

# The Convergence and Contours of World Common Law: A Transnational Legal Research Framework

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## Abstract

The traditional paradigm of legal research, confined within the sovereign boundaries of nation-states, is increasingly inadequate in an interconnected world. This article posits the emergence of a "World Common Law" – not as a monolithic legal code, but as a dynamic and complex transnational legal order. This order is characterized by the convergence of legal principles, the harmonization of norms through international institutions, and the diffusion of legal reasoning across jurisdictions. The article begins by deconstructing the concept, distinguishing it from historical and theoretical notions of a global law and tracing its philosophical underpinnings from legal pluralism and constitutionalism. It then provides a detailed exploration of the primary drivers of this convergence, including economic globalization, the digital revolution, the rise of global challenges, and the critical role of non-state actors. A central contribution of this work is the proposal of a novel, comprehensive methodological framework for researching this World Common Law, which integrates doctrinal, comparative, empirical, and computational approaches. This framework is designed to systematically analyze the interplay between national courts, international tribunals, and non-state actors in the formation of transnational legal norms. The article further illustrates this framework through two in-depth case studies: the evolution of the Lex Mercatoria (Modern Law Merchant) in international commercial arbitration and the development of transnational human rights jurisprudence, with a specific focus on the right to a healthy environment. A dedicated section critically examines the significant challenges and critiques facing this nascent legal order, including jurisdictional fragmentation, democratic deficits, cultural hegemony, and enforcement gaps. The conclusion synthesizes the findings and proposes concrete future directions for research and practice, arguing that understanding and navigating the World Common Law is not merely an academic exercise but a critical competency for the 21st-century legal professional, policymaker, and global citizen.

## Keywords

World Common Law, Transnational Law, Legal Convergence, Comparative Law, Lex Mercatoria, International Arbitration, Human Rights, Legal Harmonization, Global Governance, Legal Research Methodology

## 1. Introduction

### The Genesis of a Global Legal Fabric

For centuries, the dominant model of law has been positivist and territorial, rooted in the authority of the sovereign state. The Westphalian system enshrined the principle that within its borders, a state's law was supreme. However, the forces of globalization in the late 20th and early 21st centuries have profoundly disrupted this model. Cross-border trade, digital communication, international travel, and global environmental and public health crises have created a world where legal issues routinely transcend national frontiers. In response to this new reality, a complex, decentralized, and multi-layered legal order is coalescing—a phenomenon we term "World Common Law."

In response to this new reality, a complex, decentralized, and multi-layered legal order is coalescing a phenomenon we term "World Common Law." This concept does not imply the creation of a world government or a single, unified legal code, a vision often associated with naive utopianism or dystopian fears. Rather, it refers to the growing body of common legal principles, practices, and procedures that are being adopted, adapted, and applied across diverse jurisdictions. It is "common" not in the technical sense of the Anglo-American common law tradition of binding precedent, but in its shared, reciprocal, and increasingly uniform character across the globe. This legal fabric is woven from the threads of public international law, harmonized private law, the UNIDROIT Principles decisions of international courts and arbitral tribunals, model laws, and the best practices developed by multinational corporations and non-governmental organizations.[1]

The primary objective of this article is to articulate a coherent and practical framework for researching this nascent and evolving World Common Law. The central research question is: How can legal scholars and practitioners systematically identify, analyses, and understand the principles, processes, and actors that constitute the evolving World Common Law?

To answer this, the article is structured as follows: Section 2 provides a detailed conceptual foundation, tracing the intellectual history and distinguishing the concept from related fields. Section 3 analyses the key drivers and actors propelling legal convergence. Section 4 proposes a comprehensive, four-pillar research methodology, elaborating on each component with specific research questions and techniques. Section 5 presents two in-depth, illustrative case studies to ground the theoretical framework. Section 6 offers a critical perspective, discussing significant challenges, critiques, and limitations. Finally, Section 7 concludes by synthesizing the findings and proposing future directions for research and practice, emphasizing the growing importance of this field. [2]

## 2. Conceptualizing World Common Law: Beyond Ius Gentium and Soft Law

The idea of a law common to all humanity is not new. The Roman concept of Ius Gentium (law of nations) provided rules for dealings between Romans and non-Romans. Later, natural law theorists like Grotius envisioned a legal order derived from universal reason.[3] The modern concept of World Common Law is distinct from these historical antecedents. It is a positive, empirical reality emerging from contemporary practice, not a philosophical ideal.

It is crucial to distinguish World Common Law from related concepts:

**I.Public International Law:** Traditionally governs relations between states. World Common Law encompasses this but also includes norms that directly regulate the conduct of private actors (individuals and corporations) across borders.[4]

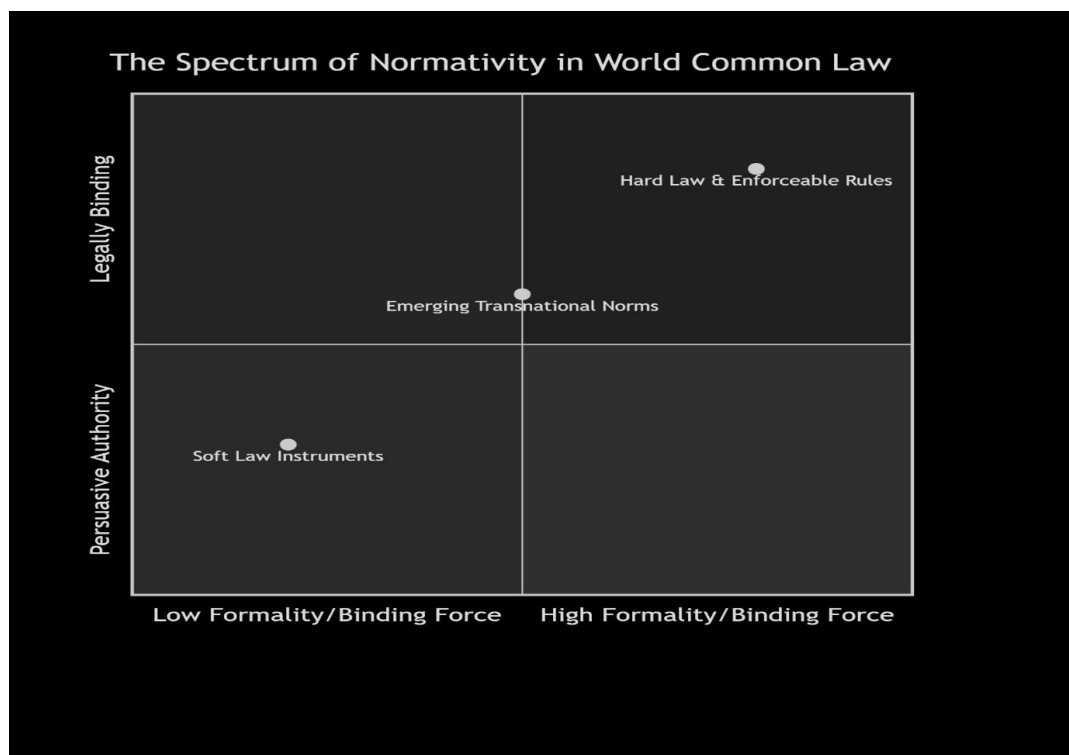
**II.Comparative Law:** A method of studying different legal systems. World Common Law is the object of study-the substantive and procedural commonalities that comparative analysis reveals.[5]

**III.Soft Law:** Non-binding instruments like resolutions, guidelines, and declarations. While soft law is a crucial component and often a precursor to World Common Law, the latter includes binding norms created through arbitration, treaty ratification, and the development of customary international law.[6]

**Table 1.** The spectrum of normativity in world common law.

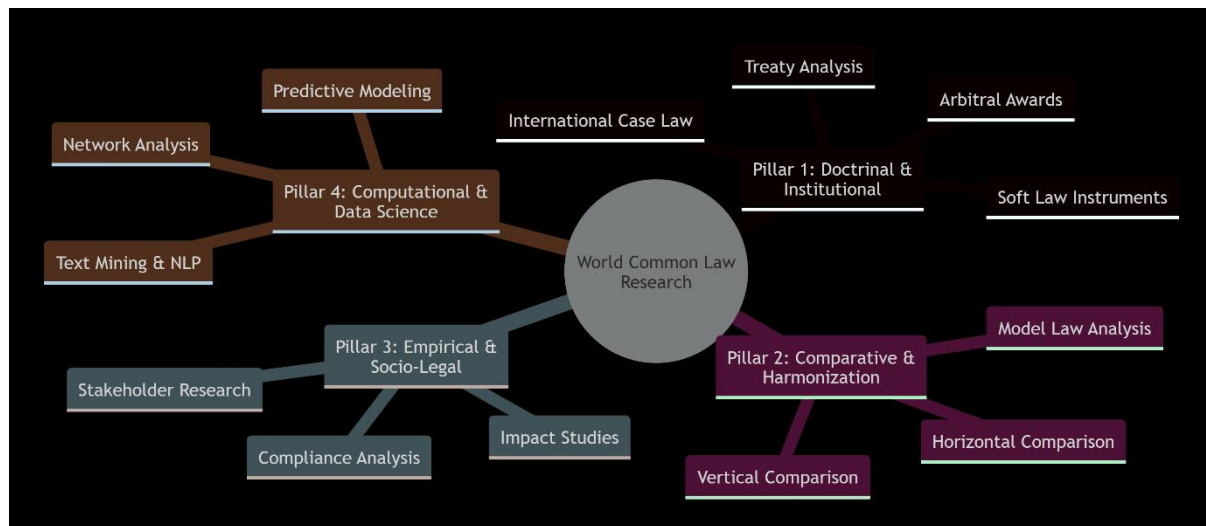
Soft Law	Emerging Norms	Hard Law
<ul style="list-style-type: none"> <li>•UN Guiding Principles on Business and Human Rights</li> <li>•ISO Standards</li> <li>•Corporate Codes of Conduct</li> </ul>	<ul style="list-style-type: none"> <li>•UNIDROIT Principles</li> <li>•Jus Cogens norms</li> <li>•Consistent arbitral awards</li> <li>•Widespread judicial convergence</li> </ul>	<ul style="list-style-type: none"> <li>•WTO Dispute Settlement Rulings</li> <li>•ICSID Arbitrations</li> <li>•EU Regulations</li> <li>•Ratified Treaties</li> </ul>
Persuasive Authority and Best Practice	Growing Precedent and Jurisdictional Adoption	Legally Binding and enforceable

Table 1 is explained about World Common Law exists on a spectrum of normativity, from non-binding principles to firmly entrenched legal rules, as illustrated.



**Figure 1.** The spectrum of normativity in world common law.

Figure 1 This explain is quadrant chart visually demonstrates how different legal instruments exist on a spectrum from non-binding soft law to fully enforceable hard law, with emerging norms occupying the transitional space in between.



**Figure 2.** The four-pillar research framework.

Figure 2 This explanation is mind map clearly illustrates the comprehensive research methodology, showing how the four pillars encompass both traditional and innovative approaches to studying transnational law.

### 3. Drivers of Global Legal Convergence

The formation of a World Common Law is not a spontaneous event; it is propelled by powerful, interconnected global forces.

#### 3.1 Economic Globalization and Trade

The engine of legal harmonization has been international commerce. The World Trade Organization (WTO) establishes a foundational legal framework for trade, and its dispute settlement body generates a significant body of transnational trade law. Bilateral and multilateral investment treaties (BITs), along with the Convention on the Settlement of Investment Disputes (ICSID), have created a semi-autonomous legal regime for foreign investment, protecting investors against state actions and leading to a convergence in standards like "fair and equitable treatment." [7]

#### 3.2 The Digital Revolution

Cyberspace is a inherently stateless domain that demands transnational legal solutions. Data privacy provides a quintessential example. The European Union's General Data Protection Regulation (GDPR) has established such a comprehensive and stringent standard that it has created a "Brussels Effect"; companies worldwide that wish to access the EU market must comply, effectively making GDPR a global benchmark. Similarly, issues of cybersecurity, cross-border e-commerce jurisdiction, and intellectual property rights concerning digital assets force regional or national regulations to have extraterritorial reach, compelling global compliance and legal convergence. [8]

#### 3.3 The Rise of Global Challenges

Problems like climate change, pandemics, international terrorism, and nuclear proliferation are inherently transnational and cannot be solved by any single state. This functional necessity drives international cooperation and the creation of corresponding legal frameworks, such as the Paris Agreement, the World Health Organization's International Health Regulations, and various counter-terrorism conventions. These regimes create common obligations and standards for state behavior, and increasingly, they impose reporting and due diligence requirements on private corporations, further weaving them into the fabric of World Common Law. [9]

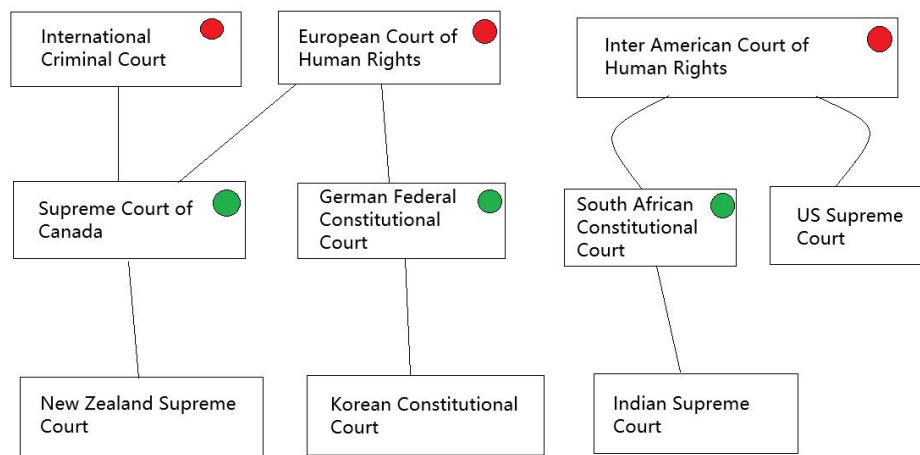
#### 3.4 The Judicial Dialogue

A less formal but potent driver is the increasing citation of foreign and international jurisprudence by domestic courts. Constitutional and supreme courts from Canada to South Africa, and from Germany to India, regularly reference each other's rulings on fundamental issues like human dignity, privacy, proportionality, and equality. This "trans judicial dialogue," as Anne-Marie Slaughter termed it, fosters a global commons of legal reasoning and shared constitutional values, building a common law of humanity at the highest level of judicial deliberation. [10]

#### 3.5 The Role of Non-State Actors

Beyond states and judges, a host of non-state actors are crucial architects of World Common Law. Multinational Corporations (MNCs) develop internal compliance standards that often exceed local legal requirements, effectively creating private global regulations. [11] International NGOs like Amnesty International and Transparency International act as watchdogs and advocates, shaping the interpretation and enforcement of international norms. Expert bodies and epistemic communities, such as the International Law Commission or technical standard-setters like the IEEE, draft the very texts that become the substance of future law. [12]

#### 4. A Methodological Framework for Researching World Common Law



**Figure 3.** Network analysis of transnational judicial influence.

Key: Red Nodes: International Courts (Norm Creators)

Green Nodes: Influential Domestic Courts (Norm Adopters & Amplifiers)

Figure 3 This explanation is about network diagram demonstrates the flow of legal influence between international and domestic courts, showing how certain courts serve as central hubs in the global judicial dialogue.

**Table 2.** The four-pillar framework for world common law research, we propose an integrated framework with four pillars, visualized.

World Common Law Research			
PILLAR 1: Doctrinal and institutional analysis	PILLAR 2: Comparative and harmonization analysis	PILLAR 3: Empirical and socio-legal analysis	PILLAR 4: Computational and data science analysis
<ul style="list-style-type: none"> <li>•Treaties</li> <li>•Case law of instil courts</li> <li>•Arbitral awards</li> <li>•Soft law instruments</li> </ul>	<ul style="list-style-type: none"> <li>•Identify converging principles</li> <li>•Analyze model laws and their uptake</li> <li>•Legal transplants</li> </ul>	<ul style="list-style-type: none"> <li>•Impact of international rulings on national legislation</li> <li>•Surveys of legal practitioners</li> </ul>	<ul style="list-style-type: none"> <li>•Network analysis of judicial citations</li> <li>•Text mining of legal corpora</li> <li>•Predictive modeling of case outcomes</li> </ul>

Table 2 is explained about researching this decentralized and complex system requires a multi-faceted methodology that moves beyond traditional black-letter law approaches

##### **Pillar 1: Doctrinal and Institutional Analysis**

This involves the traditional study of legal texts, but with a transnational focus. The researcher must analyze:

I.The founding statutes and case law of international courts (ICJ, ICC, ECtHR, IACtHR).

II.Awards from international arbitral institutions (ICSID, ICC International Court of Arbitration).

III.Key international treaties and conventions (e.g., CISG, CBD, CRC).

IV.Soft law instruments from bodies like the UN, OECD, and ISO.

V.The institutional architecture of global governance, understanding how bodies like the WTO or the UN security council operate as law-making for a.

##### **Pillar 2: Comparative and Harmonization Analysis**

This pillar seeks to identify convergence. It involves:

I.**Horizontal Comparison:** Analysing how different national jurisdictions (e.g., US, EU, China, Brazil) approach the same legal problem.

II.**Vertical Comparison:** Examining the mechanisms and degrees to which international norms are incorporated, or "transplanted," into domestic legal systems.

III.**Analysis of Harmonization Projects:** Studying the work of organizations like UNIDROIT, UNCITRAL, and the Hague Conference on Private International Law, which draft model laws, principles, and conventions that serve as blueprints for national legislation, deliberately engineering legal uniformity.

### Pillar 3: Empirical and Socio-Legal Analysis

This pillar investigates the "law in action." It asks: How are these transnational norms implemented, resisted, or adapted? Methods include:

**I.Impact Studies:** Quantifying the causal effect of a landmark international ruling (e.g., an ECtHR judgment) on subsequent national court decisions or concrete legislative changes using quantitative and qualitative methods. [13]

**II.Stakeholder Interviews:** Conducting in-depth interviews with arbitrators, in-house counsel at multinationals, NGO advocates, and government regulators to understand their perceptions, strategies, and daily use of transnational legal tools. [14]

**III.Archival Research:** Studying the travaux preparator's of treaties or the internal memos of corporations to understand the intent, power dynamics, and compromises behind specific provisions of World Common Law.[15]

### Pillar 4: Computational and Data Science Analysis

This is the most nascent but rapidly advancing pillar. It uses technology to handle the vast scale of global legal data.

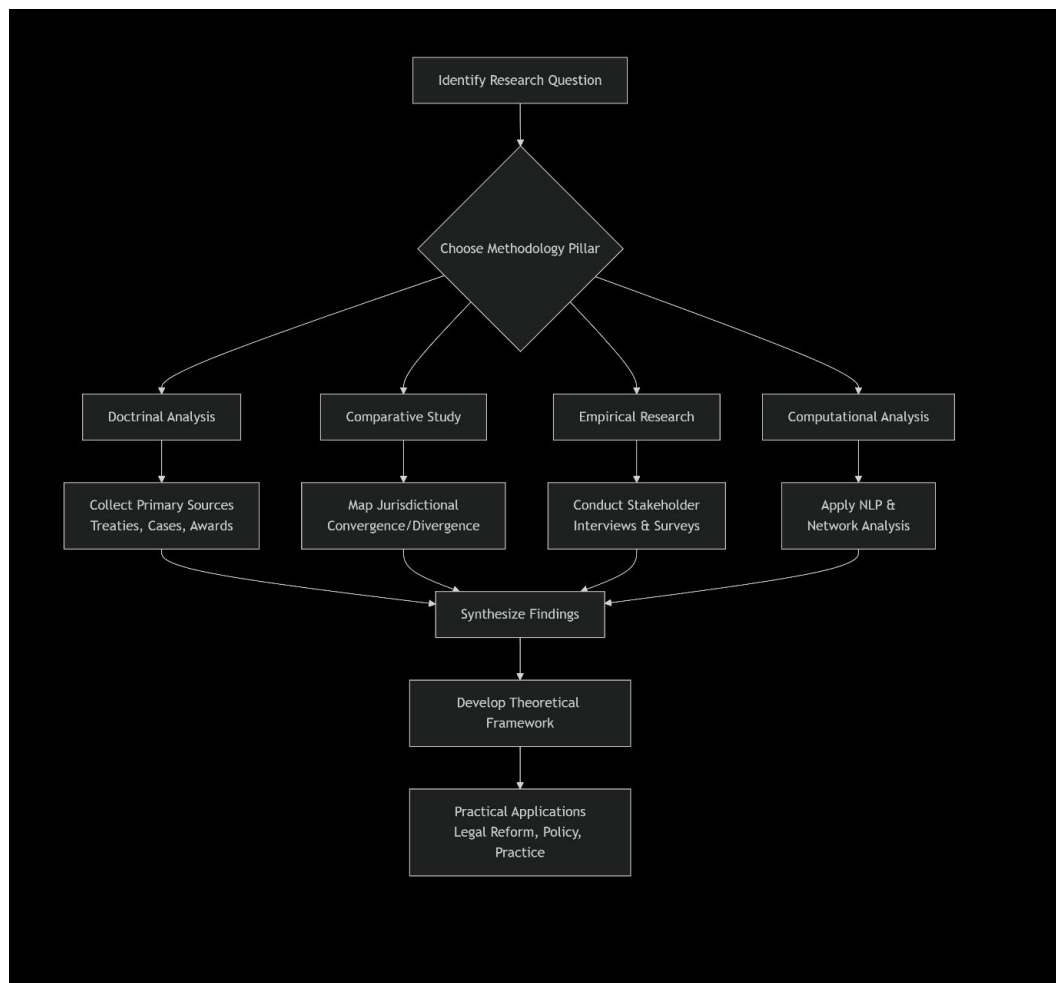
**I.Network Analysis:** Mapping citations between domestic and international courts to visualize the flow of legal influence.

**II.Text Mining and NLP:** Using Natural Language Processing (NLP) techniques to analyze thousands of arbitral awards or court decisions to identify recurring legal principles, latent argument patterns, or systemic biases that would be impossible to detect manually. [16]

**III.Predictive Analytics:** developing machine learning models to forecast the outcomes of international disputes or the likelihood of a state complying with a ruling based on historical data, case features, and political variables.[17]

## 5. Case Studies in World Common Law

To ground the theoretical framework, we examine two prominent areas where World Common Law is evident.



**Figure 4.** Implementation framework for world common law research.

Figure 4 Explanation of this is about flowchart provides a practical guide for researchers, showing how to move from initial question to practical application using the four-pillar framework.

### 5.1 The New Lex Mercatoria in International Commercial Arbitration

The medieval Lex Mercatoria was a set of commercial customs used by merchants across Europe. Its modern equivalent is a prime example of World Common Law. In international arbitration, parties often choose to have their disputes governed by "general principles of law," "the usages of international trade," or the UNIDROIT Principles of International Commercial Contracts, rather than the law of a specific state.[18]

#### Research Application:

**Pillar 1:** Analysed a large corpus of published and (where available) confidential ICC arbitral awards to identify the most frequently applied non-national principles

**Pillar 2:** Compare how different arbitral tribunals seated in Paris, London, Singapore, and Dubai interpret and apply the concept of "hardship" under the UNIDROIT Principles, assessing the degree of uniformity or divergence in its application.

**Pillar 3:** Survey corporate legal departments and law firms on their rationale for selecting Lex Mercatoria or the UNIDROIT Principles over a potentially more unpredictable national law. Is it for neutrality, predictability, or a perception of higher quality.

**Pillar 4:** Use text mining to track the citation of the UNIDROIT Principles in arbitral awards over time, demonstrating its growing authority.

This body of privately created and adjudicated law now constitutes a veritable global common law of commerce, largely uniform and predictable for international business actors.[19]

### 5.2 Transnational Human Rights Jurisprudence

While international human rights treaties provide the textual foundation, a truly common law of human rights has been developed through the active and sustained cross-fertilization of jurisprudence among international and domestic courts. The European Court of Human Rights (ECtHR), the Inter-American Court of Human Rights (IACtHR), the African Court on Human and Peoples' Rights, and influential domestic courts like the Supreme Court of India or the Constitutional Court of South Africa engage in a continuous, deliberate dialogue. A powerful sub-case is the right to a healthy environment. [20]

#### Research Application:

**Pillar 1 (Doctrinal):** Conduct a detailed doctrinal analysis of the ECtHR's evolving case law, tracing how Article 8 (right to private life) has been interpreted to encompass protections against severe environmental pollution, from *López Ostra v. Spain* (1994) to more recent climate-related litigation.

**Pillar 2 (Comparative):** Compare the jurisprudential pathways of the IACtHR has explicitly read a right to a healthy environment into the American Convention) and the Supreme Court of India has derived it from the constitutional right to life) to show different judicial techniques arriving at a similar fundamental right.

**Pillar 3 (Empirical):** Undertake an empirical study of the impact of the landmark IACtHR ruling in *The Environment and Human Rights Case (Salas v. Peru)* on domestic environmental litigation and policy reforms in other Latin American countries, demonstrating the ripple effect of a transnational judgment.

**Pillar 4 (Computational):** Perform a large-scale network analysis on a global database of human rights judgments, creating a citation network map that visually demonstrates the most influential hub courts and the dense web of cross-references that binds this transnational jurisprudence together.

This dialogue has created a common, though not perfectly uniform, understanding of fundamental rights that transcends any single legal system.

### 6. Challenges, Critiques, and Limitations

The development of World Common Law is a contentious process fraught with significant obstacles, power imbalances, and legitimate criticisms that must be soberly acknowledged.

**I. Jurisdictional Fragmentation and Conflict:** The very proliferation of international tribunals and legal regimes can lead to conflicting rulings and forum shopping. A classic example is the tension between investment arbitration tribunals (protecting corporate property rights) and human rights courts (upholding social and environmental rights), potentially creating a "spaghetti bowl" of contradictory legal obligations and undermining the coherence of the system.[21]

**II. The Democratic Deficit and Legitimacy Crisis:** Many of the most influential institutions shaping World Common Law are far removed from democratic accountability. Investor-state arbitrators are often private lawyers, technical standard-setters are industry experts, and the proceedings of many bodies are opaque. This raises profound questions about the legitimacy and the very source of their law-making authority. Critics like Dani Rodrik question whether deep economic integration is compatible with democratic self-determination.[22]

**III.Cultural and Ideological Hegemony:** A dominant critique, particularly from the Global South, is that World Common Law often reflects and imposes Western liberal legal, economic, and political paradigms. Concepts like individual autonomy, a particular version of the rule of law, and neoliberal economic policies are often presented as universal, potentially marginalizing alternative legal traditions from Asia (communitarian values), Africa (Ubuntu philosophy), or the Islamic world. This risks creating a new, sophisticated form of legal imperialism that replicates colonial power structures.[23]

**IV.Enforcement Gaps and the Problem of Power:** A law without consistent and effective enforcement remains weak. While the enforcement of international commercial arbitral awards is robust under the New York Convention, the enforcement of international human rights law or environmental law against powerful states or corporations remains patchy, politically contingent, and often symbolic. The might of the World Common Law is unevenly distributed, reflecting global power disparities rather than legal merit.[24]

## 7. Conclusion

The concept of World Common Law provides an indispensable and powerful lens through which to view the ongoing, dramatic transformation of the global legal landscape. It is a reality born of functional necessity, a pragmatic and evolving response to a world where legal problems are no longer containable within national borders. The comprehensive methodological framework proposed in this article-integrating doctrinal, comparative, empirical, and computational approaches-offers a structured and robust path for scholars, practitioners, and policymakers to navigate this complex terrain. It combines the indispensable rigor of traditional legal analysis with the innovative, scale-handling potential of empirical and computational methods.

Future research and practice should focus on several critical and interdisciplinary areas:

**I.Deepening the Computational Turn:** The next frontier is leveraging advanced AI, machine learning, and natural language processing to analyze the entire, vast corpus of transnational legal data-from treaties and case law to arbitral awards and corporate contracts-uncovering deep patterns, causal relationships, and systemic biases that are entirely invisible to the human researcher working manually.

**II.Studying Resistance and Fragmentation:** It is crucial to move beyond a linear narrative of convergence and seriously investigate the powerful counter-trends, such as the rise of nationalist, populist, and anti-globalization movements, digital sovereignty campaigns data localization laws, and the strategic withdrawal from international institutions. Understanding this dialectic between integration and fragmentation is key to predicting the future trajectory of World Common Law.

**III.Incorporating Non-Western Perspectives and Epistemologies:** Future research must actively and deliberately promote projects that integrate non-Western legal philosophies, practices, and voices from the Global South. This is not just an issue of representation but is essential for ensuring the World Common Law is genuinely pluralistic, legitimate, and resilient, rather than a hegemonic project.

**IV.Addressing the Governance Gap:** There is an urgent need to develop new theoretical and practical models for the legitimate, accountable, and effective governance of this decentralized legal order. This includes rethinking mechanisms for stakeholder participation, enhancing transparency in transnational adjudication, and building checks and balances into the system.

In conclusion, the study of World Common Law is no longer a niche sub-discipline of international or comparative law, but a central, critical task for legal science in the 21st century. By systematically understanding its contours, drivers, mechanisms, and flaws, we can better equip ourselves to participate in the shaping of a global legal order that is not only efficient for commerce but is also just, equitable, sustainable, and respectful of human dignity and cultural diversity for all.

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