The United States' Long-Arm Jurisdiction and China's Countermeasures

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Abstract. In the context of the deepening of globalization and the intensification of competition among major powers, the United States' long-arm jurisdiction has evolved from a system tool for resolving domestic interstate judicial disputes to a core means of maintaining global hegemony and containing strategic rivals, posing a severe challenge to the international order. This article focuses on the essential definition of the United States' long-arm jurisdiction and China's response strategies, aiming to fill the research gap on the coordinated countermeasures of the state and enterprises and the response strategies under the framework of international law. The research results show that the essence of the United States' long-arm jurisdiction is the unilateral expansion of extraterritorial jurisdiction and the instrumentalization of law. It generalizes the minimum connection standard, breaks through the principle of real connection in international law, and uses legal, economic, and political hegemony to exert unequal pressure on other countries, especially creating supply chain risks and compliance dilemmas for Chinese high-tech enterprises. In the constructed national and enterprise coordinated response system, the government needs to improve legislation with the "Anti-Foreign Sanctions Law" as the core, establish a cross-departmental regulatory coordination mechanism, and jointly promote the reconstruction of multilateral rules with multiple countries. Enterprises should strengthen compliance management, optimize supply chain layout, and enhance legal defense capabilities. This research provides theoretical support for safeguarding China's sovereignty, security, and the legitimate rights and interests of enterprises, and also offers a reference for promoting the fairness of international jurisdiction rules.

Keywords: Long-arm jurisdiction of the United States, countermeasures, synergy between the state and enterprises, international law.

1. Introduction

With the deepening of globalization and the increasingly intense strategic competition among major powers, the "long-arm jurisdiction" of the United States has completely deviated from its original function in the 1950s, which was to resolve interstate judicial disputes within the country. It has now transformed into a core means for maintaining its global hegemony and containing strategic rivals. This has posed a severe threat to the stability of the existing international order and China's development interests [1]. Regarding its essence, some scholars have proposed that it is disguised as legitimacy through complex systems and relies on financial, military, intelligence and legal hegemony to carry out non-war coercion, forcing other countries to comply with American rules [2]. Some scholars also believe that the United States has expanded the principles of personal and territorial jurisdiction, abused the principle of universal jurisdiction, and extended it globally, putting Chinese enterprises such as Huawei and ZTE at risk of technological supply cuts and huge fines [3]. In terms of impact, scholars, combining the cases of Huawei and Hikvision, found that the long-arm jurisdiction of the United States directly threatens the supply chain security of China's high-tech enterprises, and has also plunged Chinese enterprises into a legal predicament of jurisdictional competition and ambiguous minimum connection standards, and has even broken through the framework of international law and challenged the principle of sovereign equality of countries. Although the existing studies have revealed its hegemonic nature and harm, they still need to be further deepened in terms of national enterprise collaborative response strategies and international law countermeasures [4]. Based on this, this paper adopts the literature review method

to further clarify its essence, and from three dimensions of national legislation improvement, enterprise compliance system construction, and international judicial cooperation, constructs a more practical response plan, providing theoretical support for safeguarding China's sovereignty security and the legitimate rights and interests of enterprises.

2. Literature Review

In its white paper released in September 2018, the State Council pointed out that "long-arm jurisdiction" refers to the practice where the United States extends its regulatory reach beyond its borders by relying on domestic laws and regulations. The essence of the United States' long-arm jurisdiction is described as "unilateral expansion of extraterritorial jurisdiction" and "legal instrumentalization". In the study of the essence of the United States' long-arm jurisdiction, the theoretical and practical communities have formed multi-dimensional viewpoints based on the framework of international law, practical cases, etc.

The theoretical community defines the essence of the United States' long-arm jurisdiction as "unilateral expansion of extraterritorial jurisdiction" and "legal instrumentalization". Their approach of using long-arm jurisdiction as a means to provide justification for related measures lacks sufficient basis at the international law level. Moreover, due to the violation of jurisdictional boundaries and the imposition of compulsory compliance on other countries, it has a clearly oppressive nature and has deviated from the normal scope of jurisdiction. It should be defined as "powerful jurisdiction" serving hegemony [5]. The United States has generalized the minimum connection standard, using weak connections such as using the US dollar for settlement as the basis for jurisdiction, forcing other countries to comply, breaking the international law "sufficient connection" bottom line. The United States has expanded jurisdiction through an expansive interpretation of the principles of personal jurisdiction, territorial jurisdiction, and protection to include overseas enterprises controlled by US citizens under jurisdiction [6]. At the same time, the United States has intervened in the internal affairs of other countries through numerous legal means, blocked Chinese enterprises from obtaining core technologies, and used the law as a tool to maintain political and economic hegemony.

The practical community has revealed the essence of the United States' long-arm jurisdiction from three aspects. In terms of the operational mechanism, it is a mandatory control tool that combines legislation, judiciary, and law enforcement. The Congress legislates the scope and formulates a series of long-arm jurisdiction laws to consolidate and expand its long-arm jurisdiction. International judicial assistance and cooperation provide a convenient way for the realization of the United States' long-arm jurisdiction. The United States abuses international judicial assistance and cooperation to gradually expand the application scope of its long-arm jurisdiction. In terms of implementation methods, it uses the dollar hegemony to cut off payment channels, uses technological monopoly to prohibit enterprises such as Huawei from obtaining core products, and forces enterprises to restructure their supply chains. In terms of actual impact, its essence is unequal pressure under the imbalance of power between China and the United States. Cases involving China are concentrated in the high-tech field, and it also weakens the competitiveness of Chinese enterprises by shifting regulatory responsibilities [7].

3. Definition and Nature of Long-Arm Jurisdiction in the United States

Long-arm jurisdiction originated from interstate civil litigation in the United States, initially based on the minimum contact standard. It gradually broke through the scope of judicial jurisdiction over individuals and expanded to cover all dimensions of legislation, judiciary, and law enforcement outside the region. It is a unilateral jurisdiction measure that relies on domestic law to forcibly control foreign entities and individuals. The core logic is that the United States, relying on the dominance of its domestic legal system, has continuously lowered its jurisdictional threshold. It

has gradually generalized from the initial "substantial commercial connection" in interstate justice to claiming jurisdiction as long as there is a weak connection such as dollar settlement, use of American software, and indirect transactions with American citizens, and then expanded the scope of application to non-judicial fields. Ultimately, it imposes its own legal will beyond its territory. Section 301 of the Trade Reform Act of 1974 is a typical tool. It vaguely defines unreasonable trade practices and authorizes the US government to independently initiate investigations and impose sanctions. Essentially, it places domestic trade review power above multilateral trade rules and becomes a jurisdictional practice serving hegemonic goals [8,9].

From the perspective of its origin and development context, the evolution of long-arm jurisdiction itself reflects its essential alienation. In the 1950s, the principle of minimum connection was established through the "International Shoe Company v. Washington State" case, with the original intention of resolving inter-state jurisdictional conflicts in the United States and ensuring fair trials of civil disputes across states. From the end of the 20th century to the beginning of the 21st century, along with globalization and the expansion of American hegemony, it broke through geographical restrictions through the Foreign Corrupt Act and the Patriot Act, extending its jurisdiction to areas such as cross-border commercial bribery and counter-terrorism. At this time, the tendency of legal instrumentalization had already emerged. After 2017, as the strategic competition between China and the United States intensified, its focus further shifted to China. It forced Chinese concept stocks to comply with US auditing rules through the Foreign Company Accountability Act and restricted Chinese high-tech enterprises from obtaining core technologies through the Export Control Reform Act. Essentially, it has completely transformed from a tool for resolving jurisdictional disputes into a strategic means to curb competitors.

In terms of the in-depth analysis of its essential attributes, the core contradiction of long-arm jurisdiction lies in its dual attributes of hegemonism and illegality, compared with extraterritorial jurisdiction that adheres to the principles of real connections such as personal and territorial affiliations in international law. On the basis of legality, it completely deviates from the principle of genuine connection, generalizing the minimum connection standard to the possibility of jurisdiction even without connection. For instance, it imposes sanctions on an enterprise merely because it uses US dollars for settlement, completely disregarding the substantive connection between the jurisdiction and the governed object. In terms of application scope, it breaks through specific functional fields such as anti-monopoly, comprehensively penetrates multiple dimensions including trade, finance, technology, and human rights, and has clear strategic targeting. Its jurisdiction over China is mainly concentrated in high-tech industries such as 5G, chips, and new energy, while its jurisdiction over European enterprises focuses on energy, aviation, and other fields. Essentially, it is to divide the key areas for crackdown according to the interests of the United States. In terms of implementation purposes, "national security" and "human rights and democracy" are merely pretenses. The real aim is to safeguard the United States' rule hegemony, economic hegemony and political hegemony. For instance, sanctions against Huawei under the pretext of "national security" are essentially aimed at curbing China's leading position in 5G technology. Governing enterprises related to Xinjiang under the pretext of "human rights" is essentially an ideological interference in China's internal affairs.

From the perspective of practical mechanisms, the essence of long-arm jurisdiction is implemented through the triple interaction of "law - economy - politics". At the legal level, the United States uses domestic law as a "carrier of hegemony". It not only forces foreign entities to abide by rules such as the Foreign Company Accountability Act and the Export Control Act but also initiates lawsuits against foreign enterprises through domestic courts, compelling foreign entities to accept the jurisdiction of the United States. At the economic level, relying on the hegemony of the US dollar and technological monopolies, a "sanctions closed loop is formed, cutting off the dollar payment channels of the enterprises under jurisdiction, prohibiting US enterprises from cooperating with them, and at the same time pressuring Allies to follow up on sanctions, completely blocking the global supply chain of the enterprises under jurisdiction. At the political level, using ideology as

a tool to build jurisdictional alliances, binding long-arm jurisdiction with democratic values, and pressuring other countries to cooperate with its jurisdictional measures, essentially distorts judicial jurisdiction into a tool for political pressure and hegemonic expansion, seriously undermining the principle of sovereign equality among states and the multilateral international order.

4. China's Strategic Path in Response to the Long-Arm Jurisdiction of the United States

4.1. Government Level

4.1.1 Improving the legislative system

China should take the Anti-Foreign Sanctions Law as the core, accelerate the formulation of supporting rules and regulations, clarify the specific scope of application, implementation procedures and legal liabilities of countermeasures targeting the U.S. abuse of long-arm jurisdiction, include the acts of the U.S. arbitrarily sanctioning Chinese enterprises in the identification scope of the "Unreliable Entity List", and form a complete chain.

At the same time, people should break through the traditional territorial jurisdiction restrictions and use legislation to clearly define China's jurisdiction over acts that harm the country's interests abroad. In areas such as data security and anti-monopoly, people should exercise jurisdiction over discriminatory measures taken by US enterprises abroad and counterbalance their legal hegemony through the principle of reciprocity. People can also refine the triggering conditions for countermeasures through judicial interpretations or administrative regulations.

4.1.2 Strengthening regulatory coordination

In China, a cross-departmental "Working Group for Responding to Foreign Sanctions" can be established to establish a unified coordination mechanism. This mechanism should coordinate legal analysis, policy formulation, and diplomatic communication. When Chinese enterprises are sanctioned by the United States, it should coordinate the judicial department to provide legal support and the diplomatic department to clarify positions, so as to prevent enterprises from fighting alone.

Expand the judicial rights protection channels for Chinese entities and individuals. Allow them to file compensation lawsuits in domestic courts regarding the abuse of the "long-arm jurisdiction" by the United States. Simplify cross-border judicial assistance procedures and provide support such as evidence collection and legal representation for Chinese enterprises' overseas litigation. In response to the frequent tools of the United States' "Export Control Law" and "Foreign Company Accountability Law", regulatory authorities need to jointly issue compliance guidelines with industry associations, alerting enterprises to avoid risks in cross-border investment and technology cooperation, and establishing a compliance review system in advance [10].

4.1.3 Deepening international cooperation

China must strengthen international law enforcement cooperation with foreign countries, join hands with Russia, the European Union, ASEAN and other countries and regions that have been affected by the long-arm jurisdiction of the United States, and jointly propose a "Proposal against the Expansion of Unilateral Jurisdiction" on multilateral platforms. This will promote the formulation of the "International Jurisdiction Rules Convention" to restrain the hegemonic behavior of the United States through international law [5]. In addition, it is necessary to enhance judicial mutual assistance with major trading partners, sign judicial assistance treaties to clarify the conditions for mutual recognition of judgments, reduce jurisdictional conflicts, and promote the formulation of common rules in areas such as cross-border investment and data flow among countries along the Belt and Road Initiative, and build a multilateral cooperation framework [11].

4.2. Enterprise Level

4.2.1 Strengthening compliance management

Enterprises need to establish a dedicated compliance management system, systematically screen the US sanctions list, strictly avoid related transactions with sanctioned entities, and cut off the transmission of long-arm jurisdiction risks from the source of transactions. At the same time, they should intensify research on high-frequency jurisdictional tools such as the US Export Control Act and the Foreign Company Accountability Act and form a regular legal risk assessment mechanism.

They should also establish a regular compliance audit system, set up a legal review position for cross-border business, and other mechanisms to identify jurisdictional traps in cross-border investment and technology cooperation in advance, embedding legal risk prevention into the entire business process, and achieving a shift from passive response to proactive prevention.

4.2.2 Optimizing supply chain layout

Promote the regional diversification strategy of the supply chain, expand suppliers from non-long-arm jurisdiction sensitive regions such as Southeast Asia and the Middle East, and gradually reduce reliance on American technologies and components. At the same time, strengthen vertical integration of the domestic supply chain, increase R&D investment in "critical areas" such as chips and industrial software, enhance the independent control ability of key links, effectively resist the risk of supply chain disruption caused by US jurisdictional sanctions, and lay a solid foundation for industrial security.

4.2.3 Enhancing legal response capabilities

Enterprises can establish professional teams including international legal experts, strengthen the ability to actively respond, draw on the successful practice of Xiaomi Company in challenging US sanctions through litigation, leverage government support, and jointly with industry associations advocate for legitimate rights and interests on platforms such as the WTO Dispute Settlement Mechanism and the United Nations Commission on International Trade Law.

In disputes related to cross-border data flow and technology exports, cite domestic laws such as the "Anti-Foreign Sanctions Law" as defense bases, and simultaneously promote the reshaping of international jurisdiction rules, and counter US unilateral jurisdiction abuse through the multilateral rule system.

5. Conclusion

This paper adopts a combined approach of literature review, case analysis, and legal text deconstruction to analyze the origin, development, essential characteristics, and impact of the long-arm jurisdiction of the United States on China's sovereignty security and corporate interests. It summarizes that this jurisdiction has transformed from a tool for resolving interstate judicial disputes to a powerful jurisdiction serving American hegemony. Its essence lies in unilateral expansion of extraterritorial jurisdiction and legal instrumentalization, breaking the principle of the real connection of international law, relying on legal, economic, and political hegemony to exert unequal pressure on other countries, especially bringing supply chain risks and compliance dilemmas to Chinese high-tech enterprises. It further elaborates on the construction of a national and enterprise collaborative response system. The government should improve countermeasures legislation centered on the "Anti-Foreign Sanctions Law", establish a cross-departmental regulatory coordination mechanism, and promote the reconstruction of multilateral rules on platforms such as the United Nations and WTO; enterprises should prevent risks through specialized compliance systems, promote regional diversification and autonomy of supply chains, and establish professional legal teams to enhance their ability to respond and protect their rights. In the future, it is necessary to explore precise countermeasures under the framework of international law, promote consensus among affected countries, jointly participate in the reconstruction of international jurisdiction rules,

provide legal support for the globalization of Chinese enterprises and the construction of a fair and multilateral international order, and contribute to more just and inclusive global governance.

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