Chapter 4

The International Law of Co-progressiveness and the Co-progressiveness of Civilizations*

I. Introduction

At the end of his 1996 book, *The Clash of Civilizations and the Remaking of World Order*, Samuel Huntington said: “The futures of both peace and Civilization depend on understanding and cooperation among the political, spiritual, and intellectual leaders of the world’s major civilizations.”¹ I have a hunch that understanding and co-operation alone may not be enough to ensure a good future for us all. It is possible that we do understand each other quite well, and we do co-operate, but our different perspectives remain, get entrenched, and become irreconcilable. The step taken from irreconcilable differences is pivotal. It can help us to assure a good future for ourselves, if that step is taken with a bent for progressiveness, within the framework of the international law of co-progressiveness,² which is summarized and elaborated in Chapter 1 of this

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* Revised from a paper under the same title first published at: 12 Chinese JIL (2013), 9-17. That was a revised version of my remarks delivered at the tenth anniversary session of the Rhodes Forum—Dialogue of Civilizations on 4 October 2012, in Rhodes, Greece, organized by World Public Forum. The preparation of this comment forms part of the work of Research Project No. 08&ZD055 of the China Social Sciences Foundation. Part II of the original version of this paper is a summary of the international law of co-progressiveness, in a discrete section, and has been deleted from this version in order to avoid repetition with Chapter 1 of this book which is a more comprehensive summary. Appropriate adjustments have been made and paragraph numbering has been removed.


² This Comment draws heavily upon my own previous publications: Sienho Yee,
II. Role of civilizations

Where can we fit civilizations with this framework? What role can civilizations play?

One possibility would be for a civilization to occupy the same place as a State and play the same role. However, this possibility probably will not work. As we know, as the main subjects of international law States are special because they are the organizing units of the world. The world is too big. In order to make sense of it and to manage it, we have to divide it up into some manageable units. By historical accident if nothing else, States are now those units. Civilizations, as we can observe currently, cannot be those units. First of all, civilizations usually imagine themselves as being a kind of universality or capable of being universal. As such, a civilization is not an organizing unit, but is the whole world in itself. Secondly, a civilization does not have a spatial dimension, which is necessary for its becoming an organizing unit of the world. Now, if a civilization does have such a dimension, it covers too large an area for it to be such a unit in the general sense. Thirdly, the existing example of the Holy See acting as a subject of international law shows how difficult it is for a “civilization” to be such a subject. When the Holy See was taken to court in the USA as such a subject, one argument that the Holy See made in order to avoid liability was that the local churches and priests were responsible, not the Holy See itself.

A second possibility would be for a civilization to take the place as a special subject or participant in the system, similar to that of a non-

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I am using this term as what is commonly understood and used in Samuel Huntington, n.1 above. There he divided the world into several major civilizations.