

# Chinese Contributions to Global Normative Pluralism?

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## Introduction

This paper was first presented at a conference on *Asian Perspectives on Legal Globalization* at the 13th Asian Law Institute Conference (based in Singapore) held in Beijing in May 2016. Since 2009 I have increasingly dealt with issues concerning China, and since 2012 I have come to link issues dealing with China and Greenland, where I lived for four years and worked for altogether another decade from 1995-2006. Not least due to these links, I have during the last few years become increasingly interested in the *essay genre*, especially because it seems to allow for bringing issues and topics together in a less coherent way than what is normally expected from academic writing. Coming back from a longer study trip to China in 2015 I bought an e-book version of Phillip Lopate's "To Show and To Tell. The Craft of Literary Nonfiction." On a kindle version one can see other people's highlights of the text (at that point I had not found out how to make my own). One of the interesting highlights – in my perspective – is this "*Nonfiction writing thrives on daring, darting, subjective flights of thought. You must get in the habit of inviting, not censoring, the most far-fetched, mischievous notions, because even if they prove cockeyed, they may point to an element of truth that would otherwise be inaccessible*".<sup>1</sup> – This essay thus brings together what can be seen as incoherent topics, but hopefully does so in a still interesting and meaningful way. It aims to question and reflect on issues of size and scale as well as historical and recent trends and experiences in an increasingly interconnected world, where self-understanding, awareness, positions and power are in processes of considerable change. In such a world tomorrow's globalized normative order can probably not be expected to resemble that of yesterday, even if I believe that we may still expect it to be characterized by plurality – but perhaps of a somewhat different kind.

I am not sure that I have been sufficiently daring – or that I have pointed to elements of otherwise inaccessible truth. But I hope this introduction may explain, why there are

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1 Phillip Lopate, 2013, *To Show and To Tell. The Craft of Literary Nonfiction*, Free Press, N.Y., Ch.2  
See also my essay "*Even if a Sparrow is small, it still has all Organs. Chinese and Greenlandic gendered perspectives on the global arctic*" in *Nordic Journal on Law and Society*, Vol. 1, no. 01-02 (2017) pp. 65-90.

more questions than answers in this ‘essay’, and why it may hold ‘superfluous’ text and quotes and may seem to lack a ‘clear aim’. Times are not always easy to understand.<sup>2</sup>

### A world of asymmetry, disparity and history.

At this moment in 2017 the UN has 193 member states. In the dominant (Western) legal theories and in the UN treaty these states are considered sovereign and equal (to some extent). However, if we look closer at the figures, we will see that about 50 of these states have populations below 1.5 million – a minor Chinese city – and 106 of the states have populations below 10 million. Only 11 of the UN member states have populations of more than 100 million (China, India, United States of America, Indonesia, Brazil, Nigeria, Bangladesh, Russian Federation, Japan, Mexico, Philippines).<sup>3</sup>

Size and scale matter in a globalized world. These eleven biggest countries of the world cover all continents apart from Europe. However, “Eurasia”, a contested term, sometimes described as the combined continental landmass of Europe and Asia comprises about 70% of the world’s population.<sup>4</sup> Of the world’s about 7 billion people more than 50 % live in the Eastern and Southern parts of Asia.<sup>5</sup> These big countries, which have experienced considerable economic growth over the last decades of course can and will have a future impact on normative globalization.

The present global legal landscape is undergoing reconstitution. The EU, which has expanded from originally six countries to the present 28 (still including the UK, which has not yet left at the time of writing) has a population of more than half a billion people – of which 13 have populations of less than 10 million people. The European Union and

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2 I want to thank the ‘blind’ reviewers of this essay for their comments on the earlier version of this presentation. They both found interesting points, ideas and reflections, but they did not find the text coherent and found it lacking in a clear aim and in depth analysis.

I also want to thank Lea Danyan Zheng, a Danish-Chinese law student, who carried out research for the preparation of this article, as well as the S.C.Van Foundation, who paid her salary in 2016 at a time when budget cuts at the University of Copenhagen meant that all appointments, which were not externally financed, were frozen. This version was finalized in March 2017.

3 See <http://esa.un.org/unpd/wpp/Download/Standard/Population/> (Last visited 09.03.2016)

4 See <https://en.wikipedia.org/wiki/Eurasia> (last visited March 7, 2016); see also See Alfred W. McCoy, *The Geopolitics of American Global Decline: Washington Versus China in the Twenty-First Century*, June 7, 2015 [http://www.tomdispatch.com/post/176007/tomgram%3A\\_alfred\\_mccoy%2C\\_washington%27s\\_great\\_game\\_and\\_why\\_it%27s\\_failing\\_/#more](http://www.tomdispatch.com/post/176007/tomgram%3A_alfred_mccoy%2C_washington%27s_great_game_and_why_it%27s_failing_/#more) (last visited March 7, 2016).

5 See <http://esa.un.org/unpd/wpp/Download/Standard/Population/> (Last visited 09.03.2016).

several of its member states are in considerable trouble, economically, politically and in terms of internal cohesion.

China is the one of the world's biggest countries and one of the oldest civilizations of the world. It is a country with a recent record of high economic growth, and a continued centralized political system – the so-called “socialist market economy”. In a world of asymmetry and disparity in terms of populations, economic growth and history, it is to be expected that a country like China is likely to have a considerable impact in the future on normative pluralism in a global legal landscape. The global geopolitical – and thus probably also in due time – the normative power is in the process of shifting.<sup>6</sup> What this impact will be is however in no way fully clear.

Big countries may lead normative globalization by way of size and power – be it military, political, economic or cultural in a very broad sense. Small – or very small – countries and communities may probably (only) lead by example and in terms of different forms of attractive models. These may be models, which benefit bigger parts of the small populations in terms of politics and economy, sustainable living conditions, welfare, educational and health models, high trust and low corruption, modernized intergenerational and gender relations, which make these models workable. The small Nordic states have managed to deliver such examples for the last half century. Whether this will continue remains to be seen. Other models offering ‘protection of wealth’, tax heavens, and possibilities of luxury consumption of different kinds may perhaps be more attractive to the wealthy elites of the world.<sup>7</sup>

### Big ideas and waves of globalizations

The American environmental historian, John McNeill has discussed the role of what he calls ‘big ideas’ of the 20th century, which he considers to be *nationalism*, *communism* and the *growth fetish*.<sup>8</sup> Bearing in mind that Max Weber wrote his small and seminal book on

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6 See McCoy, above; see also Uffe Østergaard, “Kina vinder” [China wins], in *Weekendavisen* March 10, 2017.

7 See Rebecca Adler-Nissen & Ulrik Pram Gad (red.), 2013, *European Integration and Postcolonial Sovereignty Games. The EU Overseas Countries and Territories*. See my review “Nye politiske relationer i Europa og verdenssamfundet” [New political relations in Europe and World Society] in *Politik*, No.4, Vol.16, 2013, pp62-64.

8 This is discussed briefly in my article “Reconstituting Orders after Neo-liberalism? The ‘Growth Fetish’, Gender and Environment in Sino-European Interchanges” in a special issue ‘Gender Dynamics, Chinese-Nordic Perspectives’ of the journal *Women, Gender & Research* No 1, 2015, pp 134-143. (The whole issue will be translated into Chinese)

*The Protestant Ethic and the Spirit of Capitalism* in German in 1904, one might perhaps add *capitalism* as a big idea of this century as well.

In a book in Danish on *Globalizations, Law and Legal Philosophy* from 2002, I asked in the introduction whether it would be possible to think that a capitalist spirit in 2004 would be associated with a (Chinese and Japanese founded) Buddhist ethics rather than a Protestant ethics, given that the dynamic economic centers of the world had moved east.<sup>9</sup>

It is beyond doubt that the spirit of capitalism has influenced Western legal culture and thus waves and forms of globalization considerably. Globalization is not a new phenomenon, and Swedish sociologist, Göran Therborn in 2000 suggested a definition of globalization as referring to “*tendencies to a world-wide reach, impact or connectedness of social phenomena or to a world-encompassing awareness among social actors.*”<sup>10</sup> In this article, he described several historical waves of globalizations and contemporary forms of globalization, and further described what he called five discourses of globalization:

- a discourse on competitive/market economy,
- a discourse on social criticism,
- a discourse on the (im)potence of states,
- a discourse on culture
- a discourse on planetary ecology.<sup>11</sup>

I still find both the definition and the description of the discourses convincing, even if the enthusiasm about globalizations has since waned considerably and may be expected to continue to do so in the near future. However, in the ages of climate change and digital communications understandings of and actual interconnectedness is perhaps not disappearing easily.

It is probably not an exaggeration to claim that the discourse on globalization and economic competition has been the most widespread in the years since the late 1990s, when the flood of writings on globalization began to emerge. Economic globalization

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9 Hanne Petersen (ed) *Globaliseringer, ret og retsfilosofi*. Jurist- og Økonomforbundets Forlag, 2002, p.11.

10 Göran Therborn, Globalizations: dimensions, Historical Waves, Regional Effects, Normative Governance. *International Sociology*, Vol 15, No.2, June 2000, p.154

11 I discuss these discourses in my article ‘Globale udfordringer til vestlig retsfilosofi og retstænkning’ [Global Challenges to Western Legal Philosophy and Legal Thinking] in Hanne Petersen (ed) *Globaliseringer, ret og retsfilosofi*. Jurist- og Økonomforbundets Forlag, 2002, pp.138-154.

has been strongly linked to the practical and political importance of neoliberal economic theories. These theories gained ground and practical importance after the elections of Margaret Thatcher (1925-2013) to Prime Minister of the UK from 1979-1990, of Ronald Reagan (1911-2004) as President of the US from 1981-1989 and the taking over of power in PRC by Deng Xiaoping (1904-1997) from 1978 until his 'retirement' in 1992. However, these economic theories by then had already been practiced to a considerable degree not least in Latin America.

The authors of *Neoliberalism: A Very Short Introduction* quote political economist David Harvey, who has spoken about '*neoliberalism with Chinese characteristics*' – something which “represented a genuine search for an alternative model – state-socialism-plus-market, to be evaluated according to the neoliberal criteria of economic efficiency, productivity, and competitiveness.”<sup>12</sup>

It may be a question of whether or to what extent the other globalization discourses, on social criticism, culture, (im)potence of (many and perhaps small?) states and on planetary ecology will become more dominant in the 21st century and become integrated parts of the Asian influence on discourses on globalization – including possible legal and normative globalizations.

What may we expect from for instance a Chinese contribution to and influence on normative and legal globalizations? Will it be a model of “global normative/moral/legal globalization” with “Chinese characteristics”? Will it be combined with “state-socialism-plus-market” and perhaps with emerging ‘internet-individualization’<sup>13</sup> of one (soon sometimes two) child-generations? – Are we going to see a strong state with an ambition to mold a Chinese Dream or perhaps less likely a Western type version of ‘rule of law’ in an era very different from the one that gave rise to the term and the ideal?

## China – a nation in motion

In his *Speculations on Law and Society in Modern China*,<sup>14</sup> American law professor, Robert Berring describes China as “a nation in motion” with a “legal system [which] reflects that

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12 Manfred B. Steger and Ravi K Roy, *Neoliberalism. A Very Short Introduction*. Oxford University Press, 2010, Chapter 4 Neoliberalism and Asian Development.

13 A term I have just coined, and which others may also have created.

14 Robert C. Berring, *Speculations on Law and Society in Modern China. An Essay*. In M. Tomasek & G. Mühlemann (eds). *Interpretation of Law in China – Roots and Perspectives*. Charles University In Prague. Karolinum Press, 2011, p.21-41.

constant change”, and where over the past twenty years “Chinese law has undergone a truly astounding metamorphosis”. It is also a nation and an empire, where the “Chinese culture was so developed and so strong that those who could vanquish Chinese armies became trapped in Chinese culture.”<sup>15</sup>

In his description of what he calls the *Mao Era Legal Governance* he describes what he calls the *Maoist Values and the Peasant Experience*. These are values and experiences of specific importance in the 20th century, but they probably have not faded completely in this era of ‘Asian Globalization.’ He describes this as a program carried out by the Chinese government through the Communist Party of China consisting of mass education, mass involvement and industrial modernization:

*The program, while never as simple as it seemed, was built on a cohesive set of nationalistic and ideological values. I will identify this core of values as Maoist. These Maoist values stress the uniqueness of China, the centrality of the peasant and peasant sensibility to government, the importance of communitarian and non-structural values to the process of government, the importance of personal status, and the government of men through virtue as opposed to any definable norms of behavior.*<sup>16</sup>

Notice the importance of values of communitarianism, personal status and virtue. Could they be a Chinese contribution to global normativities in the 21st century? Market values of efficiency and productiveness as well as competitiveness have for sure become more important, but they do not seem to have taken over in Chinese culture. Confucian hierarchical thinking has returned and influences present day China.

*Like Confucius, Mao believed in a government, not laws, with Mao substituting the central tenet of the mass line for Confucian li. Like the traditional li of Confucius, the mass line could not be written out for future reference or even for current guidance, for to write it down would be to limit it. The mass line was fluid and not rigid; it could only be embodied in the charismatic and virtuous great leader, who crystallized its essence.*<sup>17</sup>

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15 Ibid, p.24

16 Ibid. p.30

17 Ibid. p.34

This quote from Berring and the importance of the fluid mass line brings to my mind the importance and repeated recurrence of the concept of liquidity in the writing of late sociologist Zygmunt Bauman, who wrote on *Liquid Times*, *Liquid Modernity*, *Liquid Life*, *Liquid Love*, *Liquid Fear* and *Liquid Surveillance*. All these writings are not surprisingly now available on Google Books.<sup>18</sup>

*As the crystallization of the will of the people, the charismatic leader of the government must be unfettered. / At this level there are great similarities between Maoist and Confucian legal thought. Just as Confucius believed in the li, an unwritten set of correct actions that could be applied to any situation, the thoughts of Chairman Mao became a deep set of guidelines that could not be written, that could only be experienced...*

*Both Confucius and Mao admitted that there may be the need to have judges for disputes, but both men placed greater emphasis on avoiding the dispute altogether. The Confucian doctrine of a polestar leader, who inspires through virtue is found in Mao, who leads through his very existence in a way that cannot be written or rationalized.<sup>19</sup>*

Western legal culture has been very concerned about the importance of rights and courts especially since the end of World War II and the establishment of the UN and the EU. This has had a global impact. It remains to be seen whether this will continue under future global conditions, where China will have a greater say, or whether negotiations may have a more important role to play.

It is of course well-known that considerable changes have taken place in China after Mao's death in 1976. There are also several writers, who underline the combined but also conflicting interest in social stability and economic growth driven by both state policy and use of the law to secure these important goals – at the cost of other concerns such as

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18 See the references to these titles on Google Scholar. [https://scholar.google.dk/scholar?q=Zygmunt+bauman+liquid&hl=da&as\\_sdt=0&as\\_vis=1&oi=scholar&sa=X&ved=0ahUKEw-jq-\\_yx6eLSAhXFxCwKHdhKCJIQgQMIFzAA](https://scholar.google.dk/scholar?q=Zygmunt+bauman+liquid&hl=da&as_sdt=0&as_vis=1&oi=scholar&sa=X&ved=0ahUKEw-jq-_yx6eLSAhXFxCwKHdhKCJIQgQMIFzAA)

19 Ibid. p.35

sometimes labour protection.<sup>20</sup> It has also been noted that the present leader Xi Jinping is the strongest leader since the Mao-era – perhaps returning to the idea of the ‘polestar leader’.

Berring’s writing indicates that the ‘return’ of and emphasis on Confucian ideas, which has sometimes been understood to take place in order to replace Maoist and communist ideas, is perhaps less drastic than sometimes alleged, and is more of a gradual shift of emphasis. One could perhaps speak of a shift from a ‘Maoist-Confucian’ thinking to a ‘Market-Confucian’ thinking?

### A world-encompassing awareness?

At the first international meeting ever to be held in Beijing by the originally German *Internationaler Verein für Rechtsphilosophie* (IVR – in English International Association for Legal Philosophy) in 2009, the title of the seminar was *Global Harmony and Rule of Law*. The move – and perhaps shift and connectedness – in global legal thinking may be reflected by the continuation of a German name for an international association combined with a pluri-lingual conference and a polyvalent title, referring both to dominant Chinese values of harmony and Western values of rule of law.

One of the key note speakers Chinese-American law professor Tu Weiming, who is considered to be a Neo-Confucianist, gave a speech entitled *Cultural Diversity, Intercivilizational Dialogue, and Harmony – A Confucian Perspective*. This speech started as follows:

*Cultural diversity is recognized as an undeniable fact of life throughout the world. It is celebrated as an essential aspect of human flourishing. It is also feared as a threat to global citizenship. Ecological consciousness is a defining characteristic of the human condition. It is an awareness that the viability of the human species is in danger; thus, rich or poor, we are fated to share the same lifeboat. Ecological consciousness also divides the international community in terms of figuring out an equitable way to deal with the danger to the human species. As a result, the*

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20 See the articles by Ulla Liukkunen (2014), Transnational Labour Law and Fundamental Labour Rights: Making Chinese Workers Matter? In Ulla Liukkunen & Chen Yifeng (eds) *China and ILO. Fundamental Principles and Rights at Work*. Wolters Kluwer, The Netherlands, pp.163-180, and Teemu Ruskola (2014), Afterword: Globalization, Rights, and Work in the Chinese Transformation. In Ulla Liukkunen & Chen Yifeng (eds) *China and ILO. Fundamental Principles and Rights at Work*. Wolters Kluwer, The Netherlands, pp.197-204.

*developed and developing nations are locked in seemingly endless bargaining for distributive justice to reverse the trend of massive destruction... Intercultural dialogue is not a solution to the closed particularism or the ecological crisis, but it is a first step toward human survival and flourishing.*<sup>21</sup>

Here it seems as if Göran Therborn's other discourses of globalization – particularly on planetary ecology but also those on social criticism and culture are addressed within a context of concern about normative globalization. We can also recognize the emergence of a “world encompassing awareness” of an ecological crisis as a common threat. We know that both the former global superpower, The United States of America, and the emerging global power, China, played an important role at the UN Conference of the Parties, COP 21 (consisting of the state parties, who in 1992 in Rio de Janeiro, Brazil, signed the Framework Convention on Climate Change) which took place in Paris in December 2015, and which led to the relieving result of a Paris Agreement, where the beginning of the Preamble reads:

*Recognizing that climate change represents an urgent and potentially irreversible threat to human societies and the planet and thus requires the widest possible cooperation by all countries, and their participation in an effective and appropriate international response, with a view to accelerating the reduction of global greenhouse gas emission...*<sup>22</sup>

Both international conventions and national regulations may be easier to create than to implement – although the process leading to the Paris Agreement was indeed long and difficult in itself. Paper is patient. Hypocrisy is found in individuals as well as in communities and states, and it has been claimed to be the homage, which vice pays to virtue.<sup>23</sup>

The 2017 change of the US administration clearly indicates a direction, which distances itself to the COP 21 agreement. This leaves moral and practical ground for China and other global actors to take climate change seriously. Whether this will actually happen remains to be seen. No doubt, there will be great difficulties amongst the big players

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21 Tu Weiming, Cultural Diversity, Intercivilizational Dialogue, and Harmony – A Confucian Perspective. In *Global Harmony and Rule of Law. IVR 24th World Congress, September 2009, Papers Plenary Sessions* p.28-56.

22 See UNFCCC/CP/2015/L.9/Rev.1 Adoption of the Paris Agreement, Proposal by the President, p.1-2, <http://unfccc.int/resource/docs/2015/cop21/eng/l09r01.pdf> (last visited 02.01.2016).

23 This is an indirect quote attributed to François de La Rochefoucauld (1613-1680).

of the world to transform an emerging but also much contested popular awareness of climate change and ecological crisis into practical action.

*Acknowledging that climate change is a common concern of humankind, Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women, and intergenerational equity.*<sup>24</sup>

The big ideas of the 20th century still influence the big players in world society in the 21st century. Normative regionalizations and globalizations exist alongside legal nationalism, something that is perhaps seen especially clearly – but not only – in the case of EU. Asia and China with its multitude and magnitude of populations also have a strong focus on national interests. Nonetheless they may be expected to play an extremely important role in the future processes of normative globalization. They will not necessarily take the form of a general continuation of transplanted western regulations, although use of certain model regulations may certainly happen. They may take the form of updated versions of Confucianist thinking and principles, but most likely supplemented by other normative forms and regulations. Confucianism operates with very hierarchical relationships, including gender and generational hierarchies. It seems to this author that these principles – as in the case of the revitalization of other gender and generational hierarchies for instance in (often monotheistic) religious orders and values – may not necessarily fit well in the 21st century.

### Davids and Goliaths in the global arenas - Fear of small numbers?

Big countries mostly consist of a number of culturally and socially diverse populations. This was the case for the Soviet Union, which has again metamorphosed into Russia, as well as it is the case for the US, with its historical challenge stemming from subjected American Indians and Africans and presently increasing Latino population. China describes itself as having an absolute majority population of Han Chinese (91,6% of the population), but it officially recognizes 56 ethnic groups which all together make up

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24 UNFCCC/CP/2015/L.9/Rev.1 Adoption of the Paris Agreement, Proposal by the President, p.1-2.

a population of well above 100 million people, several of which may have populations bigger than many of the smallest UN states.<sup>25</sup>

The Indian-American professor of social sciences, Arjun Appadurai, in a small book entitled *Fear of Small Numbers* in a chapter with the same name writes that

*“There is a basic puzzle surrounding rage about minorities in a globalizing world. The puzzle is about why the relatively small numbers that give the word minority its most simple meaning and usually imply political and military weakness do not prevent minorities from being objects of fear and of rage. Why kill, torture, or ghettoize the weak.”*<sup>26</sup>

Appadurai considers the possibilities of majorities feeling threatened, as majorities and minorities may in some situations be seen as being in danger of trading places.

The status of a ‘majority’ is relative. Within the (legal) landscape of states, the majorities are those, who make up the greater part of the population. However, given that most states have comparably minor populations, the parts of the state populations, which have for a perhaps considerable period considered themselves ‘majorities’, may in a global context come to see themselves as threatened minorities.

The development in my own small country Denmark (or the other Nordic countries) could be an example of minor states of below 10 million inhabitants. In my view there is no doubt that several of the ‘former majorities’ are feeling threatened by minorities – especially of Muslim migrants and refugees – who in a global context belong to very large communities. This is giving rise to nationalist policies as well as politics of fear.

However, this is not only a fear related to nation states but also to other communities. I have spent a decade dealing with the legal culture and system of the former Danish colony, Greenland, the world’s biggest ‘island’ with a tiny population of about 55.000 people, the majority of who are of indigenous and mixed origin.

This population has achieved increasing self-determination starting with Home Rule in 1979 and expanded into Self-Rule in 2009.

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25 See [http://www.indexmundi.com/china/demographics\\_profile.html](http://www.indexmundi.com/china/demographics_profile.html) (Last visited: March 7, 2016).

26 Arjun Appadurai, *Fear of Small Numbers. An Essay on the Geography of Anger*. Duke University Press, Durham and London, 2006, p.49.

In the Danish law on Self Rule it is stated that the correct name in foreign policy relations for the entity consisting of Denmark, self-ruled Greenland and the home-ruled Faroe Islands is *The Kingdom of Denmark*. The Danish population in Denmark proper makes up about 95% of the population of the Kingdom of Denmark – but Denmark covers only a tiny part of the territory of the Kingdom. The two other entities are both culturally and politically diverse. Both of them have self-determination, and both have stayed out or later opted out of membership of the European Union. Greenland is part of the Arctic, and China has over the last decade shown increasing interest in both the Arctic and Greenland for geopolitical and resource reasons.

For Denmark an acceptance of cultural and political diversity within the Kingdom has increasingly become a must if the majority wants to keep this Kingdom together, which it does, also for geopolitical and geostrategic reasons. One could perhaps claim that Denmark has become more dependent on Greenland because of the processes of globalization.

During the process of negotiations for Self-Rule in the beginning of the 21st century, an indigenous Arctic myth about the orphan Kaassassuk was invoked on several occasions, amongst others in the symbolic fox-like logo of the Greenlandic commission established to prepare the transition to Self-Rule. The myth exists in several versions and especially with differently interpreted endings. The following is my condensed versions of one of the myths with a more violent ending.

*Kaassassuk is an orphan, who moves from family to family because nobody can cope with him. He is sick; he cannot keep food in his stomach and can't control his urine and faeces. He doesn't grow. Finally his maternal grandmother takes care of him. The paternal grandmother rejects him. He is harassed by children and grown-ups, who lift him into the snow hut in his nostrils. He is given food so difficult to chew that he can hardly eat. He is then told to contact a super-natural force in the inland, who is called The Possessor of Strength, or the Master of Power, sometimes presented as a mixture of a huge fox like creature with a human face. After a couple of meetings, the boy has gained sufficient strength to carry out great deeds. This newly gained strength must not be revealed to others immediately. During the night, when nobody sees it the boy removes a big log of driftwood or an umiak [a big boat for several women - hp]. Later three polar bears turn up. Kaassassuk asks his grandmother to borrow him her kamiks [traditional Arctic Inuit footwear - hp], because he does not have any himself. He runs off, mocked by everybody, kills the bears, throws out the baby polar bear to the rest of the settlement, following*

*the customary rules of sharing food, and brings back the rest of the meat to his grandmother to be used for food and fur for clothing. From now on ridicule changes to fear. His enormous strength makes his fellows in the settlement follow his smallest wish. Soon the humiliated orphan turns into a brutal avenger. He starts hugging and then choking the small girls, who bring him water, and continues humiliating and later killing former persecutors and tormentors.<sup>27</sup>*

In my abbreviation of this version Kassassuk turns into a monster. But the myth can clearly be understood as a cautionary tale warning listeners and readers to take care of the weak, the small and the vulnerable, as they may otherwise ally with super-natural forces and turn into tyrants and against their former oppressors. The myth can also be interpreted as a kind of David and Goliath story, where the small David defeats the grand Goliath. With this interpretation the sympathy of the audience will in a Western context mostly go to David – the small and overpowered figure.

In June 2012 Chinese president Hu Jintao paid a state visit to Denmark for the first time during the existence of the PRC. China's Minister for Land and Resources Xu Shaoshi had already in April 2012 visited Greenland, due to Chinese interest in investment in mineral resources of different kinds in Greenland.<sup>28</sup> Chinese interest in the state visit to Denmark was partly related to Greenland, while the Danish interest was strongly related to general Chinese investments and business agreements. After the state visit it became clear that it had been extremely important for the Chinese that no demonstrations against the Chinese leadership would take place during the visit and especially during the motorcade of the president through the city of Copenhagen. This led to Danish policemen removing Tibetan flags from a few demonstrators, and to police cars covering a small demonstration from the view of the president – and probably from Chinese and international television viewers. This is most likely in practice a limitation of freedom of association and expression, which has given rise to the establishment of what has been called the "Tibet Commission". During the spring of 2017 the Commission has been investigating, where the commands for these police actions emerged. At the time of writing, this has not been clarified. It is however, clear that the Chinese embassy held several meetings with a number of institutions including the Ministry of Foreign Affairs and its administration of state visits, the Intelligence Service and the office of the Royal Court in charge of state visits. During several meetings the need for a 'dignified' visit was expressed by Chinese

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27 I have reprinted two versions of this myth with different endings in my book *Retspluralisme i praksis-grønlandske inspirationer*. [Legal Pluralism in practice-Greenlandic inspiration]. Ilisimatusarfik & Jurist- og Økonomiforbundets Forlag, Copenhagen 2006.

28 See my essays mentioned in note 1.

diplomatic bureaucracy. At these meetings, it was often repeated that it was important to avoid that the Chinese president would lose face during his visit. However, as a former Danish ambassador to Beijing mentioned during his testimony to the commission this was probably more about “world order” and “prestige of big powers”.<sup>29</sup> This visit and the circumstances around it – which are probably not foreign to other (small or weak) states in the world can (also) be seen as an expression of Chinese normative power, but probably also as an expression of a Chinese “fear of small numbers” at home.

### Chinese perceptions of normative pluralism and relations between majorities and minorities

Yu Hua in his essay on “Disparity” writes about a Chinese saying, which goes “*The weak fear the strong... the strong fear the violent, and the violent fear the reckless.*”<sup>30</sup>

This could be in line with the (pre-Christian) versions of the Arctic myth of Kaassassuk in Greenland.

The perception of the ‘Davids’ of the world as having some kind of superior moral status and strength may be probably strongly related to world views influenced by monotheistic religions. These world views are based on hierarchical thinking as is also the case with Chinese thinking especially its Confucian origins. However, Chinese hierarchies seem to be more diverse than Western, but perhaps also more oriented towards an absolute superiority of the higher status in the hierarchical relation. Confucian understanding and history has influenced China’s understanding of both foreigners and minorities as being at the margins of the middle or central kingdom – a notion which is well-known to most communities, who consider themselves the center of the or their world. The view of the Confucian approach towards minorities is that all people should live in unified harmony and peaceful coexistence – that is a form and process of peaceful assimilation.<sup>31</sup>

The superiority of the (Han-Chinese) majority against minorities in China and towards communities and powers outside China is part of a Confucian self-perception, which has

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29 Sebastian Abrahamsen, Tibetkommissionen dag 9: Tidligere ambassadør: PET overfortolkede kineseres ønske om ikke at tabe ansigt, *Information* (daily news paper) December 17, 2016.

30 Yu Hua, *China in Ten Words*, Anchor Books, New York, 2012, p.143.

31 See Baogang He, Confucianism versus Liberalism over Minority Rights: a Critical Response to Will Kymlicka. In C. Mackerras (ed): *Ethnic minorities in modern China. Critical concepts in Asian Studies*. Vol. 1, Routledge, 2011, pp.29-47.

seemingly diminished during the period of globalization.<sup>32</sup> What will the implications of such self-perceptions be in a world, where normative globalization will no longer primarily arise from and be influenced by former powers, but also from emerging major powers, most of which are situated in Asia?

If the Chinese saying about relations of fear has any relevance in this context, one might expect that the Chinese may *not* have strong reasons to fear the small and weak states of the world – of which there are many, as we have seen. China will be able to out-perform most states in the world in terms of economy, market size, population, and trade relations – all of which have important legal implications. It will also be able to have a considerable economic and thus also cultural and political impact on many of these small communities and states, who will have neither (wo)manpower, nor economic power and skills to run and develop the infrastructures and other public and private needs of importance in the present era. But it may have difficulties dealing with the small and the reckless.

The establishment of the Asian Infrastructure Investment Bank is probably a recent and an important example of an Asian initiative and perspective, which will have an impact on normative globalization. The AIIB, which was finally established on December 25, 2015, began its operation in January 2016. One of the first things the newly elected director, Jin Liqun undertook was a visit to Finland and Denmark<sup>33</sup>, which he had also visited on an earlier occasion when he worked for the primarily Japanese run Asian Development Bank. Both countries are small, and are among the 13 EU countries, which belong to the founding members of the new bank.

The *modus operandi* of the bank will be ‘lean, clean and green’. According to a speech given on March 4, 2016 by Jin Liqun at his visit at the Copenhagen Business School, this was why he had chosen to visit these small Nordic countries, which have a good record in this respect, and where he had already established (personal) contacts. This is perhaps also an example of big powers seeking also small allies with reasonable reputations in world society. According to Jin Liqun China wants to win trust and confidence of the other shareholders of the bank, and he said that the bank wants to ‘contribute to connectivity in the vast Eurasian land’. One of the commentators noticed that the bank might be a

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32 William Jankowiak, *Ethnicity and Chinese Identity: Ethnographic Insight and Political Positioning*. In C. Mackerras (ed): *Ethnic minorities in modern China. Critical concepts in Asian Studies*. Vol. 1, Routledge, 2011, pp.127-145.

33 Special lecture by Jin Liqun, President of the Asian Infrastructure Investment Bank: “Redrawing the Global Financial Map” held at Copenhagen Business School in cooperation with the University of Copenhagen, March 2, 2016 (author’s notes).

platform, where China can demonstrate its global responsibility in a political context, something which is not simple, and where China does not necessarily have close allies.<sup>34</sup>

## Final reflections

As an emerging strong actor in world society influenced by amongst others normative globalization, China must be expected to become an active part of a legal or normative globalization itself. This can be expected to be felt most strongly by the small and weak members of world society – be they states, minorities, businesses, or other belief communities of different kinds. Money talks, and Chinese money will also talk to the recipients of loans and infrastructure projects, whether they will be lean or green, soft or hard. A formal policy of political and military non-intervention and respect of formal sovereignty does not exclude, that countries and communities can be strongly influenced by economic interventions and investments or by non-investments for that sake.

However, what might be the implications of the saying of ‘the strong fearing the violent and reckless’ in a globalized world society. Can the violent and reckless be expected to be ‘tamed’ by different kinds of norms, whether they are of the legal ‘country-and-western-type,’<sup>35</sup> or of the economic either neo-liberalist or ‘socialist market’ type where the role of a centralized state is stronger. What will be the role in the future of religious and/or philosophical norms, which may provide individuals and communities of ‘believers’ or supporters with ethical guidelines and existential meaning?

The last decades have demonstrated that the gentle and the violent as well as the reckless of the world may follow other norms besides dominant moralities or legislative norms, which they may not always venerate to the same extent as do the makers of these regulations. China itself demonstrates ambivalence against neo-liberalist policies, norms and values in spite of a professed support of a ‘socialist market economy’. That ambivalence must be expected to spill over on a more Asian and Chinese influenced normative globalization. The present fears in several parts of the world could seem to lead to both increased surveillance of ‘majority communities’ of different scales in many parts of the world, as well as to de facto ‘states of exception’ and ‘martial law’ also influencing everyday life of ‘majority populations’. The situation in France after the terrorist attacks in Paris on November 13, 2015 may serve as an example of terrorism leading to a

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34 Comment by prof. Ari Kokko, Director of Asia Research Center, CBS on March 2, 2016.

35 A term used by William Twining in his article ‘Surface Law’ in H.Petersen, A.L.Kjær, H. Krunke and M.R.Madsen (eds), *Paradoxes of European Legal Integration*, Ashgate 2008, pp.157-184.

state of exception, which has at the time of writing (March 2017) not yet been lifted. Prominent individuals around the world have had to leave or have left their countries of origin because of resistance to such developments. We are living under conditions of asymmetrical conflicts, which do not necessarily take place between states, but within states and across regions, and which for a European may remind more of the situation before the end of the Thirty Years War from 1618-1648 ending with the establishment of the Peace of Westphalia.<sup>36</sup>

In hindsight the Thirty Years War seems to have led to the loss of status of the former powers, especially the Catholic Habsburg Monarchies in Spain and Austria. The present period seems to be a period of considerable global instability – where the instability has for several decades been concentrated upon and particularly severe in the areas which have been home to the most important resource for modern societies – fossil fuel. To the extent the many are dependent on the few and reckless this may create an atmosphere of oppression, anxiety and insecurity amongst the many.

Lack of such resources and threat to or loss of former importance and status seem to lead to a certain existential insecurity of both privileged elites and ‘majorities’. These insecurities of the ‘strong’ have maybe – sometimes – been part of the power of the weak historically and globally, but they may also have led to exactly recklessness and brutality. Hopefully this is not what we have to expect from an increased Asian influence on globalization including normative globalization.

The Danish existentialist philosopher Søren Kierkegaard (1813-1855) wrote many of his books during a period of revolutions and considerable social, economic and legal changes in Europe. Denmark changed from Absolutism to a constitutional monarchy in 1849. Several of Kierkegaard’s books were written under a pen name, both because of censorship, but also because it enabled him to present different viewpoint and to act with different identities. Two of his famous books, both published in 1843 under two different pen names were “Fear and Trembling” and “The Concept of Anxiety”.

Stability and harmony are often considered prime Chinese values. The fear of losing stability and harmony may create fear and anxiety in Chinese society and leadership, but the new and emerging may at the same time hold an attraction. Perhaps some of the

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36 See my article (in Danish) “Lange ‘krigsballetter’- før og nu” [Long War Ballets – before and now] in *Mod og mening: Hyldestskrift til Frederik Harhoff*. Edited by Hanne Marie Motzfeldt; Sten Schaumburg-Müller; Rikke Gottrup; Kim Østergaard. København : Djøf / Jurist- og Økonomforbundet, 2016. p. 423-434.

future Chinese contributions to global normative pluralism require an overcoming of fears, anxiety and trembling.

According to a 20th century Danish philosopher, Villy Sørensen, commenting on Kierkegaard, anxiety does not direct itself against the outer world, but is related to “inner fears, which are connected to a realization of one self. Self is spirit... and a human is only free as spirit. It is the not yet realized freedom, which is expressed in anxiety... In a temporary unstable harmony freedom only exists as a human potential to realize actual possibilities... the human being fears to loose itself, as it is at present, but nonetheless wishes to act to become itself and win a deeper harmony. Freedom is at once fascinating and frightening.”<sup>37</sup>

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37 Here quoted from Hanne Petersen, *Ret og usikkerhed i overgangstider. Danmark og Grønland som eksempler* [Law and insecurity in times of transition. Denmark and Greenland as examples.] In Damgaard, Henrichsen & Petersen (eds): *Ret & Usikkerhed* [Law and Insecurity]. Jurist- og Økonomforbundets Forlag, 2005, p.209 (my translation of Villy Sørensen).