Communist Chinese Attitudes Toward United Nations Membership 1945-1971 An Essay

Victoria E. Docauer

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Victoria E. Doauer

As is known to all, China is one of the founding members of the United Nations. In 1949 the Chinese people overthrew the reactionary rule of the Chiang Kai-shek clique and founded the People's Republic of China.

Since then the legitimate rights of China in the United Nations should have gone to the People's Republic of China as a matter of course.

It was only because of the obstruction by the United States that the People's Republic of China was deprived of its legitimate rights for a long time and that the Chiang Kai-shek clique, long repudiated by the Chinese people, was able to usurp China's lawful seat in the United Nations.

This was a gross interference in China's internal affairs as well as a willful trampling on the Charter of the United Nations. Now such an unjustifiable state of affairs has finally been put right...

Chiao Kuan-hua, Delegate CPR to UN

So began the maiden speech of the delegate of the People's Republic of China to the United Nations. Chiao spoke of an issue which had remained unresolved for almost a quarter of a century, an issue which can still create controversy. Let us here examine the question of Communist Chinese representation in the United Nations in the context of a broader question: the attitude of Communist China toward international law. Was it only United States interference which kept Communist China out of the United Nations? What is the position of Communist China in regard to international law? Has the People's Republic been the lawless nation that it is sometimes described to be? In an attempt to provide questions, one must examine those arguments which emphasize the lawlessness of Communist China and seek to determine the attitude of the Communist Chinese toward the United Nations, an organization which as a whole bows to the traditionally accepted principles of international law.
Just cause may be shown for the opinion that the People's Republic of China (hereafter referred to as the CPR) has chosen to violate international law. First, the CPR refuses to recognize treaties of an "aggressive or enslaving nature." Treaties made under unequal conditions or containing unequal provisions are subject to repudiation. Certain of these treaties are: the Sino-British Treaty of Nanking (1942); the Sino-Russian Treaty of Aigun (1958); the Treaties of Tientsin (1959); and Peking (1860) with Britain, France, the United States, and Russia; the Sino-Russian Treaty of Ili (1881); the Protocol of Lisbon (1887); the Sino-Japanese Treaty of Shimonoseki (1895); the Sino-British Convention for the Extension of Hong Kong (1898); and the International Protocol (1901) signed with eight foreign powers following the Boxer Uprising. Yet the CPR has proclaimed that the status quo should be maintained pending negotiation. Evidently not every treaty which is repudiable is to be repudiated.

Second, the Communists seized alien property in China. In December 1950, the Chinese seized United States property and froze American funds, both public and private, in mainland China. United States properties in the domain of the CPR could not be transferred or disposed of without the approval of the People's Government. Moreover, between 1951 and 1952 Peking "requisitioned" the properties of the Asiac Petroleum Company and the Shell Company, both British firms; two British dockyards at Shanghai; the land belonging to the British-owned Shanghai and Tientsin Race Course Companies; and some houses and building land owned by British nationals. The measure was not to affect the real estate occupied by the Asiac Petroleum Company, and the Chinese Government was supposed to purchase all of the company's petroleum stock in China. Yet the British Government claims that much British property was seized without compensation. Many foreign firms have been forced into debt by means of high taxes, fines, contrived labor disputes, etc.

Third, the Communist Chinese have shown a great disrespect for diplomatic and consular immunities in the past. In March, 1949, Mao had instructed the cadres that upon entering the cities they should refuse to recognize the legal status of any foreign diplomatic establishments and personnel, abolish all imperialist propaganda agencies in China, take control of foreign trade, and reform the customs system. Between 1949 and 1953 the CPR dealt harshly with foreign diplomats and consular personnel. Americans in particular were subjected to harassment. The United States consul at Urumchi, D.S. Mackiernan, was charged with spying in 1949; he had allegedly supplied funds to three Sinkiang chieftains with the purpose of encouraging resistance to the Communist take-over. Similar charges were leveled against the consul-general in Mukden, Angus Ward. Furthermore, he and four of his associates were jailed on October 24, 1949, on charges of having assaulted a Chinese employee. Both Mackiernan and Ward were allowed to leave China shortly afterward, however. And as China's diplomatic contacts widened, her treatment of diplomatic personnel softened. Not until 1966 did Peking revert to its former hard-line stance. At that time, the Chinese attempted to hold the Netherlands charge d'affairs as a hostage to ensure the return of a Chinese scientific delegation which was attending a conference in the Netherlands. Fortunately, a compromise settled the issue.

Yet other cases involving the detention of aliens in China have occurred since 1949. It has been suggested that a traditional Chinese suspicion of strangers
in their midst may have led to the spy charges leveled against aliens in China.\textsuperscript{10} Thus United States military pilots who strayed over China while on Vietnam duty have been held prisoner, as have businessmen, missionaries, and others. At least three Americans held over a long period of time were still in prison in China in 1971. One was a pilot officially listed as a civilian employee of the United States Army, who was lost while flying from Korea to Japan. The Chinese claimed he was an intelligence agent who was dropping supplies to anti-Communist rebels. The other two were United States military pilots who strayed over China while on Vietnam duty.\textsuperscript{11}

The aggressive behavior of China toward its neighbors is also often cited. Obviously, the blame for the Korean War has been laid on the doorstep of the CPR. Referring to the Yearbook of the United Nations, one notes that a majority of the nations represented in the United Nations considered that the Chinese Communists rejected all cease-fire proposals regarding Korea in 1951.\textsuperscript{12} The report of the United Nations Cease-Fire Group (see appendix) suggesting a five-point program to achieve a cease-fire in Korea, the establishment of a free and united Korea, and a settlement of the Far Eastern problems, was met with counter-proposals on the part of the Chinese. Twenty-four nations, including the United States, felt that the attitude of the CPR toward negotiation was entirely negative; they noted that adopting China's counter-proposals would mean that neither North Korea nor Communist China had been guilty of aggression and that the Security Council and the General Assembly had been mistaken in defending the Republic of Korea. The consensus was that the United Nations had been given an ultimatum demanding that it refute its principles. (The text of the Chinese proposals may be seen on page 19).

The Indian border dispute is also used to point out China's disregard for peace, for the Chinese Communists constructed a motor road running into territory claimed by India. The Indian Government objected, noting the possibility that this road might be used for military purposes. Clashes occurred between Chinese and Indian troops, and the Indian Government accused China of deliberate aggression in 1959. Conditions worsened after the Tibetan revolt and minor fighting flared into massive action when CPR forces attacked Indian outposts in October of 1962.\textsuperscript{13}

It is held that China has not adhered to the principles of the United Nations Charter. Thus some have questioned the seriousness of the Communist Chinese bids for United Nations representation. Robert Blum states in The United States and China in World Affairs:

There has always been a question as to whether the Chinese Communists wanted to be in the United Nations on any terms. Some maintain that Peking's leaders may not have wanted to subject themselves to the discipline of the world organization because they may feel that they enjoy greater freedom of action as a non-member—specifically, because they may believe that they can use their absence from the United Nations as a means of mobilizing support for themselves and their policies in other bodies, especially those consisting solely of Communist or Afro-Asian members, and that their absence permits them to avoid votes in the United Nations which might cause them embarrassment in their relations with one nation or another. . .\textsuperscript{14}
And Lincoln P. Bloomfield in "China, the United States, and the United Nations" notes that Peking made the following admission regarding the entrance of Communist China into the United Nations:

... we cannot have a majority in voting; formally the difficult situation may be moderated to some extent, but the struggle that arises will be more violent and we shall lose our present freedom of action.¹⁵

Yet there is much evidence to show that the CPR has always been serious in its desire for United Nations membership. Ever pragmatic, China could not afford to ignore international law completely because of the foreign policy needs it could serve.

As early as 1945 the Communist Party of China pressed for representation in the San Francisco Conference. Ambassador Hurley noted in a telegram to Secretary of State Stettinius dated February 19, 1945, that he had received a message from General Chou En-lai requesting that the Communist Party be included in the planned United Nations Conference. Chou claimed that the people of China could not be truly represented by a Kuomintang delegation only.

We consider furthermore that the representatives of the Kuomintang should be limited to one-third of the delegation. ... The other two-thirds of the delegation should be sent by the Communist Party and the Democratic Federation. Only then can the common will of the Chinese people be fairly represented. ...²⁶

Again, in a telegram dated February 20, 1945 from the Charge in China (Atcheson) to the Secretary of State, Atcheson noted that the Yenan Emancipation Daily editorial pressed for Communist Chinese representation in the world organization.

It is honor to Chinese people to be invited to sponsor United Nations Conference at San Francisco on April 25, editorial said. 'This is result of 7½ years of war of Chinese people against Japanese invaders, especially of heroic fighting of army and people of liberated areas and behind enemy lines. But though we are among United Nations there is up till now no democratic coalition government able to represent all classes and strata of entire Chinese nation and all party groups. ...'²⁷

Still again, on March 12, 1945, Atcheson telegraphed Stettinius that he had received another message from Chou En-lai pressing for Communist Chinese representation at the April conference.²⁸ President Roosevelt was prompted to send a message to Chiang Kai-shek, directing his attention to the advantages of allowing a Communist Chinese delegation in the United Nations Conference. Chiang, of course, could not be persuaded thus easily, and only the Kuomintang delegation was granted representation. By 1946 the Communist Chinese were still protesting the illegality of the Kuomintang delegation. A Yenan Emancipation Daily editorial of October 23, 1946, emphasized that the

... so-called Chinese delegation to UNO Assembly only represents dictator Chiang Kai-shek and his clique and not the Chinese people, who would not be responsible for action and words of Chiang Kai-shek's representatives betraying Chinese national interests at UNO Assembly.²⁹

Once in power, the CPR sent telegram after telegram to the United Nations, asserting the illegality of the representatives of the Nationalist Government in
the United Nations and expressing a desire for United Nations membership. Byron S. Weng notes in “Communist China’s Changing Attitudes Toward the United Nations” that between October 1, 1949, and June 30, 1950, Peking sent nine cablegrams to the various organs of the United Nations and nine to the related international agencies, all of them concerning Chinese representation.\textsuperscript{50}

In a cablegram dated November 18, 1949 to the President of the General Assembly, the Foreign Minister of the Central People’s Government of the People’s Republic of China stated that his Government repudiated the legal status of the delegation under Mr. T. F. Tsiang and that it had no right to speak on behalf of the Chinese people in the United Nations.\textsuperscript{21} In another telegram dated January 8, 1950, the Chinese Foreign Minister again asserted the illegality of the Kuomintang delegation and asked that it be expelled from the United Nations.\textsuperscript{22}

A cablegram dated August 26, 1950, from the Foreign Minister of China to the Secretary General of the United Nations recalled previous notes sent by China asking for the expulsion of the Kuomintang delegation from the United Nations organs. It was stated that the rightful claims of the CPR were being disregarded, a violation of the United Nations Charter.\textsuperscript{23} Finally, in a cablegram dated September 18, 1950, the Chinese Foreign Minister declared that “should the fifth session of the General Assembly be held without the participation of his Government’s delegation, all the resolutions of the General Assembly concerning China would be illegal, null, and void.”\textsuperscript{24}

In 1950, the Communist Chinese were inclined to view the international situation in simple terms; they saw the United Nations as a battleground where support could be sought and won. Soviet support was apparent, of course, and India was also ready to support the new China. On September 19, 1950, the Representative of India stated that his Government had recognized the CPR toward the end of 1949. To quote from the \textit{Yearbook of the United Nations, 1950}:

India’s advocacy of the claims of new China to be represented in the United Nations was antecedent to and in no way connected with the Korean conflict. India had recognized the new government because to the best of its knowledge it was a sound and stable Government. It had followed the criteria of recognition in international law: ‘habitual obedience of the bulk of the population with a reasonable expectancy of permanence.’\textsuperscript{25}

However, 1950 saw a change in Chinese attitudes. During the Korean War, the CPR heard threats from the United States made in the name of the United Nations. A re-examination of the United Nations led the Communist Chinese to the conclusion that there were two United Nations organizations: the United Nations of the Charter and the United Nations dominated by the United States.

The Communists sought to terminate hostilities in Korea by negotiation, but could not agree to the proposals made by the United Nations Cease-Fire Group. Of course, in a cablegram dated December 22, 1950, the CPR had made known its stand that one of the requirements for a peaceful settlement in Korea was that the representative of the CPR must obtain a legitimate status in the United Nations.\textsuperscript{26} This stipulation was evidently ignored by the Cease-Fire Group. The Chinese made the following suggestions:
I. If the principle that all foreign troops should be withdrawn from Korea were accepted and put into practice, the Central People’s Government of the People’s Republic of China would assume the responsibility of advising the Chinese volunteers to return to China.

II. Measures for the conclusion of the war in Korea and the peaceful solution of the Korean problem could be carried out in two states:

First: A cease-fire for a limited period could be agreed upon at the first meeting of the Seven-Nation Conference and put into effect so that negotiations could proceed further.

Second: In order that the war in Korea might be brought to an end completely and peace in the Far East assured, all conditions for the conclusion of hostilities would have to be discussed in connection with the political problems, in order to reach agreement on the following points:

Steps and measures for the withdrawal of all foreign troops from Korea; proposals to the Korean people on the steps and measures to effect the settlement of the internal affairs of Korea by the Korean people themselves; withdrawal of United States armed forces from Taiwan and the Straits of Taiwan in accordance with the Cairo and Potsdam declarations; other Far Eastern problems.

III. The definite affirmation of the legitimate status of the People’s Republic of China in the United Nations had to be ensured. Again, China had the support of India, whose representative stressed that India “was not convinced that the participation of Chinese forces in the fighting in Korea was due to any aggressive intention. It was more probably due to its fears for the territorial integrity of China.” Yet twenty-four representatives felt that the Chinese had rejected “peace with justice.”

From 1950-1953 the international environment was cold to Peking, as can be seen in the United Nations voting records. (See tables A & B). Yet Peking continued to send cablegrams to the United Nations—an indication that it did indeed take the organization seriously.

1954-57 saw still another modification of Chinese policy. At that time, China wanted to become the champion of the new forces developing in the world. Peking supported the United Nations Charter in its dealings with underdeveloped countries; it wanted to appear amicable. The doctrine of peaceful coexistence was exploited; when the CPR Constitution was adopted in 1954 the principles of equality, mutual benefit, and mutual respect for each other’s sovereignty and territorial integrity were declared to be the basis of the CPR’s relations with foreign nations. These in turn gave rise to the Five Principles of Peaceful Coexistence which were formulated in the Sino-Indian Trade Agreement of April 29, 1954. They are:

I. Mutual respect for each other’s territorial integrity and sovereignty
II. Nonaggression
III. Noninterference in each other’s internal affairs
IV. Equality and mutual benefit
V. Peaceful coexistence.
Peaceful coexistence was to be the weapon used to form a united front against
the United States. At the same time, Peking adopted a watch and wait policy
regarding the United Nations. Expanding UN membership might give Communist
China its opportunity for representation in the world organization. An editorial
in Jen-min Jih-pao said on September 24, 1955: "Make no mistake: the lawful
right of the People's Republic of China in the United Nations will be restored.
All efforts to deny the Chinese people such rights will lead nowhere. She will
play an increasingly important part in world affairs. . . ."31

A renewed hard line became apparent in 1958. China felt stronger; the
new military balance was more favorable to the Communist world. The Soviet
break-through in missiles in 1957 and the success of the first Five-Year Plan
gave China renewed confidence; the "Great Leap Forward" was planned to
replace the more modest Second Five-Year Plan. China also felt that its
indictment as an aggressor in Korea could be forgotten; it had been carrying
on diplomatic meetings on an ambassadorial level with the United States in
Geneva since August 1, 1955.22 China wanted to move to command the
under-developed world now that it was no longer on the defensive. The Chinese
adopted a more arrogant attitude, which could be seen in their relations with the
United Nations. The General Assembly's adoption of a resolution condemning
China of violating the fundamental freedoms and human rights of the Tibetan
people caused China ill-feeling.33 An editorial of Kuang-ming Jih-pao scorned the
United Nations resolution and pointed out the position of the Negro in American

<table>
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<tr>
<th>Year</th>
<th>Membership</th>
<th>For</th>
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<th>Abstentions</th>
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<td>42</td>
<td>11</td>
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<td>0</td>
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<td>29</td>
<td>44</td>
<td>9</td>
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<tr>
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<td>98</td>
<td>34</td>
<td>42</td>
<td>22</td>
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<td>41</td>
<td>57</td>
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<td>48</td>
<td>56</td>
<td>21</td>
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See: Communist China: A Bibliographic Survey, 1971 (Dept. of the Army)
Table taken from Issues in United States Foreign Policy, No. 4—Communist China,
John Kimball, Ed. (Dept. of State, 1969)


<table>
<thead>
<tr>
<th>Year</th>
<th>Total UN Membership</th>
<th>To Consider</th>
<th>Not to Consider</th>
<th>Abstention</th>
<th>Absent</th>
<th>Sponsor</th>
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<td>42 (70% )</td>
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<td>0</td>
<td>Soviet Union</td>
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<td>60</td>
<td>10 (16.7%)</td>
<td>44 (73.3%)</td>
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<td>4</td>
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<td>43 (71.7%)</td>
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<td>Soviet Union</td>
</tr>
<tr>
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<td>60</td>
<td>12 (20% )</td>
<td>42 (70% )</td>
<td>6</td>
<td>0</td>
<td>Soviet Union</td>
</tr>
<tr>
<td>1956</td>
<td>79</td>
<td>24 (30.4%)</td>
<td>47 (59.4%)</td>
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<td>0</td>
<td>India</td>
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<tr>
<td>1957</td>
<td>82</td>
<td>27 (32.9%)</td>
<td>48 (58.6%)</td>
<td>6</td>
<td>1</td>
<td>India</td>
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<td>81b</td>
<td>28 (34.6%)</td>
<td>44 (54.3%)</td>
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<td>1959</td>
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<td>29 (35.4%)</td>
<td>44 (53.7%)</td>
<td>9</td>
<td>0</td>
<td>India</td>
</tr>
<tr>
<td>1960</td>
<td>98</td>
<td>34 (34.7%)</td>
<td>42 (42.9%)</td>
<td>22</td>
<td>0</td>
<td>Soviet Union</td>
</tr>
</tbody>
</table>

From 1951 through 1960 the vote was on a United States proposal not to put the question on the agenda. Thereafter placing the item on the agenda was not contested. The Assembly voted each year to regard the matter as an "important question" requiring a two-thirds majority. The votes below are on the substantive question of seating the Communist Chinese delegates and removing the Nationalist Chinese delegates.

| Year | To seat | Not to seat | | | | |
|------|---------|-------------|---|---|---|
| 1961 | 104     | 36 (34.6%)  | 48 (46.1%) | 20 | 1 | Soviet Union |
| 1962 | 110     | 42 (38.7%)  | 56 (50.9%) | 12 | 0 | Soviet Union |
| 1963 | 111     | 41 (36.9%)  | 57 (51.4%) | 12 | 1 | Albania     |
| 1964 |         | General Assembly session postponed | | | | |
| 1965 | 117     | 47 (40.2%)  | 47 (40.2%) | 20 | 3 | Cambodia, Albania, Algeria, Congo (Brazzaville), Cuba, Ghana, Guinea, Mali, Pakistan, Rumania, Somalia, Syria |

1) Voting to Admit in 1963 (41)

<table>
<thead>
<tr>
<th>Afghanistan</th>
<th>Denmark</th>
<th>Mongolia</th>
<th>Sweden</th>
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<td>Indonesia</td>
<td>Rumania</td>
<td>United Arab Republic</td>
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<tr>
<td>Cambodia</td>
<td>Iraq</td>
<td>Somalia</td>
<td>United Kingdom</td>
</tr>
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</table>


b Egypt and Syria formed the United Arab Republic.
2) Voting to admit in 1965 (47)
The Members listed above with four exceptions and ten additions.

   Exceptions: Indonesia—withdrawn from the UN in 1965
                Laos—did not vote in 1965
                Burundi—abstained in 1965
                Tunisia—abstained in 1965

   Additions: Central African Republic—voted “No” in 1963
              Congo (Brazzaville)—voted “No” in 1963
              Ethiopia—absent in 1963
              France—voted “No” in 1963
              Kenya—new Member
              Mauritania—abstained in 1963
              Nigeria—abstained in 1963
              Sierra Leone—abstained in 1963
              Singapore—new Member
              Zambia—new Member

3) Voting to Admit in 1966 (46)
The changes in 1966 from 1965 were as follows:

   Burundi, which abstained in 1965, voted “Yes.”
   Central African Republic, which voted “Yes” in 1965, voted “No.”
   Indonesia, which had withdrawn in 1965, voted “Yes.”
   Morocco, which voted “Yes” in 1965, abstained.
   Senegal, which abstained in 1965, voted “Yes.”
   Sierra Leone, which voted “Yes” in 1965, voted “No.”
   Singapore, which voted “Yes” in 1965, abstained.

Of the 46 Members maintaining diplomatic relations with Communist China, all voted for admission in 1966 except:

   Laos—absent (also in 1965)
   Morocco—abstained (voted “Yes” in 1965)
   Netherlands—abstained (also in 1965)
   Tunisia—abstained (also in 1965)

Of 58 UN Members maintaining diplomatic relations with Nationalist China in 1966, 48 voted against seating Communist China and expelling the Nationalist delegates

Yet, if Byron S. Weng is correct, they also made offers to negotiate, and Foreign Minister Chen Yi let it be known that China was willing to talk on the foreign minister level if the initiative came from Washington. Moreover, it was indicated that peaceful coexistence was possible if the United States would no longer block China's entry into the United Nations.35

On December 14, 1961, the General Assembly passed the resolution making the seating of China an “important question.” Weng describes the Chinese reaction in terms of a sour-grapes attitude. China retaliated by claiming that the United States was afraid of China's international influence. The Chinese also accused the United States of wanting to occupy Taiwan permanently.

China now felt itself forced to seek an alternative to the United Nations. It seemed that China hoped to establish a rival organization composed of the Afro-Asians and led by China itself. Premier Chou declared in January of 1964 that a new, revolutionary United Nations might well be set up in competition with the organization which was now under the manipulation of United States imperialism.36 Early in 1964 Premier Chou En-lai visited the UAR, Algeria, Morocco, Tunisia, Ghana, Mali, Guinea, Sudan, Ethiopia, and Somalia. Countries which extended diplomatic recognition to the CPR at that time included Tunisia, Kenya, Tanganyika, the Central African Republic, Dahomey, Zambia, and Senegal. In July 1965, Mauritania also extended diplomatic recognition. Economic and technical cooperation agreements were concluded with Algeria, Ghana, Guinea, Kenya, Mali, Somalia, Tanzania, Uganda, and the UAR in Africa, and with Afghanistan, Cambodia, Indonesia, North Vietnam and Pakistan in Asia.37 Evidently Peking had high hopes for a new world organization. However, in 1965-66 Peking experienced a series of reverses which made the idea of a rival UN appear to be wishful thinking. Ahmed Ben Bella was ousted in June, 1965; an argument with the new Algerian regime developed, and the proposed Second Afro-Asian Conference was postponed; there was an upheaval in Indonesia leading to a purge of the Indonesian Communist Party and the downfall of Sukarno in March 1966; Castro turned against Peking; Nkrumah of Ghana was ousted by his people on February 24; Peking boycotted the 23rd Congress of the Communist Party because the Kremlin had distributed an anti-Chinese document.38 China appeared to be in increasingly isolated. Ironically, China's fortunes advanced in the United Nations; a vote on Communist Chinese representation resulted in a 47-47 tie.

However, in 1965 Communist China made additional stipulations regarding UN membership. On September 29, Foreign Minister Chan Yi announced:

The United Nations must rectify its mistakes and undergo a thorough reorganization and reform. It must admit and correct all its past mistakes. Among other things, it should cancel its resolution condemning China and the Democratic People's Republic of Korea as aggressors and adopt a resolution condemning the United States as the aggressor; the UN Charter must be reviewed and revised jointly by all countries, big and small; all independent States should be included in the United Nations; and all imperialist puppets should be expelled.39

Yet by 1970 China was showing a renewed interest in joining the United Nations. After the Cultural Revolution and the establishment of diplomatic relations with Canada, Italy, and others, there were frequent reports of China's wish to gain entrance into the UN.40 On October 25, 1971, the United Nations passed a
resolution to seat the Communist delegation and to expel the Nationalists, a resolution which Communist China accepted without mention of its 1965 demands.

It seems that in order to understand the attitude of Communist China toward the United Nations it is necessary to examine the difficulties encountered by a revolutionary state when attempting to deal with a traditional legal framework. It must be noted that there may be a gap between words and deeds; the CPR’s condemnation of a United Nations dominated by the United States did not necessarily mean that the Chinese Communists were unwilling to work with the UN. As James Hsiung suggests in *Law and Policy in China’s Foreign Relations*:

Contrary to general assumptions, states are not necessarily more disposed to paying lip service to international law than they are ready to apply it in practice. That may be the case in most instances. But sometimes, however strange it may seem, it is the opposite. Many new states have declared themselves not bound by norms in whose making they have taken no part. Yet, in actual conduct they have shown restraint in the conscious effort to avoid any direct breach of the norms in question.  

Hsiung goes on to state that in international relations “ideology is not and cannot be the sole determinant of a state’s pattern of action and conduct.” Moreover, the fact that a state rejects certain norms should not necessarily lead one to conclude that the state is “lawless,” a subjective value judgment is involved.

Basically, it is “the manipulation of international law by status quo powers” which China scorns. Obligations under international law have usually been fulfilled by the Chinese government. For example, the terms of trade and fisheries agreements have generally been met. Ishwer C. Ojha points out the ambivalence of Communist China and suggests that China respects those aspects of international law considered to have been negotiated on a just basis, such as the Five Principles. Ojha further notes that China has been placed in an awkward position; it must conform to the rules of international law as an “insider” and yet castigate it as an “outsider.” The insecurity of Communist China, resulting from its diplomatic isolation, has sharpened its grievances against international law. Yet it cannot afford to do without it.

It is evident that Communist China is willing to utilize the United Nations as long as it is in its best interests to do so. And China cannot afford to remain in isolation. Notes Ojha:

The very necessity for survival, communication, trade, influence, and the protection of national interest demands that a state will sooner or later have to follow rules which are acceptable to others. No state, not even Communist China, can do without international law. In the formulation of treaties, in diplomatic notes of protest and commendation, and in verbal attacks on nations with which it is in conflict, a nation must invoke international law. China thus complies with a system which she basically resents.
APPENDIX
CEASE-FIRE GROUP PROPOSAL

1. In order to prevent needless destruction of life and property, and while other steps are being taken to restore peace, a cease-fire should be immediately arranged. Such an arrangement should contain adequate safeguards for ensuring that it will not be used as a screen for mounting a new offensive.

2. If and when a cease-fire occurs in Korea, either as a result of a formal arrangement or, indeed, as a result of a lull in hostilities pending some such arrangement, advantage should be taken of it to pursue consideration of further steps to be taken for the restoration of peace.

3. To permit the carrying out of the General Assembly resolution that Korea should be a unified, independent, democratic, sovereign State with a constitution and a government based on free popular elections, all non-Korean armed forces will be withdrawn, by appropriate stages, from Korea, and appropriate arrangements, in accordance with United Nations principles, will be made for the Korean people to express their own free will in respect of their future government.

4. Pending the completion of the steps referred to in the preceding paragraph, appropriate interim arrangements, in accordance with United Nations principles, will be made for the administration of Korea and the maintenance of peace and security there.

5. As soon as agreement has been reached on a cease-fire, the General Assembly shall set up an appropriate body which shall include representatives of the Governments of the United Kingdom, the United States of America, the Union of Soviet Socialist Republics, and the People's Republic of China with a view to the achievement of a settlement, in conformity with existing international obligations and the provisions of the United Nations Charter, of Far Eastern problems, including, among others, those of Formosa (Taiwan) and of representation of China in the United Nations.


FOOTNOTES


4It should be noted that the original seizure of American property in China occurred after the United States had already frozen all Chinese assets within this country. Hsiung, p. 136, 137.

5Hsiung, p. 140.


8Hsiung, p. 160.


10Hsiung, p. 149.

11Hsiung, p. 144.


17 Foreign Relations of the United States, p. 238.

18 Foreign Relations of the United States, p. 268.


24 Ibid.


27 Yearbook of the United Nations, 1951, p. 213.

28 Yearbook of the United Nations, 1951, p. 221.

29 Weng, p. 687.

30 Hsiung, p. 33.


32 Mezerik, Ed., p. 35.


35 Weng, p. 693.

36 Weng, p. 699.


38 Weng, pp. 701-702.


Hsiung, p. 9.


Ojha, p. 60.

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