

# Research on the Interaction between International Law and Domestic Law based on the Perspective of International Politics

Longfei Li<sup>1\*</sup>

<sup>1</sup> The University of Sheffield, Sheffield, UK

**Abstract.** As globalization ushers in a new age, the interaction between local and international law has reached a high point. As a result, in order to successfully fulfill the international community's expectations for legal coordination, interactive proposals based on the governance concept of defending the rule of law as the soul must be issued. In line with the natural logic of mixing soft and hard law in globalization, a theoretical analytical framework for the interaction growth of international and domestic law is constructed based on the dynamic evolution of international politics. From the standpoint of theoretical boundary changes and practical deduction of interactive development, this framework can explain the development mechanism jointly generated by the "interaction" mechanism and the "governance" cycle mechanism, which involve the participation of international and domestic law. It may also continue to investigate the possibilities of advancing toward the aim of high-quality development of the rule of law system. The purpose of the interaction development of domestic and international law is to increase the satisfaction of international collaboration, to continually enhance the quality of the rule of law system, and to establish a legal framework that meets global governance requirements. To achieve high-quality development of the interaction between international law and domestic law, promote the improvement of the global governance system, and truly meet the needs of the international community, steps like strengthening legal control based on the internal circulation of international law quality, building mechanisms for interaction and adaptation between international law and domestic law quality perception, and establishing an evaluation system.

## 1 Introduction

The interaction of international and domestic law is one of the most important changes in the legal system throughout the globalization era, and it also applies to global governance as a whole. It is divided into two categories: basic hard law and non-basic soft law, which includes binding treaties and unenforceable norms of conduct. In response to transnational issues, the international community establishes many international agencies to formulate legislation and monitor their implementation. Since the end of the Cold War, mutual penetration of international and domestic law has become a critical component of international cooperation, with the degree of rule of law acting as an evaluation measure. Unlike the traditional principle of sovereignty supremacy, modern international politics emphasizes international cooperation, normative coordination, and common governance. As a consequence, the issue of balancing international and local law has developed, with globalization adding a new impetus to the process [1].

The interaction between international law and domestic law is rooted in the international system established by the United Nations Charter, and its interactive mechanism represents the pursuit of peace and development principles while also acting as a vehicle for modernizing global government. From a

theoretical perspective, international law and domestic law pursue legal consistency and achieve modernization of the legal system through a combination of institutionalization and standardization. However, this is only an ideal idea. To this day, countries have followed a path with their unique characteristics. The comprehensive promotion of interaction between international and domestic law not only rewrites traditional legal restrictions and represents the evolution of the concept of the rule of law, but it also has a substantial impact on the future pattern of international relations. Therefore, discussing international and domestic law interaction must have a forward-looking strategic vision and a broad international perspective. Thus, an interaction progression of international and domestic law has been promoted from the perspective of international politics. In conclusion, effective interaction between international and local law is both a need and a guarantee for high-quality global governance development. According to current practice, progress has been made in the integration of international and local law, notwithstanding certain faults. The international community has not yet fully identified an effective path to resolve the conflict between the two and is still trying to move forward. Improving global governance and promoting peace and prosperity requires a stronger connection between international and local law [2].

\* Corresponding author: [lilongfei20020103@126.com](mailto:lilongfei20020103@126.com)

This article proposes a community-sharing and two-way integration strategy to promote harmonious coexistence of domestic and international law in light of the aforementioned. The adaptability of the two in practical operation is solved through comparative research methods. Its main content includes exploring the governance challenges and response strategies brought by interaction, effectively addressing the risks under international political and technological challenges, and having important theoretical and practical significance.

## 2 New Changes in the Interaction between Globalization and International and Domestic Law

### 2.1 The Integration and Reform of the Content of International Law and Domestic Law

Local and international laws are becoming more intertwined and changing as a result of globalization. It reflects the cooperation strategies utilized by countries after the Cold War ended and demonstrates that modernizing the legal system is a priority via its incorporation of the rule of law. However, it is still difficult to obtain unanimous agreement when we attempt to construct the definition and essence of this fusion change using certain traditional legal standards. This process not only involves transitioning from hard law to soft law but also includes the concretization of international norms at the domestic level and the absorption and adoption of international conventions and practices by domestic legislation. It challenges the concept of sovereignty, promotes the development of common mechanisms for resolving cross-border issues, and triggers new discussions on maintaining a balance between national autonomy and compliance with international obligations [3].

### 2.2 Hard Law, Soft Law, and the Rule of Law

#### 2.2.1 Analysis of the Infiltration of International Law into Domestic Law and the Adaptive Needs of Domestic Law

The rule of law is an important measure of a country's level of governance because it is a concrete expression of the principle that law is supreme. International law has varying degrees of effect on domestic law, which are characterized as "hard law" and "soft law" according to the perspectives of binding force and enforcement methods. Due to the clarity and enforceability of hard law, it belongs to the normative science aimed at achieving international order. Therefore, some scholars believe that hard law reflects the degree of enforceability of legal norms or obligations established through formal treaties. It is precisely because hard law has a certain degree of clarity and enforceability that it belongs to normative science aimed at achieving international order. The history of hard law can even be traced back to ancient international relations, with its

main activities including the conclusion of treaties and agreements. Soft rules involve more informal agreements, guidelines, and codes of conduct closely related to the spirit of cooperation in global governance. Ensuring the implementation of international legal rules domestically through the internalization process of international law has become an important responsibility of governments of all countries. The interactive theory in the era of modern international law mainly contributes to revealing how international law affects domestic legislation and judicial practice. Therefore, hard and soft law concepts initially focused on measuring their impact and adaptability needs on the domestic legal system based on the standards of their respective legal attributes [4].

#### 2.2.2 International Political Market Trends Promote Interactive Decision-Making between International Law and Domestic Law

Although some scholars question whether the trends in the international political market may not be directly related to legal changes, most scholars advocate that changes in the international political market can provide a rational evaluation of the interaction and decision-making between domestic and international law. These scholars believe that the trends in the international political market are directional and serve as a catalyst. Only when significant changes in the international market will domestic and international laws be adjusted accordingly to adapt to the new global environment. Some scholars also summarize this process as a dual impact model: an internalization model based on market demand and an externalization model based on national interests. The former focuses on how international norms are accepted and enforced domestically. In contrast, the latter focuses on how countries use international rules to promote their interests, that is, through a two-way mechanism to achieve legal interaction. The concept of interactive decision-making has become more accepted in both domestic and international legal research and practice, and this engagement, although initially hindered, can ultimately aid in the integration of the rule of law [5]. The international political market trends are shown in Figure 1.

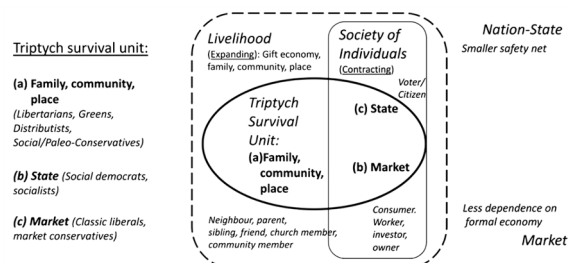


Fig. 1. International political market trends

## 3 Governance Challenges Brought by the Interaction Between International Law and Domestic Law

### **3.1 Chaos of Theoretical Boundary: the Excessive Generalization of Soft Law Leads to the Rule of Law System Imbalance**

The soft law framework has entered the research field as a new alternative model to overcome the shortcomings of traditional hard law, which has a strong binding force but poor adaptability. In the end, this framework aims to set professional standards for global governance output, capture voluntary compliance of both state and non-state actors using technologies like codes of conduct and guidelines, and evaluate and monitor the effectiveness of soft law implementation. The core principle is to broaden and deepen international collaboration in order to make it more efficient. With the soft law framework, international law has been restructured to prioritize more broadly accepted standards and more participative, effective, flexible, and open-minded international government. However, the problem with oversimplifying soft law is that it has muddled theoretical limits and the rule of law system, which has led to an uneven playing field and a lack of enforcement power in some crucial areas. This has an impact on the strength and authority of the relationship between domestic and international law [6].

### **3.2 Sovereignty Transgression: Domestic law overrides the domestic operation of international law.**

#### *3.2.1 Mistakes in Domestic-oriented Decision-making and Deviations in the Adaptation of Management to International Law*

Attempts by states to internalize international law are often thwarted by management deviations from adapting to it and by locally oriented decision-making blunders, the most common forms of sovereignty overstepping. Using specific instances, it shows how difficult it is to collaborate and use international law while home law is so powerful. The constituent elements of domestic-oriented decision-making are gradually taking shape, and national policies and various evaluation systems are also gradually being valued. The implementation of international law is hindered by some states' continued focus on self-interest, which contradicts the same principles and processes that led to its establishment. As a result, the problem of ineffective domestic enforcement of international law arises. This deviation from the norm diminishes the usefulness of international law and puts global governance at risk of thwarted efforts and strained international relations.

#### *3.2.2 Domestic Law and International Law Risks*

Domestic and international law coordination is a fundamental link in global governance and a core manifestation of national sovereignty and international cooperation. Therefore, the interaction between legal systems is the main logic for generating domestic legal disputes and international legal risks. Domestic legal disputes are the main obstacles to the implementation of

international law domestically, and they are also the risk subjects of international relations tension. Presently, countries are strengthening the adaptive control of international law from a legislative perspective, mainly in three forms: Legislation needs to be clarified, the application of international law to domestic law needs to be made clearer, and the connection between the two systems needs to be strengthened. The second strategy is to provide the groundwork for future behavior, which include drafting and disseminating specific guidelines for how China will implement international law. The third is the reengineering of judicial and administrative processes. In recent years, some countries have improved the domestic enforcement of international law and enhanced the consistency and effectiveness of their legal systems by reforming internal judicial procedures and administrative management processes. The current state of domestic law is far from ideal, as it should be more tolerant of and widely accepted by international law. This deficiency affects the unified implementation of international law on a global scale and increases uncertainty in cross-border cooperation [7].

### **3.3 The Birth of Derivative Risks under the Domination of International Politics**

This national security risk is not only of great significance in the field of legal coordination in global governance but also plays a key role in cooperation between countries and international relations practice. A broader concept of national security risk is gradually taking shape with the development of globalization. This broad national security risk encompasses international and domestic legal rules, including economic stability, social order, and cross-border problem-solving mechanisms.

According to Chapter VII of the United Nations Charter, particularly Papers 39, 41, and 42, international organizations may apply relevant national security risk principles without a clear choice by a state or detailed provisions in relevant international conventions. However, this explanation does not define the specific circumstances of national security risks and lacks further explanation of the applicable functions of national security risks. International organizations have greater discretion in identifying and applying national security risks. Therefore, it is necessary to sort out the operational boundaries of national security risks in different countries or international rules, refer to the application of national security risks in global governance, clearly define the connotation, extension, and application functions of national security risks, to clarify the chaotic relationship of applicable laws in the process of global governance [8].

## **4 Countermeasures for the Development Process of International Law Industry Governance under the Challenge of International Political Technology**

#### **4.1 Two-way Integration: Challenges to Domestic Law in Detaching from International Law**

When it comes to merging international law with soft law, the former shouldn't be confined to industry-generated norms; rather, it should incorporate international arbitration rulings and norms that are comparable to general principles of international law, creating a comprehensive framework of soft law. Soft and hard methods have significant similarities and the possibility of fusion.

There should be no inconsistency between the hard and soft production rules. The main way that general principles of international law and other types of soft law are established is through international practice. Consequently, when hard law is being formed, these bodies of law are seen as an integral part of it. The establishment process of the international arbitration award system should also be regarded as a process in which the international community spontaneously generates rules, and soft law can gradually become a part of hard law.

Both soft and narrow hard law essentially aim to maintain the true intention and reasonable expectations of international commercial transactions. However, industry-specific soft law focuses on describing the meaning of international commercial transactions from a more professional and specific perspective. In contrast, soft law achieves this goal by excluding domestic laws that are unsuitable for international commercial transactions. In short, based on protecting the true intention and reasonable expectations of international commercial transactions, soft law under both conceptual categories should be regarded as a special law in international commercial transactions to play the role of international law.

Integration possibility: integrating "soft law" and hard law. Modifying international arbitration rules in international law provides a practical possibility for integrating "broad" and "narrow" rules. This objectively lays the foundation for arbitrators to integrate the two types of rules when making judgments.

In summary, the fundamental goal of international law is to establish a complete and standardized set of default rules, which should be gradually established through the practice of contracts. The current approach to selecting criteria is insufficient for the objective requirements of global communication, necessitating an urgent methodological change in international law. Due to the universal nature of international law, the arbitrator presiding over a dispute arising out of a cross-border commercial transaction has a duty to consider the best interests of all parties. Also, generally agreed-upon standards should form the basis of any judgment. Therefore, the scope of soft law in global communication must encompass both specific and generalized forms of soft law [9].

#### **4.2 Community Sharing: The Optimization of International Law Response System and the Governance of Domestic Law**

Soft law is a standardized and effective coordination tool that promotes consensus and cooperation among countries. This means that soft law is a legal and functional concept. From bilateral agreements to multilateral conventions, soft law has always been closely focused on improving the effectiveness of international governance. However, international law should strive for standardization to adapt to the constantly changing requirements of international relations. However, the amplification of national sovereignty has blurred the boundary between soft and hard law. Overall, international law still needs improvement in addressing institutional optimization and domestic legal governance and perfecting soft law mechanisms, which is also an important task for the international legal community [10].

#### **4.3 The Return of the Rule of Law: Correct International Law and Restore Domestic Law**

An overly expansive body of international law has long served to limit the scope of domestic law. Because of globalization and regional integration since the beginning of the century, the international legal system has changed the pattern of international governance. This system now incorporates both hard and soft law. But the inadequacies of the previous international legal system still make it hard to put domestic law into practice effectively. The diversity and complexity of international rules, along with differences in judicial practices across nations, means that there is still space for improvement when it comes to coordinating domestic law with international law. Given the centrality of international law, it is believed that adhering strictly to international law can lead to universally accepted standards. However, the practical role of international judicial mechanisms, mainly based on international rulings, in domestic law remains to be discussed. Meanwhile, due to difficulties in implementation, international law lacks effective means of enforcement at the domestic level.

### **5 Conclusion**

In the process of judicial judgment, the narrow definition of "soft law" does not have a written nature and usually cannot independently govern the legal relationships in international commercial transactions as the governing law. It can only play a certain factual auxiliary role in the judgment. The broad definition of soft law includes the written rule system compiled from "soft law" and the case law system formed based on rulings. Relevant international organizations write the former, while the latter is gradually formed by international arbitration institutions represented by international adjudication bodies in adjudication. Compared to narrow soft laws formed based on transactions, these rules have systematic characteristics.

However, due to their lack of clear legal binding force on international commercial entities and often informal nature, they can reduce the certainty and predictability of international commercial judgments. Therefore, strict restrictions should be imposed on their application.

## References

1. Berman P S. From international law to law and globalization[J]. *Colum. J. Transnat'l L.*, 2004, 43: 485.
2. Slaughter A M, Burke-White W. The future of international law is domestic (or the European way of law)[J]. *Harv. Int'l LJ*, 2006, 47: 327.
3. Delbruck J. Prospects for a World (Internal) Law: Legal Developments in a Changing International System[J]. *Ind. J. Global Legal Stud.*, 2001, 9: 401.
4. Cohen J A, Chiu H. *People's China and International Law, Volume 1: A Documentary Study*[M]. Princeton University Press, 2017.
5. Johnstone I. *The power of deliberation: international law, politics, and organizations*[M]. Oxford University Press, 2011.
6. Shaffer G C, Pollack M A. Hard vs. soft law: Alternatives, complements, and antagonists in international governance[J]. *Minn. L. Rev.*, 2009, 94: 706..
7. Jin H. Coordinate Rule of Law Efforts in Both Domestic and Foreign-Related Matters[J]. *Social Sciences in China*, 2024, 45(1): 71-88.
8. White N D. *Keeping the peace: the United Nations and the maintenance of international peace and security*[M]. Manchester University Press, 1997.
9. Abbott K W, Snidal D. Hard and soft law in international governance[J]. *International organization*, 2000, 54(3): 421-456.
10. Trachtman J P. *The future of international law: global government*[M]. Cambridge University Press, 2013.