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Ancient Wisdom and Legal Integration: Insights for the Belt and Road Initiative

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Abstract. The Belt and Road Initiative (BRI) faces significant legal challenges due to diverse legal traditions across countries. Existing research overlooks insights from ancient Silk Road trade rules. This paper explores core characteristics of ancient Silk Road trade rules (flexible contracts, credit governance, dispute resolution) via literature review and case analysis, hoping to integrate the ancient wisdom with modern legal systems. Findings reveal that ancient wisdom offers valuable solutions: flexible contracts with culturally adaptive clauses can balance legal diversity; credit mechanisms and trust can strengthen cross-border compliance; and locally embedded dispute resolution models can enhance the efficiency of conflict mitigation . The study further develops a "Three-Stage Legal Coordination Model" (preventive due diligence, in-execution consultation, and corrective revision) to offer practical compliance strategies for businesses and inform regional legal coordination for the BRI. Given that the BRI serves as an important platform for global economic cooperation and cultural exchange, integrating the wisdom of the ancient Silk Road not only enhances the theoretical system for legal coordination but also provides insights to address challenges.

Keywords: Ancient Silk Road, Belt and Road Initiative, Legal Integration, Trade Rules, Cross-border Investment

1. Introduction

The Belt and Road Initiative (also known as "BRI") has initiated the world's largest-scale cross-border investment cooperation, with infrastructure projects expected to exceed several trillion USD by the 2030s, involving over 65 countries [1]. By 2024, Chinese enterprises' non-financial direct investment in the BRI countries will have reached 239.93 billion yuan. Chinese enterprises have signed overseas contracts worth over 1655.65 billion yuan [2]. However, regulations and mechanisms for guiding or resolving legal matters specifically for the Belt and Road Initiative (BRI) are limited. Addressing these challenges is complex due to global engagement. First, BRI projects span countries with diverse legal systems, such as common law, civil law, continental law, and Islamic law. Understanding these systems fully is difficult for companies. Moreover, many involved countries are developing nations focused on development and sovereignty protection, leading to stricter control over foreign enterprises. Second, the rapid expansion of BRI projects in scale and scope, coupled with rising protectionism and strained international relations, has increased external uncertainty for companies.

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Current research related to BRI mainly focuses on several key aspects: the benefits and limitations, the legal framework of individual nations, international multilateral treaties, and analyses of specific legal issues. However, there are limitations. First, there is a study on the connection between the ancient Silk Road and the modern one, but it mainly focuses on the similar regions involved. There is insufficient exploration of the value of the ancient Silk Road trade rules to the BRI. Second, most studies now focus on the written law, but the unwritten law, such as the commercial practices and credit mechanisms, can connect wisdom from the past to the modern practices.

This paper employs literature review and case analysis to focus on the core characteristics of ancient Silk Road trade rules. It explores how to integrate traditional wisdom with modern legal systems to build a more adaptive legal protection mechanism for cross-border investment. This study provides a "historical-contemporary" perspective for the cross-border legal research and draws inspiration to address modern legal and business challenges.

2. Core characteristics of ancient Silk Road trade rules

2.1. Flexible contract mechanisms

Written agreements artifacts discovered on the path of the Silk Road from the Khitan script of the Han and Jin dynasties, to the Tibetan, Uyghur, and Western Xia scripts, and the script of the Qing and the Republic of China [3]. Some have described the trade agreement from the ancient Silk Road as "innovative approaches to diplomacy and economics". It is clear that within a consistent framework, each ethnic group has different expressions of its customs and habits in various contractual factors. More importantly, it is because treaties are not limited to conventional trade issues but also include cultural promotion and other aspects that are important to the effectiveness and fairness of the trade.

Nowadays, agreements are typically formalized in writing as contracts. However, historically, agreements took various forms, including verbal understandings and diverse recording methods. Some researchers trace the origins of contracts back to the end of the primitive era, when people recorded information by tying knots [4]. Because of the respect for the agreements, it eventually established a spirit of creating flexibility. In the West, the principle is to prioritize the agreement over rules. It means that the regulation needs to respect the individual's wishes. This can be proven by the West saying, "custom and agreement overrule law". In ancient China, there was the same spirit. However, it goes "private contracts cannot derogate from the public law." Here, the public law is the jus cogens, and it seems to imply that ius dispositivus can be refuted by agreement but not the jus cogens [5].

2.2. Credit and trust governance systems

Pacta Sunt Servanda is the fundamental principle of international law [6]. Chinese people believe that without trust, a person cannot stand, business cannot bloom, and a country will decline. It describes a trust system between parties. BRI is a collaboration platform, and Pacta Sunt Servanda is the key to success. BRI links to the development of the economy, and how nations can benefit from the projects is maintained by agreements and contracts. The trust system that builds the foundation of the agreement. Contracts are not built on trust; they are built on trust and used to retain trust. All nations need to trust each other to obey the agreement in order to sign one, and by signing a contract, they hope it also means trust is built [7].

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Trust system leads to credit practices as well, which could be dated back thousands of years. Around 2000 BCE, there is trace evidence of a loan and deposit system. Silk Road acts as a channel to introduce the use of this system to other nations. Trade across the Silk Road is the center of the credit practices. For each trade, the time and effort spent on travel is significant. It was required for the credit system when they could not make an immediate payment. Allowing the use of financial tools gives credit to the buyer. Silk Road also impacts modern-day banking. It is important for today's global economy as well.

2.3. Dispute resolution mechanisms

A flexible and efficient dispute resolution is a key to the prosperity of the Silk Road. The ancient wisdom provides valuable insights for the modern cross-border dispute resolution. Some researchers consider the Silk Road Diplomacy as part of the foundations of modern practices. First, mediation practices were used not only along the Silk Road to provide stable trade routes but also to solve disputes among nations, for example, the conflict between the Han Dynasty and the Xiongnu tribes [8]. Mediation also considers the local culture. In the Yuan dynasty and the Ming Dynasty, some documents show that the mediation is done locally and by people from the area [9]. When considering cross-cultural mediation mechanisms, the dispute resolution practices of ancient Mesopotamia are a valuable case. In the Sumerian city-state period, although there were no specific personnel and institutions dedicated to resolving disputes, officials at various levels, members of citizen assemblies, clan elders, and leaders of commercial organizations could all serve as mediators and arbitrators. It aligns with the concept of cross-cultural mediation along the ancient Silk Road, where arbitrators of different identities and cultural backgrounds need to integrate rules and customs from various cultures when handling disputes [10]. These provide a highly valuable historical blueprint for the construction of contemporary cross-cultural mediation systems, such as the 'dual culture mediator system'.

3. Modern dilemmas of legal fragmentation

In the modern Belt and Road Initiative (BRI), the diversity of legal systems often leads to conflicts. Legal fragmentation arises for several reasons. First, cultural and historical differences result in distinct legal systems, with fundamentally different legal concepts, logic, and applications. Second, the rise of protectionism among nations has intensified the trend of legal localization.

The impact of legal fragmentation is evident in several cases. For example, in December 2021, India's Ministry of Finance Revenue Department conducted raids on foreign mobile device manufacturers in India, including some Chinese-funded enterprises. Indian officials claimed the raids were conducted on suspicion of tax evasion. However, with limited transparency in local tax regulations and law enforcement procedures, significant damage was caused. Some businesses were forced to halt operations, resulting in losses exceeding 10 million US dollars [11].

In another instance, in 2022, a riot in Kazakhstan forced Chinese-funded energy enterprises to halt their refining projects due to administrative control measures. However, there were no clear provisions for compensation in the event of a state emergency [11].

Through these case studies, it is clear that managing legal and regulatory differences is challenging for businesses. It not only decreases predictability but also increases compliance costs. Moreover, when disputes arise, there is a lack of effective measures to resolve them.

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4. Integration of ancient wisdom and modern legal frameworks

The integration of ancient Silk Road wisdom and modern legal frameworks can be achieved through a dual-track approach combining structural design with process coordination. Contracts between different ethnic groups on the Silk Road maintained cultural identities under the "Great Unity" concept. For instance, Han texts were established independently by the people themselves, while Tibetan texts introduced a clause on "substitutable objects," which maintained the effectiveness of the contracts while accommodating the customs of different ethnic groups.

This model of "uniform core terms (including core factors like price and liabilities, clarified by international regulations) and adaptable flexible terms (allowing nations to add special terms related to local culture or requirements)" can be applied to cross-border contracts in the Belt and Road Initiative (BRI) to bridge the gap between different legal systems. Huo emphasized the ancient covenant principle of "voluntary mutual benefit and honest compliance," while Huang pointed out that "agreements must be honored" is the core of international economic law [6, 11]. Combining this with Yang's research on "China's compliance practices as outlined in 'Treaties Must Be Observed - China's Practice as a WTO Member," a three-level credit system can be constructed [5]. At the national level, the principle that "contracts must be observed" can be strengthened through bilateral investment treaties, such as incorporating "compensation for expropriation" clauses, reflecting the ancient contractual penalties for breach of contract. At the market level, a cross-border credit information sharing platform can be established, drawing on the "intermediary guarantee" system from ancient Chinese dispute resolution mechanisms, and introducing third-party organizations to evaluate the contract performance capability of enterprises. At the business level, "contract compliance certification" can be implemented, referencing the model combining "punishment by officials" and civil agreements in Western Xia contracts, incorporating international rules and host country laws into internal audits.

5. The "Three-Stage Model" of legal coordination

In order to make the integration possible, a "Three-Stage Model" is introduced to form a closed-loop system that integrates ancient Silk Road wisdom into the modern legal framework, aiming to provide a guide on risk prevention, in-process adjustment and optimization.

At the project initiation phase, legal due diligence should be done as a prevention measurement. Legal due diligence should go beyond conventional reviews of host country statutes and international treaties. Silk Road inspired assessments, like local "unwritten norms" (e.g. credit practices) and identifying potential alignment with BRI project needs. For example, referencing the flexibility of ancient multi-ethnic contracts, due diligence should flag opportunities to design "core terms (price, liability) + adaptive clauses (local cultural preferences)". Moreover, it will be valuable to examine ways of dispute resolution.

During the execution stage, it is crucial to establish a regional legal consultation platform to balance domestic laws with international rules and facilitate real-time coordination between stakeholders, authorities, and legal experts. This platform can help address emerging legal issues and ensure that projects proceed smoothly.

To close the loop, corrective actions are necessary. When conflicts or gaps in legal frameworks emerge, conflicting clauses need to be amended through bilateral consultations. Revisions should be documented and reviewed in future preventive phases, forming a closed loop that strengthens the model's adaptability and ensures continuous improvement. This Three-Stage Model provides a

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comprehensive framework for integrating ancient wisdom with modern legal systems, enhancing legal coordination, and managing risks in cross-border investment projects under the BRI.

6. Conclusion

This study explores the integration of ancient Silk Road wisdom with modern legal frameworks to address cross-border investment challenges in the Belt and Road Initiative. By analyzing core characteristics of ancient Silk Road trade rules (flexible contract mechanisms, credit and trust governance, and dispute resolution), it reveals that historical practices offer actionable insights for mitigating modern legal fragmentation.

Specifically, the "uniform core terms with flexible adaptive clauses" model provides a solution to balancing diverse legal traditions in BRI projects. The three-level credit system, integrating national, market, and business dimensions, strengthens contractual compliance. Moreover, the "Three-Stage Legal Model", will create a closed-loop system that bridges historical wisdom and modern governance by combining preventive due diligence, in-execution consultation, and corrective revision.

However, this research has limitations. First, case studies primarily focus on Asian BRI countries, but neglect African and Latin American regions. In those areas, legal contexts and historical trade traditions are different. Second, the practical effectiveness of integrating ancient wisdom, for example, flexible contracts, lacks statistical analysis on its effectiveness.

Future research could expand geographically to include understudied regions. Also, quantitative studies can be done to measure the impact of ancient-inspired mechanisms (e.g., credit information platforms) on investment stability. Finally, combining digital technologies like blockchain with ancient credit systems to build transparent trust networks could be worth researching.

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