



# The absence of regional international law in the world order crisis

## -Thoughts based on the supply side of international law

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**Abstract.** International law history is an integral part of the world history process, the reorganization of international law is often after major changes in the world order, since the end of the cold war, Yalta system formally established, this is the most complete in the history of international law system, it has established the United Nations, the world bank, the international monetary fund, etc., the new order, the old world order gradually collapse. In the process of the development of international law, multilateral international law is the ideal goal of the next stage, the promotion of the formation of multilateral international law needs to use the interactivity of international law development, by solving the solution in the international law "common divisor" and "most silence" deviation, promote the sustainable development of multilateral international law. At the same time, the rise of China shape the world order, China actively promote the transformation of foreign policy, China needs to actively promote the development of Asia and international law construction, also need to be able to play an important role in which, should also actively take a guiding role, actively promote regional international law, promote the development of multilateral international law.

**Keywords:** world order; regional international law; emerging power; China;

## 1 Introduction

The world order has always been a core issue in international relations, and it is also a factor that a country must first consider when making foreign policy decisions. From the diplomatic level of activities to the legal level, it is the inevitable way of the relationship between countries, basically it is the international law in international community governance that provides a feasible road, it has idealistic expectations of the development of international law, through the natural law, the empirical school of debate and proof, never stop, for the construction of international law in global governance, also can to a certain extent confirm the world civilization development path and law. In the process of the disintegration and reconstruction of the world order, China should actively promote the transformation of its foreign policy in the process

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of continuous rise and create a favorable international environment for China's continuous rise.

## **2 The difficult problem of international law governance under the world order crisis**

### **(1) A major speech on international law in the changing World Order**

The international community in the world order crisis and the demand for international law is increasingly strong, also changing because of the world order, to promote the rapid development of international law, the thirty years' war, world war I, world war, the war has produced the Westphalia peace treaty (hereinafter referred to as "treaty"), the international alliance covenant, the charter of the United Nations treaty, the world order changes under the treaty for the development of international law provides a solid foundation and practical experience, also provides the precious material for mutual governance in the world order.

### **2.1 The Westphalian system**

The formal establishment of the Treaty of Peace ended the thirty years of war pattern in Europe and promoted the formation of a balanced political pattern among countries, thus establishing the Westphalia system—under the sovereignty standard. The empirical source of modern international law is the establishment of the Treaty of Peace, which is also an important milestone in the development of international history. Its contribution to the principles of international law is indisputable, and articles 63,64 and 65 of the Peace Treaty are all intended to establish the principle of national sovereignty. <sup>[1]</sup> This change in the world order once again emphasizes the sovereignty standard of international law, and thus promotes it as the main way of peaceful settlement of international disputes, which can effectively solve the friction between countries. Since then, the Treaty has established the "multi-level balance" system.

### **2.2 Vienna system: balance of power restriction**

After the collapse of napoleonic empire, the world order chaos again, European countries in the face of the crisis of the world order imbalances, put forward the final protocol of the Vienna conference, the sacred alliance treaty and four alliance treaty treaty, declaration and documents, finally build the Vienna system, through the common goal of countries designated to achieve the temporary balance peace, this time the balance of the international community practice experience, proved the advantages of the Vienna system and mechanism guarantee, for the future United Nations security council powers consistent balance laid the foundation. <sup>[2]</sup>

### **2.3 The Versailles- -Washington system**

The outbreak of World War I broke the temporary peace between countries, and the development of international law gradually developed to collapse. After the war, countries learn the experience of the Vienna system failure, think national society should have the corresponding institutions guarantee "power consistent" balance, after Versailles-Washington system, for the first time to set up beyond the limit of the state of the behavior group "league of nations", the attempt to the future of the international system society advanced development has certain reference value, but because of its system is not sound, the world order under the national unrest frequently, eventually under the constant impact in Germany, declared the disintegration, and the official outbreak of world war ii.

### **2.4 Yalta system: the collective power of the United Nations**

During the outbreak of world war ii, national disputes, the world order, the serious damage, after the war, must solve the contradictions between countries still exist, and disputes, and on the basis of the charter of the United Nations, established the United Nations, jointly build the Yalta system, several scholars said, Yalta system is the most can withstand the test of practice in modern international system, it was established at the beginning of the institutional security and its related system design, especially for national security implementation power consistent, balance on the specification. This is clearly a great progress of international law, although from the perspective of the basic rules of international law, these later system and principles are not beyond the theory established by the treaty and national sovereignty and equality related order foundation, but through the establishment of the United Nations the superstate behavior, is a fruitful practice of the international community advanced.<sup>[3]</sup>

### **2.5 The world order crisis has already affected the compliance mechanism of international law**

Since the establishment of the principle of national sovereignty in the Peace Treaty, there has been no agreement to promote and apply it in globalization and anti-globalization, which leads to the frequent occurrence of order crisis and terrorism in various regions, and the continuous outbreak of disputes under the failure of unified national sovereignty, leading to the occurrence of the world order crisis. Countries has presented all kinds of different contradictions and disputes, which also leads to the anarchy, the international community in international compliance mechanism cannot play a role, led to its supply side constantly show weakness, it also leads to the development of international law, struggling to cope with endless human common problems and international disputes.

## **2.6 Problems with international law in global governance**

Due to the constantly changing international situation, Multilateral rules in international law are consistently blocked, International law is even backward development, The problem of the fragmentation of international law has led to the increasing contradictions between various norms of international law, As a result, the basic theoretical development and practical development of foreign law have not made effective progress, International law, as a system organization under the authority standard, Neither coercive nor law enforcement forces can compare with foreign law, In order to deal with disputes and internal mechanisms, Practice the WTO, once known as "model international law", in international law, However, the WTO issue on the appellate body also seriously threatens the future development of this exemplary international law.

## **3 Cause of the problems in international law governance**

### **3.1 International law is positioned as the primary stage of the legal system**

By comparing domestic law with international law, the basic system of domestic law is that there are laws to follow, laws must be observed, laws must be strictly enforced, and lawbreakers must be prosecuted. However, for international law, whether the basic concept or the development concept, there are still no conditions in most fields. After world war ii, the rapid development of international law, but the standardization content of serious conflict, international law and regulations, which seriously affects the independence of the independence of international law, fragmentation pattern has become a stumbling block to the development of international law, the development of multilateral international law with the change of national interests and national comprehensive strength, the development of multilateral international law instability, law legislation, law abiding, law enforcement is very chaotic, finally difficult to play an effective role. Because of the difficult development of multilateral international law, unilateralism and protectionism are riding on the momentum, which is a setback in the development of international law. It is precisely because of the influence of sovereignty standard that countries have frequent guidance, which makes it more difficult for international law to be effective at the judicial level. It is also because such factor is difficult for international law to break through the status of the legal system in the primary stage and hinder the systematic development process of international law.

### **3.2 The constraint of absolute sovereignty and the failure of great powers**

The original interpretation of the development of the Peace Treaty starts from national sovereignty, A balance of sovereignty against all countries, The security between the contracting States, But the fighting in Europe continues to spread, After three thirty years of strife, Sovereign equality has become the cornerstone of international law, But in the development of international law, Under the impact of the idea of absolute

sovereignty, the systematic development of international law has been seriously hindered, Especially regarding the judicial aspect, Since international law itself is only a contractual law under the sovereign standard, So the international community is still "autonomy of state", Because the contract itself is binding, By the exchange of interest demands, In exchange for the sovereignty of the rights and obligations of the norms and self-restriction. At the same time the rules of balance development team international law, with the change of the international situation, national interests changing, balance is no longer possible, this leads to the international law instability is greatly increased, other reflect the interests of national international organizations have also received impact, "consistent" rules makes the WTO appellate body candidate problem is deadlocked. Such a situation has a precedent in the process of international law governance and has become an institutional stumbling block, seriously hindering the sustainable development process of international law.

### **3.3 The deviation of "majority silence" and "common divisor" on the supply side of international law**

Disputes over the "majority silence" and "common divisor" on the supply side and the legitimacy of the national law, After World War II, due to the serious economic capacity of all countries, So the participation of different countries and the global legal supply side is uneven, The inequality of the economic capacity of the countries causes the inequality of the political voice, Although developed countries play a role in promoting anti-colonialism, racial differences, unequal treaties, But after the analysis of many scholars, The issue of the fragmentation of international law remains unresolved, Through the study and sorting of "agency" and "structure" in the theme of international law, it can provide necessary solutions to the legitimacy of international law, However, it also directly affects the development of the compliance mechanism of international law.

## **4 The thinking of the legal structure of international law and the change of ideas**

The existence of "common divisor" in international law itself represents different levels. From the perspective of system theory, the development of the rule of law framework of international law requires the world order to be constantly based on the reality of the diversified international community and respond to the overall trend of dynamic adjustment of the world order. International law, as a multi-level unit, a rule of law system based on special international law, has established a governance system based on universal international law. Emeka C. Adibe & Obinne Obiefuna point out that vexing question of the right to self-determination with particular reference to developments under both general international law and African regional law. It recognizes the tension between the right to self-determination and the territorial integrity of states while arguing that the right to self-determination for peoples within sover-

eign independent states fits into emerging normative developments in international law practice and politics in Africa and beyond. [4]

#### **4.1 Combing of the legal framework of international law and thinking on the supply side**

International law is the basic system in the development of the international community, the cornerstone of the stable and harmonious development of all countries, and the main driving source of the demand of international law. The improvement of the supply side of international law can continuously optimize and enhance the status of international law in the international community and enhance the influence of the international order. The highest level of the development of the international community is "human destiny community", the rule of law in international law architecture is the legal system of international relations, its corresponding branch level to one to one, in the "bilateral", "regional", "bilateral", "multilateral" in the four hierarchical structure, bilateral and multilateral development, regional and bilateral instability stronger also lack of stable support. The relationship between all levels is a dynamic existence. Under the current circumstances, the interaction of international law has been fully played, and bilateralism, regionalism and multilateralism are mostly developing here. Since the construction of international law is often the product of the reform of the world order, it is a development model spawned based on the strong needs of the international community, which is suitable for its current needs but does not meet the development needs. With the continuous change of the structure of the international community, the governance framework in the framework of international law should follow the development needs of The Times. At the beginning of the world order smoothly, under the influence of the outbreak of the international monetary fund found system shortage, supply and demand, it also led to China and other Asian countries deeply realize the urgency of regional international law, and balance checks and balances under the development of the multilateral system is also affected, difficult to get rid of running difficult, execution does not reach the designated position. Therefore, it is urgent to stand on the perspective of the long-term development of international law, make use of the interaction between international law to actively promote the completion of regional international law, let it continue to practice and develop, and promote international consensus to promote the mutual influence of regional law and international law to effectively change the status quo of serious conflicts in the fragmented norms of multilateral international law. Advocate the development of globalization in the international community, while providing efficient development brings how to realize the fair problem, regional, the effective supply of international law can indeed increase the voice and participation of developing countries, and resolve the negative impact of globalization, improve positive mechanism function, guide the globalization of human destiny community, promote the healthy and efficient development of the international community.

To sum up, the effective development path of international law must focus on the improvement of the supply side of international law. Whether multi-level response or the change of the world order, it need to develop the effective supply of international

law according to the needs of the international community. Through the interaction of international law, regional international law and bilateral international law is international power in the process of future development, mutual benign development is the basis of the healthy development of international law, international law should promote the development of regional international law, to continuously improve the international law supply side reform, thus feedback rapid development of international law. The structure of the rule of law of international law can also be continuously improved and implemented through the supply side, which will play an excellent role in guiding the construction and development of the rule of law of international law.

#### **4.2 The concept of sovereignty-based and society-based cooperation towards the future**

The issue of the fragmentation of international law comes mainly from the issues of sovereignty, Accurately derived from the impact of the idea of absolute sovereignty, Leading to the increasing increase in international law and regulations, The conflict has gradually intensified, This makes it difficult for international law, itself under a sovereign standard, to do its own problem, Difficult to achieve change under the influence of the idea of absolute sovereignty, So how to strengthen the principle of process unity by using the international socialization process and the international law mechanism, Changing the balance of sovereignty on the supply side of international law, The idea of sovereignty has become a mountain in the future development of international law, Has seriously hampered the capacity for sustainable development of international law, Has been trapped in the embarrassing situation of no unified legislation, law enforcement and judicial organs. Must be fully aware of the international law needs to follow the international socialization process and strengthen the concept, through the arrangement of regional international law mechanism joint developing countries, developed countries and zte countries in international law cooperation, to improve the integration development trend of the supply side. Adhering to the principle of sovereignty standard and social standard in parallel, multi-level coordinated development, establishing and improving the supply side and the value orientation of international law, and complying with the normative arrangements of international law, this will help international law to complete its path of sustainable development.

#### **4.3 The legitimacy consideration of sovereignty standard and social standard**

The development of international law has achieved the universal interests of the international community, is the cornerstone of the sustainable development of human society and guidance, combined with the history of international law, the world order after the change is the establishment of international law, a solid international order method, is indispensable to the existence of the international community, its essence from the actual concrete into an evolution, under the sovereign standard, the development of the international law needs its parallel and social standard, the legitimacy of the key is one of the origin of international law is one of the general legal principles in-depth understanding and practical application. The development of interna-

tional law and the idea of common issues of mankind break through the constraints of the secondary principle. The general legal principles in the practice of regional international law also promote the sustainable legislative and judicial development of multilateral international law under the parallel standard of sovereignty and social standards.

## **5 The establishment of a new order in China and the development of regional international law in Asia**

### **5.1 The establishment of a new order in China: an Asian community of shared future**

At present, the development of the international order is undergoing transformation and reform along with the changes of the international community. As for what kind of international political and economic order management mode should be established, it still needs to continue to explore and practice. Although international relations are relatively stable and fairly democratic, and developing countries can have a certain say, not every country can play the same role. In particular, big countries with strong sovereignty and differences in the concept of the distribution of relevant rights and interests will directly affect the path of sustainable development of international law. As a responsible major country, China should understand the overall development of international law and take an active part in the composition of international law. Developing countries represented by China will also play a huge role in rebuilding the world order. China has played a positive role in promoting the development of the world order and creating favorable conditions for the legal environment under international law. China should constantly focus on thinking, positioning and rebuilding its relations with the world, and actively promote the transformation of its foreign policy. Combined with China's national strength, should be in the dominant position of Asian fate community, actively promote regional identity to promote regional common interests blend to promote the construction of regional international law, prime minister Li Keqiang once in Boao Asia BBS proposed "three community", "Asia" namely "Asian interests" "Asian fate community" and "Asian responsibility community".<sup>[5]</sup> We should pursue common development, deepen cooperation and complement each other's strengths to establish a regional legislative framework for Asia. By leading the Belt and Road initiative and building a free trade zone, Asian countries will promote communication, mutual trust, integration and win-win results, and provide institutional supply for regional security and economic cooperation. To provide the wisdom and practical experience for the development of regional international law in Asia for the construction of multilateral international law, and jointly promote the international order towards a just and reasonable path.



## 5.2 Asian regional integration: Demand and development

Europe in the world region in the process of international law development time advantage, also have practical experience in the development advantage, so it has been a leading position in the regional integration, and China region and surrounding areas is a birthplace of international law and regional win-win region, so the regional integration of Asia for other countries and regional development, is relatively slow and backward. There are some historical reasons for this development, but there are also some reasons for the relevant regional blockade and national interest guidance. The EU continues to promote its regional free trade and other relevant systems through an open and integrated development mode, and actively develops an integration alliance. The United States and related regions promote the stable development of the local regions through various kinds of cooperation, which also jointly accelerates the formation and maintenance of the same interests in the region. The binding and restraint of political and other interests is a way for Europe and the United States to steadily promote the effective operation of regional international law. The process of regional integration in Asia needs to be promoted in similar ways. China should actively guide the economic and political integration among Asian countries as a major country, establish a cooperative development model of mutual benefit and mutual trust, and promote stable and harmonious development in the region. Through the sustainable development of Asian integration, it can contribute to the institutional supply of regional international law in Asia and also provide practical experience for the development of multilateral international law. As the largest and most populous continent in the world, the land area accounts for nearly 30% of the earth's land area, and its population accounts for more than 60% of the world's total population. Asia both material resources and cultural resources are extremely rich, the 97 financial crisis, let Asian countries for the international monetary fund global system with disappointment, gradually realize that only interdependent, jointly accept with homogeneity fate of countries, can no longer withstand similar regional blow, so are willing to contribute to Asian regional integration, this is to promote the common development of social, economic and cultural internal power in Asia.<sup>[6]</sup>

With the exploration of Asian history and culture and the exploitation of material resources, Asia, which was once prosperous and peaceful, has gradually returned, and the integration of Asia has a profound impact on the stability of the world order. With the vigorous development of many Asian countries in various fields, with the development of the new era and the successive promotion of platforms such as the Alliance of Southeast Asian Countries (ASEAN) and Asia-Pacific Economic Cooperation (APEC), the Asian regional value chain has made considerable progress on the basis of deepening integration. Compared with the development of Asian regional integration, the development of several systems including regional international law and the social development in Asia is relatively slow, lacking a high-level and high-quality framework guidance of Asian regional integration. With the development of ASEAN, APEC and other platforms, it has jointly promoted the exchange and communication among Asian countries. Moreover, Asian countries have signed a large number of bilateral treaties with many countries outside the region. These treaties show a frag-

mentation phenomenon, confirming the characteristics of the fragmentation of international law. Christensen Martin Lolle & Byrne William Hamilton also hold the similar view that There are two potential paths in the future relationship between the African and European Human Rights Courts. One path, brimming with optimism, sees a 'global community of courts' engaging in judicial dialogue that contributes to global human rights law. A second path has emerged in a Concurring Opinion to ND and NT v. Spain, a judgment legitimizing pushback of migrants at the borders of Europe. Judge Pejchal suggested that the application should have been struck out, as the applicants could have brought their claim to the African Court if they were unsatisfied with the human rights situation in their home country.<sup>[7]</sup> Similarly, Uwazuruike Allwell hold the same opinion as well: The discourse on international criminal law enforcement took an interesting turn when, in 2016, three African states announced their withdrawal from the ICC, punctuated by rhetoric, both from within the AU and a selection of African Heads of States, on the need for an alternative African-wide criminal court.<sup>[8]</sup>

## 6 Conclusion

To sum up, the development of international law needs to solve the crisis of world order and promote regional international law, and at the same time, the rapid development of Asian regional integration process feeds into the development process of multilateral international law.<sup>[8]</sup> The development of regional international law and multilateral international law are sustainable development relations that can promote each other and enjoy harmonious coexistence. Regional standardization is recognized and can promote the development of international law, and the development of international law can promote regional development. This is an effective and effective sustainable development path. China needs to obtain the main leadership position in the development of regional international law, to the development of national strength, deep involved in regional economic, politics, security, culture and other affairs and coordination mechanism, grasp many say, to promote the rapid development of multilateral international law, promote the world order towards a more stable, harmonious, fair and reasonable road.

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