaviour, but is more akin to historical research methodology. It favours observation and qualitative research over general explanatory

⁹¹ C. Pan and E. Kavalski, 'Theorizing China's rise in and beyond international relations', *International Relations of the Asia-Pacific* 18 (2011) 3, p. 290.; A. Acharya and B. Buzan, 'Why is there no non-western international relations theory? Ten years on', *International Relations of the Asia Pacific* 7 (2007) 3, p. 12. For instance, Wohlforth asserts that modern realism emerged 'as a reaction to the breakdown of the post-World War I international order.' See: W. Wohlforth, 'Realism and the end of the cold war', *International Security* 19 (1994/1995) 3, p. 91.

⁹² B. Buzan, 'The English School: An Underexploited Resource in IR', *Review of International Studies* 27 (2001) 3, p. 474.

models. As such, it is able to ‘combine theory and history, morality and power, and agency and structure.’⁹³ A multifaceted question such as the one posed in this study is in dire need of this methodological pluralism which the ES claims to offer. Accordingly, this chapter outlines the key characteristics of this theoretical strand within the field of international relations. Furthermore, it shall be discussed which weaknesses of the ES approach must be taken into account while applying it to the present case-study. Lastly, it will highlight how the approach can subsequently be applied in the case-study regarding China’s conduct and stance pertaining to the SCS disputes arbitral proceedings.

2.2. Theory and foundations

2.2.1. Introduction and main concepts of English School theory

The ES is considered the oldest and arguably most significant rival to American mainstream theoretical orientations within the field of international relations, such as realism and liberalism. It is now composed of a group of scholars, not necessarily located in the UK, who share a common ontological disposition that offers a relatively undisputed distinct and systematic approach to the study of international relations.⁹⁴ Leading figures in the School during the classical period in its evolution (1950s–1980s) were Charles Manning, Herbert Butterfield and Hedley Bull, among others. Since the 1990s, prominent writers such as Barry Buzan, Robert Jackson, Andrew Linklater, Tim Dunne, and Hidemi Suganami, continue to promulgate and develop the School’s approach and concepts related to the field of international relations.

It is often asserted that the main focus of the ES is to synthesize realism and rationalism into a comprehensive framework with which the role of the state on the global stage may be assessed. In doing so, the ES is generally seen as occupying a middle ground in international relations, alongside constructivism.⁹⁵ Constructivists argue that international politics is ‘a world of our making,’ meaning that ideas, beliefs and values shape social identities of political actors.⁹⁶ These distinct but also partly intersubjective

⁹³ T. Dunne, ‘The English School’, in: C. Reus-Smit and D. Snidal (eds.), *The Oxford Handbook of International Relations* (Oxford: Oxford University Press, 2008), p. 267.

⁹⁴ Dunne, ‘The English School’, p. 267.

⁹⁵ Dunne, ‘The English School’, p. 268.; E. Adler, ‘Seizing the Middle Ground: Constructivism in World Politics’, *European Journal of International Relations* 3 (1997), pp. 319-364.; R.W. Murray, *System, Society & the World. Exploring the English School of International Relations* (Bristol: e-International Relations, 2013), p. 10.

⁹⁶ N.G. Onuf, *World of Our Making. Rules and Rule in Social Theory and International Relations* (London: Routledge, 2015).

identities reciprocally influence the behaviour and actions of the actors in the international arena.⁹⁷ It follows that constructivists, such as Alexander Wendt and Peter Katzenstein, put a central emphasis on the role of ideational factors in international politics.⁹⁸ In the following sections I briefly outline the ES's main concepts and show how the ES approach aims to reconcile other dominant theories (or: traditions) in the field of international relations.⁹⁹ As will become apparent, each key concept maintains a strong and independent interpretation of what governs global affairs. With this endeavour I aim to illustrate how the ES approach does indeed constitute a middle ground that provides for a multifaceted analytical tool with which China's conduct in the SCS may be assessed.

2.2.1.1. International system (Realism)

The concept of international system corresponds to the realist tradition of international relations. Rooted in the works of Thucydides, Machiavelli, and Hobbes, and expanded on in the structural/neo-realist tradition carried by Waltz and Mearsheimer among others, the international system is understood as a realm occupied by states where national interest is the principal tool of analysis.¹⁰⁰ The (neo-)realist tradition is founded upon the concept of anarchy: sovereign states are not governed by any overarching authority and are guided by their own security concerns (or: survival).¹⁰¹ As a result, states follow their interests while finding themselves in a zero-sum security relationship with their counterparts. Conflict is assumed to be a permanent condition of world politics. Put differently: one's own security is another's insecurity, and as such, power politics prevails. It is this anarchic structure of the international system that shapes the behaviour of

⁹⁷ A. Wendt, 'Anarchy is What States Make of it: The Social Construction of Power Politics', *International Organization* 46 (1992) 2, pp. 398, 405-406.

⁹⁸ For a comparison between the ES and constructivism that both addresses similarities as well as the differences between the two approaches, I refer to: C. Reus-Smit, 'Constructivism and the English School', in: C. Navari (ed.), *Theorising International Society* (London: Palgrave Macmillan, 2009), pp. 58-77.

⁹⁹ Referring to the three key concepts of the ES is often done by using the term 'traditions,' coined by Martin Wight (Realism, Rationalism and Revolutionism/Cosmopolitanism) in: M. Wight, *International Theory: The three traditions* (London: Leicester University Press, 1991).

¹⁰⁰ Although realism encompasses a variety of approaches, here I only list some of the classical works belonging to this long-standing theoretical tradition. See: Thucydides (c. 460-c. 400 B.C.E.), *History of the Peloponnesian War.*; N. Machiavelli (1469-1527), *Il Principe* (1513).; T. Hobbes (1588-1679), *Leviathan (or The Matter, Forme and Power of a Common-Wealth Ecclesiasticall and Civil* (1651).

¹⁰¹ H.J. Morgenthau, *Politics Among Nations: the Struggle for Power and Peace* (New York: Knopf, 1973), p. 10.; Waltz, *Theory of International Politics*, p. 95.

states, and being in this perpetual security dilemma, states often fail to cooperate.¹⁰² As a result, international disputes are ultimately governed by war and conflict, phenomena which themselves are governed by the delicate institution often referred to as the 'balance of power.'¹⁰³

In this ontology of states as described above a compelling and cautionary explanation for 'China threat' reactions is offered. Robert Gilpin, an influential international relations scholar belonging to the realist tradition, suggests that when a state (e.g.: China) increases its material power, 'it will seek to change the international system through territorial, political and economic expansion until the marginal costs of further change are equal to or greater than the marginal benefits.'¹⁰⁴ Based on these premises ample realists offer a rather pessimistic scenario of a rising China for international society.¹⁰⁵ From the perspective that the structure of the international system forces states to compete with each other for security, John Mearsheimer, one of the most prominent proponents of (offensive) realism, argues that a rising China is 'likely to try to push the US out of Asia, much the way the US pushed the European great powers out of the Western Hemisphere,' as Beijing will become increasingly dissatisfied with current great power relations.¹⁰⁶

Clearly, such a historical analogy is just that: an analogy.¹⁰⁷ To view a rising great power through a realist lens will inevitably lead to one-sided conclusions such as Mearsheimer's, and as such, cannot satisfactorily assess the ongoing process of China's

¹⁰² Waltz, *Theory of International Politics*, pp. 115-116.; Morgenthau, *Politics Among Nations*, p. 12. For a redefined understanding of the security dilemma in the 21st century, I refer to the work of Ken Booth and Nicholas Wheeler, who define the security dilemma as a two-level strategic predicament. The first level leaves states to deal with 'the existential condition of unresolved uncertainty', meaning that states must come to an interpretation of the intentions, motivations and capabilities of one another. Upon solving this problem of interpretation, the second level holds that the most appropriate response has to be determined. See: K. Booth and N.J. Wheeler, *The Security Dilemma: Fear, Cooperation, and Trust in World Politics* (Basingstoke: Palgrave Macmillan, 2007).

¹⁰³ Wight, *International Theory*, p. 7.; Morgenthau, *The Tragedy of Great Power Politics*, p. 12.

¹⁰⁴ Gilpin, *War and Change in World Politics*, p. 106.

¹⁰⁵ See: H. Yee and I. Storey (eds.), *The China Threat: Perception, Myths and Reality* (London: Routledge, 2001), pp. 5-7.; A.F.K. Organski, *World Politics* (New York: Alfred A. Knopf, 1968), pp. 101-102.; Roy, 'Hegemon on the Horizon?', pp. 149-168.; Y. Wang, 'Offensive Realism and the Rise of China', *Issues & Studies* 40 (2004) 1, pp. 173-201.; Mearsheimer, 'China's Unpeaceful Rise', pp. 160-162. For a more nuanced view see: Glaser, 'Will China's Rise Lead to War?', pp. 80-91.

¹⁰⁶ Mearsheimer, 'China's Unpeaceful Rise', p. 162.

¹⁰⁷ See: Johnston, 'Is China a Status Quo Power?', p. 28.

(peaceful) rise. Although ES proponents acknowledge the need for a material and systemic component in their approach to world politics, they deny those only assessing the Hobbesian dynamics of power politics theoretical legitimacy. Nonetheless, the concept of international system remains important for ES scholarship. It not only ‘provides a normative benchmark for addressing the question how far international society extends’ but also enables ES scholars to identify the mechanisms that give shape to international and world societies.¹⁰⁸ Here the historical element of the ES becomes apparent: interest in the system tells us how international society (at least partly) came about.¹⁰⁹ In clearer terms: material factors weigh into the equation if one were to make a prediction of China’s rise but are not a priori decisive and do not stand alone in the factors that should be scrutinized. Whilst profiting from realist thought on the ordering of the world system and the distribution of power associated therewith, the ES moves on to add a societal dimension to the field of international relations.

2.2.1.2. International society (Rationalism)

The societal dimension of international (or: inter-state) relations proposed by the ES becomes most apparent in its concept of international society – generally accepted as the most developed and clear concept the School has to offer. The idea of an international society can be traced back to the writings of Hugo Grotius.¹¹⁰ In its core, it is rooted in the idea that international law constitutes a community of those participating in the international legal order.¹¹¹ In the field of international relations the concept has been applied and developed heavily within the realm of the ES.¹¹² Two influential scholars belonging to the School, Hedley Bull and Adam Watson, define international society as:

¹⁰⁸ Dunne, ‘The English School’, pp. 276-277.; An example where an ES scholar highlights how the system impinges on international society, is Bull’s assertion that war is ‘a basic determinant of the shape the system assumes at any one time.’ See: Bull, *The Anarchical Society*, p. 187.

¹⁰⁹ See also: B. Buzan and R. Little, ‘The Historical Expansion of International Society’, in: C. Navari and D. Green (eds.), *Guide to the English School in International Studies* (Hoboken: John Wiley and Sons, 2013), pp. 59-75.

¹¹⁰ C.A. Cutler, ‘The ‘Grotian Tradition’ in International Relations’, *Review of International Studies* 17 (1991), pp. 41-65.

¹¹¹ H. Mosler, *The International Society as a Legal Community* (Alphen aan den Rijn: Sijthoff en Noordhoff, 1980), p. xv.

¹¹² Buzan, ‘From international system to international society’, p. 328.

‘a group of states (or, more generally, a group of independent political communities) which not merely form a system, in the sense that the behavior of each is a necessary factor in the calculations of others, but also have established by dialogue and consent common rules and institutions for the conduct of their relations, and recognize their common interest in maintaining these arrangements.’¹¹³

Rather than viewing states as ‘billiard balls’ that clash in to each other, Bull, and other proponents of the ES, imagine a more complex system of states where sentient actors are enmeshed in an ongoing and evolving dialogue with one another.¹¹⁴ This highlights the ES’ emphasis on ideas, cultural context, identities and shared understandings: a shared characteristic with constructivist theory. The embeddedness of states within international society is usually gauged through the extent to which states engage in these deep, evolved practices shared amongst states, which are often referred to as primary institutions.¹¹⁵ International law is a prominent example of such an institution, but diplomacy, sovereignty and commerce are also apt examples.

It follows that the concept of international society has moved the idea of society out of the state, and away from human beings as members of that society. In doing so, proponents of the ES effectively argue for a new ‘second-order form of society, where members are not human beings or rational-actor states, but durable collectivities of humans possessed of identities and actor qualities that are more than the sum of their parts,’ with, as we will see in the next section, shared interests and values that can even transcend the state and shape new institutional arrangements.¹¹⁶ Although this ‘domestic analogy’, coined by Bull and explored further by Suganami, is true in the sense that states, like competent social beings, act under the constraints of shared institutions, it fails to

¹¹³ H. Bull and A. Watson, ‘Introduction’, in: H. Bull and A. Watson (eds.), *Expansion of International Society* (Oxford: Oxford University Press, 1985), p. 1.

¹¹⁴ The billiard ball-analogy is borrowed from: Mearsheimer, *The Tragedy of Great Power Politics*, p. 51.; See also: Bull, *The Anarchical Society*, p. 13.; B. Buzan, *From International to World Society? English School Theory and the Social Structure of Globalisation* (Cambridge: Cambridge University Press, 2004), p. 8.

¹¹⁵ Buzan, ‘China in International Society’, p. 6.; Buzan, ‘China’s rise in English School perspective’, p. 450. They are sometimes also referred to as ‘practices.’ See also: Bull, *The Anarchical Society*, p. 74.; and for a liberal perspective on institutions, R.O. Keohane, ‘International Institutions: Two Approaches’, *International Studies Quarterly* 32 (1988) 4, pp. 379-396.

¹¹⁶ See section 2.2.1.3. for the idea (world society) that shared interests and values transcend the state and influence both the international system and international society.; Buzan, *From International to World Society?*, p. 26.

take into account that international society has become ‘worth more’ than its separate parts.¹¹⁷ Its institutions should be regarded as *sui generis* and as composing a normative structure in its own right.¹¹⁸

With regard to this study the significance of the ES’ most developed concept becomes clear when one realizes that under its premises, if one state is a part of and accepts the rules and institutions of international society, conflict and struggle becomes less likely, even when significant material power is obtained by that state. This study places China in that thought-experiment. Section 2.3. will expand further on the concept of international society and which analytical tools it offers to the SCS case-study.

2.2.1.3. World society (Cosmopolitanism)

International system and international society together compose a clear set: the former deals with physical systems of interactions and the latter deals with socially constructed ones. World society, the third and least developed tradition in the ES triad, lacks a clear counterpart.¹¹⁹ It is not an ontology of states, but is considered a vehicle for bringing non-state elements, such as human rights, into the picture (of international relations).¹²⁰ Indeed, the concept transcends the state by placing emphasis on how Kantian principles of universal or cosmopolitan moral values that tie together all human beings shape new institutional arrangements in world society, although it should be mentioned that transnational identities could also very well be based upon ideas of animosity and intolerance.¹²¹ Generally, the development of world society tends to be formulated in terms of humanitarian or human rights discourse.¹²²

¹¹⁷ For more material on the domestic analogy I refer to: H. Bull, ‘Society and Anarchy in International Relations’, in: H. Butterfield and M. Wight (eds.), *Diplomatic Investigations* (London: George Allen & Unwin, 1966), pp. 35-50.; and the main work on the concept, H. Suganami, *The Domestic Analogy and World Order Proposals* (Cambridge: Cambridge University Press, 1989).

¹¹⁸ In this respect, Silviya Lechner points out that various international society theorists endorse a *qualified* domestic analogy in respect of international society. See: S. Lechner, ‘Anarchy in International Relations’, *Oxford Research Encyclopedia of International Studies* (Oxford: Oxford University Press, 2017). Retrieved on 13 May 2019: <https://oxfordre.com/internationalstudies/view/10.1093/acrefore/9780190846626.001.0001/acrefore-9780190846626-e-79>.

¹¹⁹ Buzan, *From International to World Society?*, p. 44.

¹²⁰ Buzan, *From International to World Society?*, p. 92.; Dunne, ‘The English School’, pp. 278-279.

¹²¹ T. Dunne, ‘The English School’, p. 279. See also: I. Kant, *Zum ewigen Frieden. Ein philosophischer Entwurf* (1795).

¹²² For example: D.P. Forsythe, *Human Rights in International Relations* (Cambridge: Cambridge University Press); R.J. Vincent, *Nonintervention and International Order* (Princeton: Princeton University Press, 1974);

From the foregoing we can conclude that the basic idea underlying ES theory is quite simple. Just as human beings live in societies which they both shape, and are shaped by, states themselves also live in an international society which they shape and are shaped by.¹²³ That social element of perceiving one another as a major determinant of interaction, is just as important for human beings in their daily lives, as it is for states in international society. Indeed, the idea of shared norms and values at the international level clearly could not exist if there was no such thing at the individual level. World society therefore runs in parallel to international society ‘albeit with one key difference—it refers to the shared interests and values linking all parts of the human community.’¹²⁴

2.2.2. *What does the Triad yield: theoretical pluralism*

To sum up, the ES triad consists of concepts that are partly overlapping but also have clear and distinct conceptual and methodological characteristics. Through combining these three key traditions the ES is able to claim the second distinctive feature of its approach: theoretical pluralism.¹²⁵ The three concepts exist at the same time and interplay with each other. Evidently, the more one speaks of a growing world society, the more one actually undermines the concept and institutions of international society. China is a rational (security-minded) actor in the international system. It is however also a part of international society insofar it ‘is involved in common rules and institutions’ that make up said society. Human rights discourse, not necessarily formulated by nation-states, as one concrete formulation of world society, also exert influence on China’s conduct on the world stage.¹²⁶ As a result of introducing international society as a *via media* between

I.B. Neumann, ‘The English School and the Practices of World Society’, *Review of International Studies* 27 (2001) 3, pp. 503-507.; B. Buzan, ‘The English School: An Underexploited Resource in IR’, *Review of International Studies* 27 (2001) 3, pp. 471-488.

¹²³ Buzan, *From International to World Society?*, p. 8.

¹²⁴ Dunne, ‘The English School’, p. 278.; Bull, *The Anarchical Society*, p. 279.

¹²⁵ See also: Buzan, ‘The English School: An Underexploited Resource’, p. 474. Theoretical pluralism means that paradigms do not compete but that they coexist and interplay.

¹²⁶ I do not engage in the question whether it is of positive or negative influence. For the purposes of this study it is only highlighted that world society influences international society and *vice versa*, and as such, also has both a normative as well as an analytical aspect to it when assessing world politics. See in more detail: Neumann, ‘The English School and the Practices of World Society’, pp. 503-507. Bull goes on to argue that ultimately the state system may at one point be overthrown by universal moralism transcending state interests and interplay but also fears the potential destructive dynamics between these two levels. See: Bull, *The Anarchical Society*, pp. 25, 151-153. In contrast, Andrew Linklater ‘celebrates the potential of this assault on the Westphalian order.’

realism and liberalism (or: idealism), and the notion of a world society that exerts its influence on international society, the ES is able to address three seemingly contradictory aspects of international relations:

- i. The prevalence of war and struggle for power between states through its systemic component;
- ii. The measure of cooperation between states and to what extent those interactions are regulated through its refined concept of international society which underscores that sentience (of states) can make a difference;
- iii. The existence of transnational solidarity and conflict through its concept of world society which runs in parallel to international society and shows that certain universal or cosmopolitan values emerging from the human sphere may shape new international institutions transcending the state.

Realism's 'raw logic of anarchy' is not enough when one wants to get a meaningful picture of how systems of states operate. Perception, or misperception, is a major determinant of how states interact with each other.¹²⁷ Moreover, realists fail to take into account the historical or cultural context underlying interactions between states. The same goes for liberalists. Liberalism focuses on the importance of cooperation and membership of international institutions, but fails to take into account how power politics also (partly) shape international relations, especially when institutions fail. Conversely, to grasp which practices make up for (an enduring) international society, one must pay due attention to said historical and cultural contexts. China's heavy responses to alleged territorial infringements can, for instance, be assessed from a realist perspective, but doing so would neglect the fact that the notion of the 'Age of Humiliation' has influenced China's threat perception to this day.¹²⁸ Indeed, the synthesis of the key concepts as laid down above shows that the ES is capable of avoiding the 'either/or' framing often associated with

See: A. Linklater, 'Men and Citizen in International Relations', *Review of International Studies* 7 (1981), pp. 34-35, in: Buzan, 'The English School: An Underexploited Resource', p. 478.

¹²⁷ Buzan, *From International Society to World Society?*, p. 8. For an extensive discussion on foreign policy decision-making and the importance of (mis)perception I refer to R. Jervis, *Perception and Misperception in International Politics* (Princeton: Princeton University Press, 1976). Jervis essentially argues that foreign policy decision-makers' perceptions of their environment and of those they interact with more than often diverge from reality – which has important ramifications for their and others' subsequent actions. In his work, Jervis analyses the cognitive dimensions of decision-making.

¹²⁸ See section 1.2.1.

realism or idealism. Rather, its method is to apply its distinctive set of concepts to a mainly historical analysis of how international societies develop over time.¹²⁹ After discussing which weaknesses of the ES approach one must take into account, section 2.3. outlines how those concepts and tools of analysis may be applied to China's rise and its conduct with regard to the SCS arbitral proceedings.

2.2.3. Discontents of the English School approach

'How do you know an international society when you see one,' asks American constructivist Martha Finnemore, pointing towards the lack of rules relating to evidence and clarity regarding methods used when pursuing an ES approach.¹³⁰ Linklater and Suganami assert in response to Finnemore that there does not exist a need for us to 'see' international society, and rather that it is an idea through which we can make sense of but only one aspect of international relations.¹³¹ Finnemore, however, is right in pointing out that the ES does not have a straightforward and systematic research method: its greatest strength of methodological pluralism, also constitutes its greatest pitfall. Constructivists, with their primary focus on ideational considerations, are usually better in taking into account whether states' commitments to (primary) institutions are supported by true belief rather than by calculation.¹³² Nevertheless, an ES approach is able to overcome such concerns by conducting extensive historical and cultural research. For example, this study has shown in chapter 1 that China in fact accepts the concept of (territorial) sovereignty not only on material but also on ideational grounds.¹³³

Importantly, criticism is not restricted to constructivist scholars. The ES has been under-appreciated by American IR scholarship due to the prevailing perception that its methods are incompatible with established methods in the US. In a realist critique of the ES, Dale Copeland argues that ES theory does not provide for falsifiable hypotheses to be tested and asserts that other states may not be as benign as their diplomatic claims might suggest. According to Copeland and his peers, the ES lacks clarity about its methods and theoretical claims, and fails to specify 'deductive causal logic that would explain why

¹²⁹ Buzan, 'China's rise in English School perspective', p. 450.

¹³⁰ M. Finnemore, 'Exporting the English School?', *Review of International Studies* 27 (2001) 3, p. 509.

¹³¹ A. Linklater and H. Suganami, *The English School of International Relations: A Contemporary Reassessment* (Cambridge: Cambridge University Press, 2006), p. 103.

¹³² Buzan, 'China's rise in English School perspective', p. 471.; A. Wendt, *Social Theory of International Politics* (Cambridge: Cambridge University Press, 1999), pp. 242-243.

¹³³ See section 1.2.1.

higher levels of shared practices should lead to higher degrees of cooperation.¹³⁴ Indeed, realists perceive the ES approach as unable to provide insight into how uncertainty about states' behaviour can be moderated in an anarchical environment.

Surely, a lot of the work conducted in the realm of the ES is of a broader, more philosophical and historical nature than is the case with classical American IR scholarship.¹³⁵ The question whether or not something qualifies as a theory will be answered differently around the globe. Is it anything that organises a 'field systematically, structures questions and establishes a coherent set of interrelated concepts,' or does it need to be able to strictly explain or generate testable hypotheses of a causal nature?¹³⁶ The ES approach clearly qualifies on the former account, but not on the latter. This study acknowledges the distinctive theoretical features offered by the ES and applies its questions and interrelated concepts to the SCS case-study. This will culminate in an evidence-based contribution to the debate on China's rise. Thus, this study need not claim any kind of predictive power.

2.3. Using the English School approach as a prism for China's rise

2.3.1. The pluralism/solidarism debate

Where does international society stop – and world society begin? Within the ES there are two distinct divisions when it comes to the interpretation of international society.¹³⁷ The first being the pluralist account, which in general stresses the conduct of states in a situation of anarchy.¹³⁸ In this account due consideration is given to cooperation between states, despite the existence of self-interest: 'A pluralist framework places constraints on

¹³⁴ D.C. Copeland, 'A Realist Critique of the English School', *Review of International Studies* 29 (2003) 3, pp. 427-433.

¹³⁵ See also: G. Press-Barnathan, 'The War Against Iraq and International Order: From Bull to Bush', *Review of International Studies* 6 (2002) 4, pp. 195-212. For an example of an empirical assessment of the durability of international society in relation to global terrorism I refer to: B. Mendelsohn, 'English School, American Style: Testing the Preservation-seeking Quality of International Society', *European Journal of International Relations* 15 (2009) 2, pp. 291-318. With regard to the vague demarcation between international system and society I believe it is sufficient to state that this is inherent to the ES as they exist simultaneously and that exact demarcation will therefore be impossible.

¹³⁶ Buzan, *From International to World Society?*, pp. 24-25. For a review of the ES as a research enterprise see: B. Devlen et al., 'The English School, International Relations, and Progress', *International Studies Review* 7 (2002) 2, pp. 171-197.

¹³⁷ See: J. Williams, 'Pluralism, Solidarism and the Emergence of World Society in English School Theory', *International Relations* 19 (2005) 1, pp. 19-38.

¹³⁸ Murray, *System, Society & the World*, p. 9.

violence, but it does not outlaw the use of force and is, in any case, powerless to eradicate (...) War is not only an instrument of realist foreign policy but is also a crucial mechanism for resisting challenges to the balance of power and violent assaults on international society.¹³⁹ In the pluralist account international society is founded upon minimalist rules and it primarily serves as a ‘functional counterweight to the threat of excessive disorder in international anarchy.’¹⁴⁰ Indeed, it could be stated that pluralism embraces diversity as a fundamental feature of international society.

In contrast, the second – solidarist – interpretation presupposes a wider scope for international society and asserts that wide-ranging norms and rules that arrange for cooperation and coexistence issues may be formulated without a fundamental departure from international society.¹⁴¹ The European Union is a good example of an (sovereignty-transgressing) arrangement that solidarists believe to be compatible with international society.¹⁴² Also, democratic states that pledge to take responsibility for peace and security around the world could be perceived as following the solidarist conception of international society. It follows that solidarism ‘focuses on the possibility of shared moral norms underpinning a more expansive, and almost inevitably more interventionist, understanding of international order.’¹⁴³

It is important to acknowledge which interpretation of international society is followed when one is to assess a certain development with an ES approach, as the pluralist/solidarist debate hinges on the question what changes can occur within the structure of international society without departing from the foundational rules that define it.¹⁴⁴ It has been a matter of great contention as to whether the two positions are mutually exclusive, or whether they operate in tandem with each other.¹⁴⁵ This study builds further on transgressing the perceived division between pluralism and solidarism. Rather, by perceiving both conceptions as ‘as positions on a spectrum representing, respectively, thin and thick sets of shared norms, rules and institutions,’ this study will

¹³⁹ Linklater and Suganami, *The English School of International Relations*, p. 131.

¹⁴⁰ Buzan, ‘The English School: An Underexploited Resource’, p. 478.

¹⁴¹ H. Bull, ‘The Grotian Conception of International Society’ in: H. Butterfield and M. Wight (eds.), *Diplomatic Investigations* (London: George Allen & Unwin, 1966), pp. 51-73.

¹⁴² As it effectively erodes the national sovereignty of its 28 Member States. See in more detail: S. Krasner, *Organized Hypocrisy* (Princeton: Princeton University Press, 2001), p. 203.

¹⁴³ Buzan, ‘The English School: An Underexploited Resource’, p. 478.

¹⁴⁴ Buzan, *From International To World Society?*, p. 8.

¹⁴⁵ See: M.S. Weinert, ‘Reframing the pluralist-solidarist debate’, *Millennium-Journal of International Studies* 40 (2011), pp. 21-41.; Buzan, *From International to World Society?*, pp. 45-51.

subsequently analyse China's conduct regarding the SCS arbitral proceedings from a multi-levelled 'thin-thick' perspective.¹⁴⁶ This essentially comprises that due consideration will be given to how China is dealing with the minimalist rules that define (a 'thin') international society, but also to the relationship between Beijing's conduct and a more solidarist (or 'thick') interpretation of international society, that other actors may have.

If one were to ascribe to China a position in the pluralist/solidarist debate it would be that of the pluralist interpretation – if only because solidarists tend to defend a breach of national sovereignty.¹⁴⁷ As we have witnessed above, such a breach is unacceptable for Beijing. Nonetheless, this study argues that only a thin-thick perspective is able to offer a complete view of how China's conduct influences its position within international society, as other members of international society, such as the EU Member States, may have a divergent conception of how international society is forged and sustained. A one-sided (static) perspective on the society of states neglects the perception that one actor may have on the conduct of the other. Thus, Beijing's position regarding to the 2016 arbitral award must be viewed through a thin-thick interpretation of international society.

2.3.2. Primary institutions as principal tool of analysis

Having established the importance of a thin-thick interpretation of international society, it is now paramount to discuss the criteria for membership of, and legitimate behaviour within international society. This will serve the purpose of this study, which is to exhibit the consequences of China's position concerning the SCS arbitral award for its relationship with international society and vice versa. By extension, primarily because the SCS case-study is considered to be a crucial test case for PRD, some preliminary observations may be made in relation to the question whether China will remain able to rise peacefully. To demarcate the boundaries of the social system underlying international society is thus crucial. For the majority of nations, North Korea, for example, does not belong in the framework of international society. It is part of the international system however, and as such, is capable of having structured interactions with members of the society of states. Those interactions remain largely systemic (or: primarily based on security/realist

¹⁴⁶ Buzan, *From International to World Society?*, p. 139. I will use this concept in conjunction with the 'acceptance-test' laid down in section 2.3.2.

¹⁴⁷ Linklater and Suganami, *The English School of International Relations*, p. 143. Another example is found in section 1.2.1. where it was stated that China, in the process of integrating in international society, sought 'a stable and workable blend of modernising reforms and 'Chinese characteristics.'" As argued in section 2.3.1. the pluralist interpretation embraces diversity as a fundamental feature of international society.

considerations) however – and are therefore often heavily scrutinized.¹⁴⁸ If the US would today conduct a long-range missile test this would not be very surprising. In contrast, if it were North Korea conducting that same test, the international response would be utterly different.¹⁴⁹

Membership of, and legitimate behaviour within international society can be gauged through employing the ES' principal analytical tool of primary institutions, as defined most thoroughly by Barry Buzan.¹⁵⁰ They are understood as deep, evolved practices shared amongst states, underpinning durable interstate practices.¹⁵¹ Their counterparts, secondary institutions, are recent, instrumental and state-designed expressions of the underlying social structure of primary institutions. Intergovernmental organizations (such as the World Trade Organization) are adequate examples of secondary institutions. These are usually studied by liberalists. It follows that the ES approach moves up one level and dives into what truly underpins the social order of the anarchical society of states, instead of putting too much weight on secondary institutions and economic interdependence.¹⁵² Primary institutions differ from secondary institutions as they impose normative limits on what states can and cannot do, if that state wants to claim to be a member in good standing of that society.

Essentially, the above boils down to the question whether China accepts the existing norms and rules of international society. How does its conduct relate to the social structure that is formed by primary institutions, where does a clear pattern of acceptance exist, and where does such a pattern clearly not exist. I will refer to this concept as the 'acceptance-test.' Distinction is often made between the following primary institutions:

¹⁴⁸ See also: Dunne, 'The English School', p. 277.

¹⁴⁹ See for example: D.E. Sanger and C. Sang-Hun, 'In Weapons Test, North Korea Revives an Old Playbook, With a Strategic Twist', *The New York Times*, 4 May 2019. Retrieved on 22 May 2019: <https://www.nytimes.com/2019/05/04/world/asia/trump-north-korea-missile-tests.html>.

¹⁵⁰ The content and substance of this concept, which essentially defines international society, necessarily differs in the writings of scholars belonging to the ES tradition. For the purposes of this study reference is made primarily to Barry Buzan, as Buzan offered one of the most recent and thorough reconceptualizations of international society. See K. Kaczmarek, 'International Society', in: *Oxford Research Encyclopedia of International Studies* (November 2017). Retrieved on 15 May 2019: <https://oxfordre.com/internationalstudies/view/10.1093/acrefore/9780190846626.001.0001/acrefore-9780190846626-e-98>; Buzan, *From International to World Society?*, pp. 164-170.

¹⁵¹ Buzan, 'China's rise in English School perspective', p. 450.

¹⁵² See also: Buzan, 'China in International Society', p. 7.

- i. Classical ‘Westphalian institutions’ such as sovereignty, non-intervention, territoriality, balance of power, war, international law and diplomacy;¹⁵³
- ii. Newer institutions that have emerged and consolidated during the previous centuries: nationalism, development, market economics, and human equality;
- iii. Emerging (and sometimes broadly contested) institutions of democracy, human rights and environmental stewardship.¹⁵⁴

2.3.3. *China and constantly evolving international society*

Assessing China’s rise from an ES perspective, or more specifically its conduct with regard to the SCS arbitral award, essentially abridges to the question whether China behaves like a *status quo* or a *revisionist* power.¹⁵⁵ Does China want to play by the rules of the game? A status quo power is generally satisfied with the existing rules and the prevailing status distribution within the society of states: ‘the policy of the status quo aims at the maintenance of the distribution of power as it exists at a particular moment in history.’¹⁵⁶ In this respect, it must be mentioned that the ES, and in particular Buzan, are challenged for not taking into account that China is already a respected member of international society. Qin Yaqing, a Chinese international relations scholar, argues that this membership threshold is crucial to thinking about identity convergence and confrontation within the society of states.¹⁵⁷ I agree with Yaqing: international society is better understood as a two-way process. This was already made apparent through discussing the existence of the pluralist-solidarist debate.¹⁵⁸ In my view, international society is never

¹⁵³ Bull, *The Anarchical Society*, pp. 53-71. The institutions underlined I deem most important for China’s conduct in the SCS. The case-study in chapter 3 will test China’s acceptance of international law in relation to the SCS arbitral award.

¹⁵⁴ Buzan, *From International to World Society?*, pp. 167, 187, 241.

¹⁵⁵ See also: Breslin, ‘China and the global order’, p. 634.

¹⁵⁶ Morgenthau, *Politics Among Nations*, p. 46.; Johnston, ‘Is China a Status Quo Power?’, p. 8.; Buzan, ‘China’s rise in English School perspective’, p. 461. Needless to say, there are many typologies of what revisionist and status quo should entail, which cannot be dealt with extensively in this study. See also: Organski and Kugler, *The War Ledger*, pp. 19-20, 23.; R.L. Schweller, ‘Bandwagoning for Profit: Bringing the Revisionist State Back In’, *International Security* 19 (1994) 1, p. 105.; Gilpin, *War and Change in World Politics*, p. 34.

¹⁵⁷ Yaqing argues that Buzan has a biased argument because he sees international society as essentially static and socio-culturally confined. ‘It perceives a reluctant China that is chasing a moving target.’ See Yaqing, ‘International Society as Processes’, p. 131. This study acknowledges Yaqing’s argument and perceives international society as a continuous reciprocal process. See also: Q. Yaqing, ‘A Relational Theory of World Politics’, *International Studies Review* 18 (2016) 1, pp. 33-47.

¹⁵⁸ See section 2.3.1.

truly in *status quo*. Rather, members of the society of states are constantly and reciprocally shaping its institutions together. Environmental concerns (or: stewardship), for example, were not as important fifty years ago. Now, many countries, including China, have accepted and incorporated these concerns in their policy-making priorities.¹⁵⁹

The counterpart of a status quo power is a revisionist power, such as China under Mao.¹⁶⁰ But simply assigning the status of revisionist fails to acknowledge the various modes of revisionism. On the one hand, a revisionist power may reject the primary institutions of international society on ideational grounds.¹⁶¹ It will seek to change both the rules and status hierarchy, possibly by resorting to violent methods. This kind of revisionism is commonly referred to as revolutionary, and fits China under Mao as a glove. On the other hand, reformist revisionism holds that a state ‘accepts some of the institutions of international society for a mixture of calculated, instrumental and ideational reasons. But it resists, and wants to reform, others, and possibly also wants to change its status’ within international society.¹⁶²

Through the prism of the ‘acceptance-test’ and a thin-thick interpretation of international society empirical insight will be offered into the question whether China behaves like a status quo or a (reformist) revisionist power – at least with respect to the case-study employed in chapter 3. Importantly, as opposed to many mainstream ES publications, this study understands international society to encompass many processes of convergence and divergence. As a result, in addition to sketching a blueprint with which China’s rise may be assessed, this study enriches the ES approach by taking into account that relationships matter both ways.¹⁶³ Such an approach may mean that primary institutions (partially) evolve into non-Western ones. In any case, with a rising great power such as China, this should not come as a surprise.

¹⁵⁹ We see a backward trend in the US with regard to environmental concerns and an upward trend in China. Notwithstanding diverging opinions most actors are (starting to) engage in battling climate-change. Thus it is sensible to see international society as encompassing many processes that shape and shove its (primary) institutions. For environmental stewardship as a primary institution of international society see: Buzan, *From International to World Society?*, pp. 150, 181.

¹⁶⁰ See section 1.2.1.

¹⁶¹ B. Buzan, *People, States and Fear* (Hemel Hempstead: Wheatsheaf, 1991), pp. 237-246.; Buzan, ‘China in International Society’, p. 17.

¹⁶² Buzan, ‘China in International Society’, p. 17. See also: Yaqing, ‘International Society as Processes’, p. 137.

¹⁶³ E.g. studies in this field should not only be framed as ‘China v. International Society’ but also as ‘(Western) International Society v. China.’

2.4. Evaluating the English School approach

In essence, the ES approach synthesizes two very meaningful strands of thought within the field of international relations. Whilst profiting from realist thought on how the international system is shaped, it moves on to acknowledge that states, like human beings, live in a society which they both shape and are shaped by. While remaining sensitive to power dynamics the ES approach avoids the materialist assumption that is inherent to realism. Rather, it employs those deeper social structures as principal tool of analysis, thereby also avoiding 'utopian tendencies of liberalism to put too much weight on secondary institutions and economic interdependence.'¹⁶⁴

Admittedly, the ES' methodology can sometimes be rather vague and also within the School there is a wide variation in research topics, priorities, and methodology. However, it should not be forgotten that international social structure itself is complicated, continuously changing, and always contested. Looking at China's rise from Mearsheimer's perspective, as we have seen, offers a compelling and cautionary explanation. In relation to such a multi-leveled and deep question as to whether China will remain a peaceful riser, however, the apparent clarity of realism is a false gain. The ES approach as sketched in this chapter enables this study to provide a more nuanced and historically rooted view on the question how China's conduct with regard to the SCS arbitral award affects its relationship with international society. Predictive power therefore need not be claimed. Finally, it must not be forgotten that the relationship between China and international society is a two-way street: members of international society shape and shove their primary institutions together. That may also mean that traditionally Western institutions blend in with Chinese or Asian thoughts on world order.

¹⁶⁴ Buzan, 'China in International Society', p. 7.

China's entanglement in international society and the South China Sea

3.1. Introduction

3.1.1. *Identifying sources capable of expressing primary institutions*

The ES approach essentially occupies itself with China's identity vis-à-vis international society. Every case-study that aims to assess China's rise using the ES approach therefore constitutes a question of identity, or more specific, identity confrontation. Hence, this chapter will show how Beijing deals with the initiation and conclusion of the 2016 arbitral proceedings, and how it expresses in that process its relationship with international society. I argue that several primary institutions may come into focus in this particular matter – the most relevant being: international law, sovereignty, territoriality, and diplomacy. To assess whether China adheres to the practices underpinning international society, this chapter scrutinizes government sources, such as position papers, statements by government officials, and Notes Verbales to the United Nations, and relevant media sources. That enables this study to establish the (non)-existence of a pattern of acceptance regarding these institutions. It will do so primarily with regard to the institution of international law, because this Grotian element of international society is directly linked to dispute resolution. Moreover, international law underpins exactly those practices that govern and accommodate inter-state relations.¹⁶⁵

3.1.2. *Applying the 'thin-thick' perspective and the 'acceptance-test'*

A pattern of respect for international law is to be established through the prism of the 'acceptance-test' and a thin-thick interpretation (which takes into account the pluralist-

¹⁶⁵ In essence binding arbitral adjudication under an international treaty such as UNCLOS is a manifest expression of the primary institution of international law. As was discussed in the previous chapter, international law as an institution has been discussed and put forward by Bull (*The Anarchical Society*, pp. 71, 77, 123), Wight, (*Power Politics*, p. 111), Buzan (*From International to World Society?*, p. 187), among others. Needless to say, other primary institutions also govern these inter-state relations. International law however is broadly seen as central to the existence – a *sine qua non* – of international society. The 'Grotian tradition' in international relations that gives primacy to international law is also a good example here. See: Cutler, 'The "Grotian tradition" in international relations', p. 41.; See further: Kaczmarek, 'International Society' (under: Beyond the English School). In addition, Christian Reus-Smit, a renowned scholar in the field of international relations, has argued, among others, that the present society of states is underpinned by two fundamental institutions, namely international law and multilateralism. See: C. Reus-Smit, 'The Constitutional Structure of International Society and the Nature of Fundamental Institutions', *International Organization* 51 (1997) 4, pp. 555-589.

solidarist debate, i.e. that other international actors view global affairs from their own perspective on how international society takes shape) of international society. This grants us two advantages. First, it shows *to what extent* China accepts and respects the institution of international law. Second, empirical insight is offered into the question whether China behaves like a status quo or a revisionist power in the SCS. This chapter begins with a brief introduction on the arbitral proceedings. After that, the Chinese government's position, and actions relating to the proceedings, will be discussed. Due consideration will therewith be given to diverging conceptions of international society. Then, potential implications for Beijing's relationship with international society and *vice versa* are illuminated. Finally, the SCS case-study will be presented as illustrative for the direction that should be followed in the greater debate of China's evolving position within our current global order.

3.2. The South China Sea and the arbitral award 'Philippines v. China'

3.2.1. Claiming the most contested maritime area of the world

Since 1945, Asia has been more prone to conflict over territory and maritime boundaries than any other region in the world. Territorial disputes in Asia also account for the lowest rate of settlement when compared with other regions.¹⁶⁶ The SCS, or the West Philippine Sea in Philippine official terminology, is now considered the most contested maritime area in the world. All contending countries, including China, the Philippines, Vietnam and Indonesia, but also the US, have been aggressive in staking out their claims or opinions.¹⁶⁷ Naval presence and capabilities in the Sea are constantly developing, and the risk of accidents or small conflicts leading to escalation is constant. Power politics seem to prevail.¹⁶⁸ Indeed, when combined with the rise of new regional powers, all involved in

¹⁶⁶ M.T. Fravel, 'Territorial and Maritime Boundary Disputes in Asia', in: S. Pekkanen, J. Ravenhill and R. Foot (eds.), *The Oxford Handbook of the International Relations of Asia* (Oxford: Oxford University Press, 2014), pp. 524-546.

¹⁶⁷ Although the US is not a claimant, it does maintain a very sensitive position with regard to potential threats to freedom of navigation in maritime zones as it enables the US navy to 'operate unhindered throughout the oceans of the world.' See: Fravel, 'Territorial and Maritime Boundary Disputes in Asia', p. x.; Morton, 'China's ambition in the South China Sea', p. 911.; J. Geddie and F. Ungku, 'U.S. says China's focus on its South China Sea operations unwarranted', *Reuters*, 15 May 2019. Retrieved on 22 May 2019:

<https://www.reuters.com/article/us-usa-southchinasea/u-s-says-chinas-focus-on-its-south-china-sea-operations-unwarranted-idUSKCN1SL0MK>.

¹⁶⁸ Cruz de Castro, 'Risk of Applying Realpolitik', pp. 262-263. See also: C. Schofield and I. Storey, *The South China Sea Dispute: Increasing Stakes and Rising Tension* (Washington D.C.: The Jamestown Foundation, 2009), p. 1. For illustrative purposes I also refer to the 'Scarborough Shoal Standoff' incident, where the Philippine

multiple disputes, such conflicts are poised to become an expanding source of instability in the region. Indeed, in the SCS, the complex interplay between maritime nationalism and geostrategic rivalry, severely complicates the establishment of a rules-based maritime order.¹⁶⁹

In essence, the disputes in the SCS are related to sovereignty claims over offshore land features. UNCLOS does not provide for provisions on how to determine which State has a better claim to sovereignty. Ironically, this treaty seeking to manage demarcation of maritime boundaries, has now led to many disputes regarding territorial claims.¹⁷⁰ China's claims in the SCS are thus driven in part by UNCLOS but also in part by historical grievances. The PRC issued its first claim to sovereignty over islands in the SCS in 1951, in response to the San Francisco peace treaty negotiations between Japan and the US. Beijing was excluded from these negotiations and its claims remained ignored. In a recent 2016 statement and a *de facto* response to the arbitral award the Chinese government divided its claims into four categories. These categories express both reliance upon UNCLOS as well as a historic context. They are as follows: sovereignty over all SCS islands (in Chinese terms: the SCS archipelago), internal waters and territorial seas based on these islands, an exclusive economic zone and a continental shelf based on these islands, and (maritime) territory based on historic rights.¹⁷¹

3.2.2. *Initiation and conclusion of the arbitral proceedings*

At the outset it must be mentioned that China declared on 7 September 2006 under Article 298 UNCLOS the exclusion of certain disputes (concerning maritime boundary delimitation, historic bays and military ocean use) with other countries from the

navy apprehended eight Chinese fishing vessels in disputed territory. When police forces attempted to arrest the fishermen, they were blocked by Chinese maritime surveillance ships. See in more detail: R. de Castro, 'The Philippines Confronts China in the South China Sea: Power Politics vs. Liberalism-Legalism', *Asian Perspective* 39 (2015) 1, pp. 71-100.

¹⁶⁹ Morton, 'China's ambition in the South China Sea', p. 909.

¹⁷⁰ Fravel, 'Territorial and Maritime Boundary Disputes in Asia', p. 542.

¹⁷¹ PRC Government, 'Statement of the Government of the People's Republic of China on China's Territorial Sovereignty and Maritime Rights and Interests in the South China Sea', 12 July 2016. Retrieved on 25 May 2019: https://www.fmprc.gov.cn/nanhai/eng/snhwtlcwj_1/t1379493.htm. This position was reiterated in a position paper released in the same week. The perceived injustices of the San Francisco peace process (failing to recognize Beijing) continue to resonate in the PRC's claims. See: Morton, 'China's ambition in the South China Sea', p. 917. I refer to the response as *de facto* as China has refused to submit procedural documents in the matter. However, the Tribunal has considered Beijing's statements and position papers as *de facto* submissions in the matter.

jurisdiction of international arbitration. It is the only state bordering the SCS that has made such a declaration.¹⁷² Beijing resolutely refuses to support third-party adjudication or a multilateral approach to dispute resolution and demands bilateral diplomatic negotiation and consultation instead. Nevertheless, on the majority of the submissions brought forward by the Philippines, the Tribunal found that it was fully competent to rule on the merits.¹⁷³ On 12 July 2016 the arbiters rendered their final award, in favour of the Philippines. Essentially, the award held that there exist no areas of overlapping exclusive economic zones claims between China and the South-East Asian claimant states.¹⁷⁴ Moreover, the Tribunal ruled that Beijing's actions in the SCS, such as land-reclamation and construction of artificial islands, were either in violation of sovereign rights of the Philippines or other obligations under UNCLOS, which China had ratified.¹⁷⁵ Indeed, China continues to construct military and industrial outposts on artificial islands it has built in disputed waters. Satellite images show that China is constructing ports, military installations, and airstrips, particularly on the contested Paracel and Spratly islands.¹⁷⁶ Furthermore, the Chinese government maintains its position of 'four no's': no participation, no acceptance, no recognition and no enforcement.¹⁷⁷ It is this position that will be discussed further in the following sections.

¹⁷² United Nations, 'Settlement of Disputes Mechanism', 23 April 2019, under China. Retrieved on 26 May 2019: https://www.un.org/depts/los/settlement_of_disputes/choice_procedure.htm.; Hong, 'The South China Sea Arbitral Tribunal Award', p. 357.

¹⁷³ The Republic of Philippines v. The People's Republic of China, PCA Case Repository Permanent Court of Arbitration, Case No. 2013-19 (Perm. Ct. Arb. 2016) (hereinafter referred to as "South China Sea Arbitration Award (Merits)"). See also in this digital repository the specific judgment on jurisdiction and admissibility. Retrieved on 26 May 2019: <https://www.pcacases.com/web/view/7>.

¹⁷⁴ South China Sea Arbitration Award (Merits), paras. 643-648 (pp. 259-260) (among others).; Zhang, 'Assessing China's Response to the South China Sea arbitration ruling', p. 441.; Hong, 'The South China Sea Arbitral Tribunal Award', p. 357.; Zhao, 'China and the South China Sea Arbitration', p. 6. Furthermore, it ruled that China did not have legal basis for claiming historic rights and that all land features in the SCS were incapable of generating an exclusive economic zone of their own.

¹⁷⁵ South China Sea Arbitration Award (Merits), paras. 286, 415, 464 (among others).; See also: Zhao, 'China and the South China Sea Arbitration', p. 6.

¹⁷⁶ *Council on Foreign Relations*, 'Global Conflict Tracker. Territorial Disputes in the South China Sea', 2019. Retrieved on 22 May 2019: <https://www.cfr.org/interactive/global-conflict-tracker/conflict/territorial-disputes-south-china-sea>.; Yahuda, 'China's New Assertiveness in the South China Sea', pp. 452-453.

¹⁷⁷ Wangyi News, 'Waijiaobu fubuzhang liu zhenmin jiu nantai wenti da jizhewen wenzi shilu' [Full-text transcript of Vice Foreign Minister Liu Zhenmin's press conference on the South China Sea], 13 July 2016. <http://news.163.com/16/0713/12/BRRR00HO0001124J.html>, in: Zhang, 'Assessing China's response to the South China Sea arbitration ruling', p. 441.

3.3. Analysing the Chinese government's position

3.3.1. *The first Note Verbale to the United Nations*

On 7 May 2009, years before the onset of the arbitral proceedings, the Chinese government requested Ban Ki-Moon, the then UN Secretary-General, to circulate a Note Verbale on the Chinese position regarding the SCS. That submission stated that 'China has undisputable sovereignty over the islands in the South China Sea and the adjacent waters, and enjoys sovereign rights and jurisdiction over the relevant waters as well as the seabed and subsoil thereof.'¹⁷⁸ This brief statement was the first recent official document in which Beijing formally declared its undisputable sovereignty claim to the SCS land features. Furthermore, this document contained the so-called 'nine-dash line' map, which encircles about eighty percent of the SCS. China has never clarified its precise meaning or legal status, but has used it repeatedly to legitimize its claims.¹⁷⁹ To Beijing, the map delineates 'historical' Chinese maritime territory.

This document is already interesting as it has received the allegation that it uses Chinese domestic law to challenge international rules and standards. China's domestic legal terminology does not cohere with international terminology on the law of the seas. For example, neither adjacent nor relevant waters are defined in international law (e.g. under UNCLOS).¹⁸⁰ It is asserted that such a method aids the Chinese government in altering domestic thinking and discourse on the subject. Furthermore, it enables China to remain ambiguous about the exact boundaries of its claims. International law had effectively become side-lined.¹⁸¹ A 2016 ruling by the Chinese Supreme Court shows that this method is still in practice. The Court here rendered another judicial interpretation of

¹⁷⁸ CML/18/2009, 'Note Verbale of 7 May 2009 addressed to the Secretary-General of the United Nations by the Permanent Mission of the People's Republic of China to the United Nations', 7 May 2009. Retrieved on 22 May 2019: https://www.un.org/Depts/los/clcs_new/submissions_files/vnm37_09/chn_2009re_vnm.pdf.

¹⁷⁹ Zhang, 'Assessing China's response to the South China Sea arbitration ruling', p. 444.; See also: C.P.C. Chung, 'Drawing the U-Shaped Line: China's Claim in the South China Sea, 1946-1974', *Modern China* 42 (2016) 1, pp. 38-72. Many legal scholars state that this map cannot provide a legal basis for asserting rights and jurisdiction over maritime space. See: R. Beckman, 'The UN Convention on the Law of the Sea and the maritime disputes in the South China Sea', *American Journal of International Law* 107 (2010) 142, pp. 142-163.

¹⁸⁰ Under UNCLOS various maritime areas, measured from a specific baseline, are defined. They include internal waters, territorial waters, archipelagic state waters, contiguous zone, exclusive economic zone (EEZ), and the continental shelf.

¹⁸¹ S. Lohschelder, 'Chinese Domestic Law in the South China Sea', *Center for Strategic & International Studies*, 6 October 2017. Retrieved on 22 May 2019: <https://www.csis.org/npfp/chinese-domestic-law-south-china-sea>.

Chinese waters not in alignment with definitions provided for in UNCLOS, which China had ratified.¹⁸²

The nine-dash line map deserves specific attention. China therewith seems to be maintaining that UNCLOS does ‘restrain or deny a country’s right which is formed in history and abidingly upheld.’¹⁸³ Maintaining such a position contrary to accepted international legal definitions threatens the legal regime established by UNCLOS. Besides, it affects the fundamental interests in the law of the sea not only of the parties involved in the SCS dispute but of all states that have an interest in the enduring vitality of UNCLOS and other relevant instruments of international law. Robert Beckman, an authority on this Convention, argues that ‘unless China is willing to bring its maritime claims into conformity with UNCLOS, it will continue on a legal collision course.’¹⁸⁴ Such a legal collision course does not show a pattern of respect for international law.¹⁸⁵ Conventional interpretations of maritime international law have openly been challenged by the Chinese government. In that respect, it must be mentioned that China’s domestic legal institutions do not necessarily bind its government to international legal obligations.¹⁸⁶

3.3.2. *Rejecting the arbitration: China can say no*

The challenge to international law posed by Chinese conduct in the SCS disputes becomes apparent again when one reads Beijing’s initial reaction to the conclusion of the arbitral proceedings:

“China does not accept any means of third party dispute settlement or any solution imposed on China. The Chinese government will continue to abide by international law (...), including the principles of respecting state sovereignty and territorial

¹⁸² B. Blanchard and S. Wong, ‘China court warns against illegal fishing in riposte to South China Sea ruling’, *Reuters*, 2 August 2016. Retrieved on 22 May 2019: <https://www.reuters.com/article/us-southchinasea-ruling-idUSKCN10D0B1>.

¹⁸³ See also the following press conference in which the foreign affairs spokesperson elaborates on the position that China’s sovereignty and relevant claims have been formed in the course of history: PRC Government, Ministry of Foreign Affairs, ‘Foreign Ministry Spokesperson Jiang Yu’s Regular Press Conference on September 15, 2011’, 16 September 2011. Retrieved on 26 May 2019: <http://www.china-embassy.org/eng/fyrth/t860126.htm>.

¹⁸⁴ Beckman, ‘UNCLOS and the maritime disputes in the South China Sea’, p. 163.

¹⁸⁵ See also: Yahuda, ‘China’s New Assertiveness in the South China Sea’, pp. 447-448.

¹⁸⁶ H. Xue and Q. Jin, ‘International Treaties in the Chinese Domestic Legal System’, *Chinese Journal of International Law* 8 (2009) 2, p. 299.

integrity and peaceful settlement of disputes, and continue to work with states directly concerned to resolve the relevant disputes in the South China Sea through negotiations and consultations on the basis of respecting historical facts and in accordance with international law.”¹⁸⁷

In essence, this response epitomizes Beijing’s dogmatic approach to sovereignty disputes. Although it must be mentioned that China is firmly upholding the primary institutions of sovereignty and territoriality, it is apparent that it holds a very limited view on the nature of international law. In comments to the press, Vice-Minister for Foreign Affairs Liu Zhenmin pronounced the award as ‘just a piece of waste paper.’¹⁸⁸ The position constantly held by the Chinese government is that it ‘actively upholds peaceful settlement of disputes, and proposes to settle international disputes through negotiation, dialogue and consultation.’¹⁸⁹ It seems as if the Chinese government a priori excludes arbitration as a means for dealing with international disputes. It is generally known that major powers, when they expect an unfavourable ruling, will opt for negotiation and consultation instead of uncertain third-party adjudication. In that respect, it must be mentioned that the US has done so many times in the past – and not only with regard to arbitral awards. It has also ignored rulings by the International Court of Justice. The world-famous Nicaragua-case is but one example.¹⁹⁰ Thus, in overtly rejecting the award, Beijing displayed the

¹⁸⁷ PRC Government, Ministry of Foreign Affairs of the People’s Republic of China, ‘Statement on the Award of 12 July 2016 of the Arbitral Tribunal in the South China Sea Arbitration Established at the Request of the Republic of the Philippines’, 12 July 2016. Retrieved on 26 May 2019:

https://www.fmprc.gov.cn/nanhai/eng/snhwtlcwj_1/t1379492.htm.

¹⁸⁸ PRC Government, Ministry of Foreign Affairs of the People’s Republic of China, ‘Vice Foreign Minister Liu Zhenmin at the Press Conference on the White Paper Titled China Adheres to the Position of Settling Through Negotiation the Relevant Disputes Between China and the Philippines in the South China Sea’, 13 July 2013. Retrieved on 26 May 2019: http://www.fmprc.gov.cn/mfa_eng/wjdt_665385/zyjh_665391/t1381980.shtml.

¹⁸⁹ PRC Government, H.E. Ambassador Wang Min, ‘From Chinese Mission to the United Nations, Address Before the 68th Session of the UN General Assembly’, 10 October 2013. Retrieved on 26 May 2019: http://www.fmprc.gov.cn/mfa_eng/wjb_663304/zwjg_665342/zwbd_665378/t1087085.shtml.

¹⁹⁰ *The Republic of Nicaragua v. The United States of America*, 1986 I.C.J. 14, decided 27 June 1986, *Case Concerning the Military and Paramilitary Activities in and Against Nicaragua*. The ICJ ruled in favour of Nicaragua and against the US (it held that the US had breached principles of international law, also awarding several reparations to Nicaragua). Similarly to the SCS proceedings, the US refused to participate in the proceedings after the Court rejected its argument that it did not have the jurisdiction to hear the case. Besides, the US blocked enforcement of the final award through the UN Security Council. As a result, it managed to prevent Nicaragua from obtaining any compensation at that time. Retrieved on 1 June 2019: <http://www.worldlii.org/int/cases/ICJ/1986/1.html>. See also: F.L. Morrison, ‘Legal Issues in the Nicaragua Opinion’, *American Journal of International Law* 81 (1987) 1, pp. 160-

classic behaviour of a hegemonic or great power: securing its own interests over the objections of neighbouring states.¹⁹¹

Interestingly, Chinese leaders have long argued that international adjudication is not considered an accepted mode of peacefully resolving disputes in light of Asian values.¹⁹² Chinese Premier Li Keqiang has criticized the Philippines for not respecting the 2002 Declaration of Conduct agreed upon by all ASEAN members, which pledged to resolve the SCS disputes through consultations between the countries directly concerned.¹⁹³ Unilaterally initiating the arbitration is therefore considered an act of bad faith by China.¹⁹⁴ On the one hand, as already evidenced in its attack on the arbitration, Beijing accepts the existence of international law. It uses principles of international law to defend its position and continues to emphasize the importance of this institution.¹⁹⁵ On the other hand, it fully rejects it insofar it may interfere with Chinese sovereignty and territories.¹⁹⁶

In my view, the above already shows that Beijing is in fact forcefully trying to (re)shape primary institutions to the extent that international law and dispute resolution

166. For a contemporary example I refer to: J. Galbraith, 'Iran Initiates Suit Against the United States in the International Court of Justice, While Sanctions Take Effect', *American Journal of International Law* 113 (2019) 1, pp. 173-182. Here, after the ICJ issued an order which granted provisional measures to Iran, the US immediately announced to withdraw from the relevant treaty and stated that the ICJ manifestly lacked jurisdiction in respect of this case.

¹⁹¹ See also: Zhao, 'China and the South China Sea Arbitration', p. 8. Zhao suggests that none of the five permanent members of the UN Security Council have ever accepted any international ruling when it infringed their sovereignty or national security interests. Therefore, it is sometimes argued, to defend its domestic legitimacy, the Chinese government had no choice but to forcefully reject the award.

¹⁹² For Asia's equivocal relationship with international law in a general sense I refer to: S. Chesterman, 'Asia's Ambivalence about International Law and Institutions: Past, Present and Futures', *The European Journal of International Law* 27 (2017) 4, pp. 945-978.

¹⁹³ Z. Yunbi and L. Xiaokun, 'Li rebukes unilateral moves', *China Daily*, 11 October 2013. Retrieved on 3 June 2019: http://europe.chinadaily.com.cn/china/2013-10/11/content_17022192.htm.

¹⁹⁴ PRC Government, Position Paper, 'China Adheres to the Position of Settling Through Negotiation the Relevant Disputes Between China and the Philippines in the South China Sea', 13 July 2016, under *iv*. (hereinafter referred to as "PRC Government, 2016 Position Paper"). Retrieved on 1 June 2019: https://www.fmprc.gov.cn/nanhai/eng/snhwtlcwj_1/t1380615.htm.

¹⁹⁵ In PRC Government, 2016 Position Paper, under para. 115-118, Beijing responds to the initiation of the proceedings by referring to, *inter alia*, the declaration of conduct and the principle of *pacta sunt servanda* not adhered to by the Philippines. It also offers a different interpretation of the UNCLOS settlement mechanism in the sense that the present dispute could not wholly be resolved through UNCLOS alone.

¹⁹⁶ For the historical analysis with regard to how this a priori rejection has come about I refer to the discussion of the 'Century of Humiliation' in section 1.2.1. of this study.

should increasingly reflect Asian or Chinese values.¹⁹⁷ I will discuss two examples that reflect this trend, in which Beijing is trying to (partly) tailor the law of the seas to better suit its own interests. First, by referring to the 2002 ASEAN Declaration as leading for resolving the disputes Beijing essentially equates a diplomatic statement to a treaty obligation. This demonstrates China's contempt for the distinctness between political promises and legal instruments of international law (when advantageous).¹⁹⁸ PRC domestic law indeed does not differentiate between international treaties and agreements. It is up to the government to decide which agreements shall count as legally binding.¹⁹⁹

Second, in its response to the award, Beijing has sought to offer a distinctive interpretation of UNCLOS that would provide for a legitimate basis for China's rights in the SCS. In paragraphs eight until fifty-four of the 2016 position paper China meticulously recites why Chinese authority over the land features in the SCS has been present ever since the Western Han Dynasty (100 AD – 50 BC).²⁰⁰ Although the use of so-called historic rights in international maritime law is legitimate in principle, the Tribunal held that 'upon China's accession to the Convention and its entry into force, any historic rights that China may have had to the living and non-living resources within the 'nine-dash line' were superseded, as a matter of law and as between the Philippines and China, by the limits of the maritime zones provided for by the Convention.'²⁰¹ In addition, Beijing claims that all

¹⁹⁷ See also this CCP study by former PRC foreign minister Yang Jiechi, 'Promote the Building of a Community of Common Destiny (Seriously Study, Propagate, and Implement the Spirit of the 19th CCP National Congress)', 19 November 2017, which asserts that western international law is flawed and that it needs China's contribution. Referenced in: I.B. Kardon, 'China Can Say No: Analyzing China's Rejection of the South China Sea Arbitration', *University of Pennsylvania Asian Law Review* 13 (2018), p. 2.

¹⁹⁸ Zou Keyuan even asserts that China at the time insisted on a non-binding declaration instead of a legally binding code of conduct due to the nature of its maritime claims. See: Z. Keyuan, 'China's U-Shaped Line in the South China Sea Revisited', *Ocean Development & International Law* 43 (2012) 1, p. 24.

¹⁹⁹ Law of the People's Republic of China on the Procedure of the Conclusion of Treaties, section 2. Referenced in Kardon, 'China Can Say No', p. 24.

²⁰⁰ PRC Government, 2016 Position Paper, paras. 8-54. I mean distinct from the Tribunal's (binding) interpretation of UNCLOS (that is final and without appeal).

²⁰¹ South China Sea Arbitration Award (Merits), para. 262. The Tribunal here relied on articles 311 and 293(1) UNCLOS. Although the award is binding and without appeal, it must be mentioned that both Chinese as well as some foreign commentators have criticized the Tribunal's approach to the concept of historic rights. See, among others: S. Kopela, 'Historic Titles and Historic Rights in the Law of the Sea in the Light of the South China Sea Arbitration', *Ocean Development & International Law* 48 (2017) 2, pp. 181-207.; M.H. Loja, 'A Critical Legal Approach to the South China Sea Territorial Dispute', *Journal of the History of International Law* 20 (2018), pp. 198-216. The main work on historic rights is: C. Symmons, *Historic Waters in the Law of the Sea: A Modern Reappraisal* (Leiden: Brill and M. Nijhoff, 2008). This critique cannot be discussed fully in this study.

land features in the SCS form an archipelago and that they therefore collectively generate a territorial sea and an exclusive economic zone.²⁰² However, UNCLOS does not provide for ‘archipelagic, collective entitlement’ rights.²⁰³

To maintain that historic and archipelagic rights do exist in this particular situation is again putting Beijing on a legal collision course with the rationale behind UNCLOS: to bring about a constitution for the oceans. Moreover, Beijing’s acceptance of international law here looks more like forcefully discarding undesirable features of *ius gentium*, picking favourable elements, and blending them with Chinese domestic laws and policy. The 2016 Chinese Supreme Court ruling mentioned above immediately comes to mind. Indeed, Beijing is not departing from international law altogether. Rather, in the SCS, it is trying to (re)shape it to the extent that it can create an external environment most conducive to China’s own development and interests. ‘By rejecting the arbitral proceedings but, paradoxically, wrapping itself in the mantle of international law’, it looks like Beijing is herewith following the rationale behind PRD.²⁰⁴ To sum up: Beijing clearly accepts the primary institution of international law, but maintains a very pluralist interpretation concerning the nature of this institution. China has made it clear that there will never be a place in international law for adjudication in the event of territorial disputes.

3.4. Moving beyond unipolarity?

States maintaining a strongly solidarist interpretation of international society and international law would strongly oppose such an interpretation of international law. They would generally be in favour of supremacy of international law and would classify Beijing’s legal collision course as hostile towards the rules and practices that underpin the social structure of the society of states. The ‘thin-thick’ perspective on international society is therefore indispensable in studies assessing a certain actor’s position in international

²⁰² Id. 171.; PRC Government, ‘2016 sovereignty statement’, under iii. Importantly, territorial sea and exclusive economic zone are part of UNCLOS terminology.

²⁰³ B. Hayton, ‘The Modern Creation of China’s ‘Historic Rights’ Claim in the South China Sea’, *Asian Affairs* 49 (2018) 3, pp. 371-372. It provides only for archipelagic rights in the event of an archipelagic state under article 46(a) UNCLOS. China does not fall under the definition of ‘a State constituted wholly by one or more archipelagos and may include other islands.’

²⁰⁴ See section 1.4.; Kardon, ‘China Can Say No’, p. 43. One could assert that China is building military outposts across the SCS and that it is therefore not following the rationale behind PRD. Above, I argued that such conduct can very well be in alignment with PRD (premised on reciprocal commitments) under the leadership of Xi Jinping.

society. It not only takes into account the distinct perceptions actors may have concerning each other's conduct in global affairs, but also how those actors think about what international society should encompass. Thus, it offers a more nuanced view on the question whether China should be classified as a revisionist power in the SCS, and if yes, to what extent.

According to the Asia Maritime Transparency Initiative, only the states directly involved in the SCS dispute, Australia, Canada, New Zealand and the US have publicly called for the award to be respected.²⁰⁵ The US later backed away from its initially disapproving position and even 'used quiet diplomacy to persuade the Philippines, Indonesia and Vietnam not to capitalize on the ruling'.²⁰⁶ This warrants the observation that international society has responded relatively lukewarm to the award. Likewise, the EU did not support the Tribunal's ruling, but merely 'acknowledged' it, and called upon the parties concerned to address further issues through negotiation and consultation.²⁰⁷ Indeed, there has been no vocal call to induce significant compliance with the decision. As there exists no enforcement mechanism under UNCLOS, enforcement hinges upon good will and pressure exerted by (a significant number of) other states. Arguably, with such an undecisive response, many actors in the international arena seem to have shifted toward a pluralist interpretation of international law, with regard to China's conduct in the SCS. Moreover, it could suggest that a process of acquiescence to a rising great power has been set in motion.

Trying to (re)shape international law is to act like a reformist revisionist power. Naturally, a limitation of one case-study is that it is only able to deal with but one aspect at a time. Here, only a pattern of acceptance and respect relating to the law of the seas in relation to the SCS award could be assessed. Hence, it cannot be uncritically supported that Beijing must now be regarded a reformist revisionist power altogether. It was already clear that China does accept and uphold several primary institutions that underpin the social structure of the society of states. What has become apparent, however, is that the relationship between China and international society and *vice versa* is evolving. Indeed,

²⁰⁵ Asia Maritime Transparency Initiative, 'Arbitration Support Tracker,' 12 June 2016. Retrieved on 26 May 2019: <https://amti.csis.org/arbitration-support-tracker/>.

²⁰⁶ Zhao, 'China and the South China Sea Arbitration', pp. 11-12.

²⁰⁷ European Union, 'Declaration by the High Representative on behalf of the EU on the Award rendered in the Arbitration between the Republic of the Philippines and the People's Republic of China', 15 July 2016. Retrieved on 5 June 2019: https://eeas.europa.eu/headquarters/headquarters-Homepage/6873/declaration-award-rendered-arbitration-between-philippines-and-china_en.

systemic or material factors also play their part here. Beijing has not rejected international society or UNCLOS, but by refusing the award, it essentially is asserting the same ‘great-power privilege’ that the US has long practiced.²⁰⁸ This signals a significant transition in the power distribution of the international system.

Finally, it can now also be contended that China’s counterparts are trying to accommodate its peaceful rise within the boundaries of (a more pluralist) international society. This study has given due consideration to the importance of a ‘thin-thick’ perspective on international society: it matters how other international actors perceive each other’s conduct in the international arena. The hesitant response, without energetic (American) enforcement, to Beijing’s refusal in my view indicates a certain degree of accommodation for a peaceful rise.²⁰⁹ Are we then gradually moving towards the Sino-American era? That question, which acknowledges that international society encompasses many processes of convergence and divergence, and that international society is never truly in *status quo*, deserves more attention in the often one-sided debate on the possibility of a peaceful Chinese rise.

²⁰⁸ See also: Zhao, ‘China and the South China Sea Arbitration’, p. 8.; A. Bradford and E.A. Posner, ‘Universal Exceptionalism in International Law’, *Harvard International Law Journal* 52 (2011) 1, pp. 1-54.

²⁰⁹ See also section 1.4., where I argue that PRD has evolved into a strategy that is based on reciprocity. China’s peaceful rise had become premised on other countries’ reciprocal commitments enabling China to remain a peaceful riser.

Conclusion

The objective of this study has been twofold. First, it endeavoured to sketch a blueprint for an English School approach with which China's peaceful rise within international society could be assessed. In doing so, it aimed to contribute to the field of English School theory. Second, by taking into account China's adherence to the policy of peaceful development, it was to investigate how Beijing's conduct with regard to the 2016 arbitral award concerning the disputes in the South China Sea affects and affected its position within international society. Accordingly, this study aimed to contribute to the debate on China's evolving position within international society and the question whether it will remain possible for China to maintain its peaceful rise. Importantly, to predict whether China will overthrow or fundamentally change our global order, was not the purpose of this study. In fact, an English School approach does and cannot not claim any kind of predictive power, unlike many other theoretical strands within the field of international relations scholarship.

It does provide, however, for a more nuanced and historically rooted view on the question how Beijing's position with regard to the arbitral award affects and affected its relationship with the rules and practices – or primary institutions – that underpin the social structure of international society. The idea that states, just like human beings, exist in a society which they both shape and are shaped by, is central to this approach. Realist thought on how distribution of material power shapes the international system is given due consideration, but by including a societal element the English School approach is able to explain why there still is no big war involving China. In this study emphasis was placed on (Beijing's acceptance of) the institution of international law. Not only is this institution directly linked to international dispute resolution, but ever since the writings of Hugo Grotius, it is considered to constitute an international community of those participating in the international legal order. As such, international law is widely observed as a *sine qua non* to the existence of international society.

Does China want to change this existing order, or prosper within it? Can it convincingly be argued that China is either a revisionist, or a status quo power? It is generally agreed upon that, since its policy of 'reform and opening up', China has become a respected member of international society. Its membership in international organizations is soaring, investment initiatives continue to lead infrastructure projects everywhere across the globe, and Chinese diplomats fly around the world. Moreover, the policy of peaceful development promised to the world that China's rise would never pose

a threat to another country. But in recent years, Beijing's foreign policy has increasingly been perceived as assertive and challenging of the status quo in the Asia Pacific and the world as a whole. It is widely asserted that its approach to the South China Sea arbitral proceedings must be considered a litmus test or potential tipping point for China's relationship with international society and vice versa, and the policy of peaceful development. Consequently, to put these assertions to the test, this study advanced an English School framework for assessing whether Beijing is accepting and adhering to the primary institution of international law, in the South China Sea. As a result, this study was able to ascertain that Beijing is, undeniably, behaving like a reformist revisionist power in this marginal sea that is part of the Pacific Ocean.

Indeed, after decades of 'reform and opening up' China is now clearly shaping international society as much as it is shaping China. For example, this study has shown that Beijing is actively trying to (re)shape the law of the seas through offering distinct legal interpretations of how UNCLOS should be applied. Importantly, Beijing had ratified this treaty in 1996, in full exercise of its sovereignty. Moreover, the PRC's dogmatic approach to disputes involving sovereignty a priori excludes third-party adjudication, which in fact is a general principle of dispute resolution in many international treaties and organizations. The prism of the acceptance-test, whose aim was to establish a pattern of acceptance, has shown that Beijing does indeed display such a pattern with regard to international law. Simultaneously, it has shown that it advocates a very limited (or pluralist) interpretation of the nature of this institution, contrary to the arbitral award, which is in principle binding and without appeal. Forcefully trying to (re)shape international law by consistently maintaining a legal collision course thus shows that Beijing acts like a reformist revisionist power, with regard to the 2016 arbitral award.

Surprisingly, this conduct seems to follow exactly the rationale behind the policy of peaceful development, which under Xi Jinping is primarily to create an external international environment most conducive to China's development and interests. The policy no longer predominantly serves to avoid 'China threat' reactions, but has become premised on other countries' reciprocal commitments that enable China to be a peaceful riser. Furthermore, Beijing's position concerning the award seems to be coherent with historical experience: the century of humiliation has left the Chinese leadership with a fierce determination not to ignore even seemingly trivial violations of its territorial 'core interests' rights. Especially with regard to the South China Sea, where the PRC's exclusion of the San Francisco peace negotiations still resonates in its maritime claims, it is of paramount importance that one takes this enduring threat perception into account.

How can China's bid to shape the future of international law and society be reconciled with the existing order? This study has argued that international society, especially in the globalising world of today, must be understood as encompassing many processes of convergence and divergence. Institutions and practices that underpin the society of states constantly evolve. International society is never truly in *status quo*. With a major power rising, a 'thin-thick' perspective on international society as employed in this study is indispensable for acknowledging that members of international society all have their own understanding of how the society of states should take shape. On the one hand, a thin, pluralist interpretation embraces diversity as a fundamental feature of international society. In this interpretation identity need not be common for an accomplished membership. On the other hand, the thick, solidarist interpretation focuses more on shared norms, and a more expansive and interventionist understanding of international order.

It is generally agreed upon that the era of American hegemony is nearing its end. The logical consequence of this decline is that we move beyond unipolarity and into an increasingly multipolar world. With multiple major powers operating within the same social structure, that in addition have different ideas on what changes can occur within the structure of international society without departing from the foundational rules that define it, this should not come as a surprise. Fortunately, this need not mean that international society is falling apart. Rather, it shows that the social structure underlying international society is evolving: a shift is taking place from predominantly solidarist thinking to a more pluralist and diverse interpretation of international society. Beijing's position regarding the 2016 arbitral award signals a departure, at least regionally, from a solidarist interpretation of international law. It also shows that, increasingly, Beijing is mimicking great-power or US behaviour towards international law, and a certain degree of acquiescence thereto by China's counterparts in the society of states.

As a result, there is evidence to support the claim that we are slowly, but steadily, moving towards the Sino-American era. The South China Sea was but one test-case, but it has been argued by many that it constituted a crucial one for gauging China's position in international society. To be sure, one case-study cannot provide a definite answer to the question how China's position in international society has evolved and is evolving altogether. The blueprint sketched in this study can therefore usefully serve as a framework for more case-studies. It is recommended that those endeavours place emphasis not only on international law, but also on the other primary institutions of international society, such as environmental stewardship or diplomacy. I propose a

research project that applies the acceptance-test, combined with a thin-thick perspective on international society, to multiple case-studies arising out of the debate that focuses on the possibility of a peaceful Chinese rise. This will provide us with a better understanding of this evolving both global and regional phenomenon. In any case, in the South China Sea, Beijing clearly attempted to shape the future of the rules and practices underlying the social structure of the society of states. The lukewarm international response indicates that, at least partially, it succeeded, and that there exists some breathing room for China to continue its peaceful rise under the premises set by Xi Jinping.

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Further reading

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