

## ปาฐกถา : Keynote Speech

### Transnational Organized Crime and Legal Safeguards for the Belt and Road Initiative<sup>\*</sup>

อาชญากรรมข้ามชาติและหลักประกันทางกฎหมายสำหรับข้อริเริ่มหนึ่งแถบ  
หนึ่งเส้นทาง

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#### Abstract

Professor Dr.Surakiart Sathirathai, Chairman of the Asian Peace and Reconciliation Council (APRC), gave a keynote address to the attendants of the International Symposium on Fighting against Transnational Organized Crime and Legal Safeguards for the Belt and Road Initiative organized by Asian-African Legal Consultative Organization (AALCO) and Ministry of Foreign Affairs of People's Republic of China, on 8 September 2017. In his speech, it was pointed out that the Belt and Road Initiative (BRI) and the United Nation Sustainable Development Goals (UNSDGs) seem to be complementary to each other. He also emphasized the intrinsic linkage between sustainable development and the rule of law. Therefore, the effective implementation of the Rule of Law is one of the essential factors to the success of the implementation of the BRI. Furthermore, due to the growing anti-globalization sentiment, it was further suggested that the implementation of BRI, as part of the new globalism must

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<sup>\*</sup> Speech of Professor Dr.Surakiart Sathirathai at the International Symposium on Fighting against Transnational Organized Crime and Legal Safeguards for the Belt and Road Initiative organized by Asian-African Legal Consultative Organization (AALCO) and Ministry of Foreign Affairs of People's Republic of China on 8 September 2017, Beijing, PRC.

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take four important points into consideration. Firstly, the new globalism must provide benefits to all people without discrimination. Secondly, all the UNSDGs must be incorporated as part and parcel of the new globalism. Thirdly, the implementation of all the new globalism initiatives, including the implementation of BRI, must be guided with the Rule of Law. Lastly, Asian countries must work closely together in order to ensure that transnational organized crime will not grow with the new globalism. This would help bring economic benefits to all people and the sustainable development could be fully realized.

**Keywords:** Belt and Road Initiative, Transnational organized crime, Rule of Law, Sustainable development, New globalism

### บทคัดย่อ

ศาสตราจารย์ ดร.สุรเกียรติ์ เสถียรไทย ประธานคณะมนตรีเพื่อสันติภาพและความปรองดองแห่งเอเชีย ได้ให้ปาฐกถาพิเศษต่อผู้เข้าร่วมการประชุมระหว่างประเทศว่าด้วยการต่อสู้กับอาชญากรรมข้ามชาติและหลักประกันทางกฎหมายสำหรับข้อริเริ่มหนึ่งแถบหนึ่งเส้นทาง ซึ่งจัดขึ้นโดยขององค์การให้คำปรึกษาด้านกฎหมายภูมิภาคเอเชีย-แอฟริกา และกระทรวงการต่างประเทศแห่งสาธารณรัฐประชาชนจีน เมื่อวันที่ 8 กันยายน พ.ศ. 2560 โดยได้กล่าวว่าข้อริเริ่มหนึ่งแถบหนึ่งเส้นทาง และเป้าหมายการพัฒนาที่ยั่งยืนของสหประชาชาตินั้นเป็นโครงการที่ส่งเสริมซึ่งกันและกัน และยังได้เน้นย้ำถึงความเชื่อมโยงอย่างแท้จริงระหว่างการพัฒนาที่ยั่งยืนและหลักนิติธรรม ซึ่งการบังคับใช้หลักนิติธรรมอย่างมีประสิทธิภาพย่อมเป็นปัจจัยสำคัญที่มีผลต่อความสำเร็จในการดำเนินการตามข้อริเริ่มหนึ่งแถบหนึ่งเส้นทาง นอกจากนี้ สืบเนื่องมาจากแนวความคิดต่อต้านโลกาภิวัตน์ที่เพิ่มมากขึ้น การดำเนินการตามข้อริเริ่มหนึ่งแถบหนึ่งเส้นทาง ซึ่งเป็นส่วนหนึ่งของแนวคิดโลกนิยมใหม่จะต้องคำนึงถึง 4 ประเด็นสำคัญ ดังนี้ (1) โลกนิยมใหม่จะต้องสร้างประโยชน์แก่ทุกคนโดยไม่เลือกปฏิบัติ (2) เป้าหมายของการพัฒนาที่ยั่งยืนของสหประชาชาติทั้งหมดจะต้องหลอมรวมเป็นส่วนหนึ่งของโลกนิยมใหม่ (3) การดำเนินการตามแนวความคิดโลกนิยมใหม่ ซึ่งรวมไปถึงการดำเนินการตามข้อริเริ่มหนึ่งแถบหนึ่งเส้นทางนั้น จะต้องยึดหลักนิติธรรม และ (4) ประเทศในภูมิภาคเอเชียจะต้องร่วมมือกันอย่างใกล้ชิดเพื่อป้องกันมิให้อาชญากรรมข้ามชาติเติบโตไปพร้อมกับโลกนิยมใหม่ สิ่งเหล่านี้เองจะช่วยสร้างผลประโยชน์ทางเศรษฐกิจให้กับทุกฝ่าย และช่วยให้แต่ละประเทศบรรลุเป้าหมายของการพัฒนาที่ยั่งยืนอย่างแท้จริงได้

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Your Royal Highness Princess Bajrakitiyabha Mahidol,

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Professor Kennedy Gastorn, Secretary General of the Asian African Legal Consultative Organization,

Mr. Dou Xiankang, President of Wuhan University,

Excellency Piriya Khempon, Ambassador of Thailand to the People's Republic of China,

Distinguished Panelists, Participants,

Ladies and Gentlemen,

It is my great pleasure to have another opportunity to take part once more in the Asian African Legal Consultative Organization or AALCO activity, here in Beijing. The setting up of the China-AALCO Exchange and Research Program on International Law or CAERP and the theme of the symposium today truly signify the role China is to play in the international arena in making the world and the international community a much better place for the present and the next generations through international cooperation.

As Her Royal Highness has already mentioned, the great potential for the Belt and Road Initiative or BRI to improve the standard of living of millions of families in Asia, Europe and Africa and to lift several millions more from their poverty and impoverishment will never be fully achieved in the absence of active participation of all the stake-holders. The design and the desirability of the BRI development projects in each country and community must take into

account the needs, interests, requirements and circumstances of all the stakeholders. The impacts to the sustainable development therein must be felt and appreciated by all concerned.

To me the BRI as announced in 2013 by President Xi and the 2015 adoption by the United Nations General Assembly of the UN Sustainable Development Goals, the world's 15 years' roadmap for sustainable development seem to be complementary to each other. They were both the timely and long awaited initiatives after several major crises that threatened the global sustainable development such as the Asian or Tom Yam Kung crisis of 1997, the economic meltdown of 2008, the unprecedented rate of natural resource depletion, and many more pressing and menacing issues at the forefront of the global agenda.

It was evident that despite the admirable global efforts to achieve the UN millennium development goals during 2001-2015, a great deal more work is yet to be done -- and to be done with greater concerted efforts, collaboration, resources, determination and added new goals. Both the BRI and the UN SDGs herald the compelling need to take concrete actions to achieve true sustainable development.

Sustainable development under the UN SDGs context must be universal and commonly understood to be the development for all, not a privileged few; the development that improves the lives of everyone everywhere, not some people somewhere; and the development that promotes well-being through inclusive prosperity, opportunity, social justice, and equality.

The Goal 16 of the UN SDGs, in particular, is about peace, justice, and strong institutions and meant to promote just, peaceful and inclusive societies which could only be achieved if a society adheres to the rule of law. The intrinsic linkage between sustainable development and the rule of law is hence universally accepted. The advancement of the rule of law nationally and internationally is essential for the full realization of sustainable development, inclusive economic growth, and the eradication of poverty and hunger.

It is also universally accepted that the concept of the rule of law means the rule that governs the law to be a just law. It must entail fairness, accountability, transparency, and good governance leading to access to justice

for all. It could even be argued that the rule of law and justice provide an important platform to make all other SDG goals viable.

Poor governance and ineffective enforcement of the rule of law in any country can be one of its major contributing factors to its slowdown in economic growth. The rule of law, judicial independence, and neutral legal systems, good governance, transparency and fight against corruption are all found to be major contributions to today's notion of economic growth and sustainable development.

Today, China, especially under the 13<sup>th</sup> Five Year Plan on National and Economic and Social Development for 2016-2020 is placing the national good governance system and the rule of law at the centre of the national plan to achieve sustainable economy. President Xi Jinping and Prime Minister Li Keqiang's persistent fight against corruption, cronyism and lack of good governance will surely drive the 13<sup>th</sup> Five Year Plan to a true success. China's own notion of achieving sustainable development through the linkage with the rule of law is therefore complementary to the concept of development sustainability as universally expounded in the UN SDGs.

With such a background, it is expected that China, in making fast progress on the implementation of the BRI in some 60 countries of the world, must carry with these BRI projects the notion of effective rule of law to those countries still lacking it. It is hoped that through BRI, China could help many countries taking part in the BRI to create a legal framework to effectively implement the rule of law. This should be another essential success factor of any BRI project.

**Your Royal Highness,**

**Your Excellencies,**

**Distinguished Participants,**

Recent development in the West, especially in Europe, UK and the US in the last couple of years illustrated that the anti-globalization sentiment has

been gaining much ground. Although President Xi Jinping in his address to the World Economic Forum earlier this year, firmly emphasized China's commitment to globalization and making the word population fully benefit from it. This anti-globalization sentiment will not easily be on the wane. It remains to be seen how this anti-globalization sentiment would further lead the public in Europe and America in the near future. However, the BRI initiated by China, the Regional Comprehensive Economic Partnership or RCEP and the Free Trade Area of the Asia-Pacific or FTAAP where China and ASEAN must hold a central role represent the new international open economy or what I would call collectively 'the new globalism'.

Certainly there are people who have experienced the disillusion, disappointment and the dark sides of globalization. The middle class in developed countries are left worse off while the poor and the needy in developing and least developed countries are left even further behind. The better connectivity of globalization has increased the spread of transnational organized crime. Trade in small arms, drug and human trafficking, cross border and economic crime seemed to follow the rise of physical and non-physical connectivity during the peak of globalization. But the Asian region still needs economic openness that comes with globalization to continue to benefit sustainable development and growth. We must not throw away the many good sides of globalization. The above-mentioned 3 initiatives, the BRI, RCEP and FTAAP must represent the globalization that brings benefits without the disillusions and its dark sides. Because they must be implemented without the dark sides of globalization, I wish to call them 'the new globalism'.

In this connection, I wish to offer 4 points for consideration for the new globalism to succeed and help achieve the UNSDGs.

First, this new economic openness or what I call new globalism, the BRI, RCEP and FTAAP, must guarantee to yield indiscriminate benefits to all. Under this new globalism, no one shall be left behind any more. Social safety net empowering the people and the community with the ability for lifelong learning in order to adapt and stand on their own feet is the key. People must be prepared to cope with the 4<sup>th</sup> Industrial Revolution. They must be prepared to participate and survive in the era of this disruptive technology. Every

individual must have the opportunity to benefit from the 4<sup>th</sup> Industrial Revolution through the new globalism. Where you stand in the society will not deprive you of the economic and social benefits you would deserve from the new globalism.

Second, this new globalism must put the UNSDGs into effect. All the 17 goals must be incorporated as part and parcel of the new globalism. The BRI implementation success index, for instance, must be linked to meeting the objectives of the SDGs. The BRI must be seen to bring with it job and income creation and social betterment for the people in all the countries concerned.

Third, although the rule of law is not described directly as a goal in itself, it permeates through all 17 goals and it is a critical enabler of all other goals. Thus the rule of law must play its part in the implementation of all the new globalism initiatives. As Her Royal Highness has pointed out in her keynote speech this morning, in ensuring that the BRI will benefit all people big or small in accordance with the 17 SDGs, the implementation of the BRI will have to be guided with the Rule of Law, i.e., the implementation has to be transparent, with good governance in budget spending, in loan extension, and in the operationalization of the projects. China's endeavour to combat graft and corruption and promote good governance at home should provide a basis for the role of the rule of law in the BRI implementation.

Fourth, as one of the threats to development stems from organized crime, violence, conflicts and fragility, Asian countries must work closer together to ensure that transnational organized crime will not grow with the new globalism. Physical and non-physical connectivity under BRI may be abused to facilitate transnational organized crime connectivity. The challenge is the political will of all leaders and the devotion of social engineers like all of us "lawyers and legal scholars". We need to make concerted efforts to see how different legal systems, different legal justice procedures, different criminal and civil law governing organized crime in countries where the BRI projects operate can improve to provide legal safeguards against transnational organized crime. Transnational organized crime, illicit drug and human trafficking, atrocity and human right abuses must be well-confined in the new world of globalism and open economy, and a new society under disruptive technology.

In the presence of anti-globalization sentiment, we should join hands to reassure the future of globalism where these BRI/RCEP/FTAAP globalism initiatives would get implemented under proper legal framework and the rule of law to bring real economic benefits for all big or small people alike. We should join hands to cooperate on measures that better prevent transnational organized crime as well as empowering the poor and the underprivileged not to fall victims of organized crime and other corrupt practices which so far have hindered their economic development.

Our new hope is placed therefore in the effective advancement of the rule of law and all attempts to implement the BRI and other globalism initiatives accordingly. The new globalism must see no return of the dark sides of globalization. The new globalism is our hope for the full realization of sustainable development.