

The Path to Enhancing China's Interregional Collaborative Legislative System

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Abstract: Various collaborative legislative models have different origins and issues to address. The development of collaborative legislation in China faces challenges related to legitimacy and necessity. Additionally, issues such as the effectiveness in different typical regional areas, lack of transparency, differences in legislative bodies, etc., necessitate the identification of future improvement strategies and specific pathways. This includes selecting appropriate collaborative legislative models, creating more favorable negotiation platforms and mechanisms, establishing mechanisms to ensure collaborative legislation, and enhancing specific legal provisions.

Keywords: Interregional Collaborative Legislation; Legislative Cooperation; Legislative System.

1. Introduction

Collaborative legislation across administrative regions exhibits unique institutional and theoretical characteristics worldwide. China has also developed its distinctive system and theory of collaborative legislation in various regions and sectors in recent years. While the "Local Organization Law" and the "Legislation Law" provide a legal basis for interregional collaborative legislation to some extent, further research is required regarding its legitimacy and necessity. Issues persist in the selection of institutional arrangements in different regional areas. This paper aims to explore the legislative value and specific pathways to enhance China's interregional collaborative legislative system.

2. Main Text

2.1. The Real-World Context of Interregional Collaborative Legislation

2.1.1. Background of Typical Representative Countries' Interregional Collaborative Legislation

Typical examples of regional collaborative legislation worldwide include the EU and the US. The EU employs the 'EU Law Model' to promote European integration, involving the establishment of a shared legislative body to negotiate and determine legislative authority, scope, and methods. In contrast, the United States follows the 'Interstate Compact Model' to coordinate the provision of services among states, creating uniform laws across contracting states' territories.

In the EU, issues arise regarding the delineation of powers between the EU and member state governments at administrative and legislative levels. Therefore, the legislative process necessitates defining subsidiary principles for power allocation and implementing judicial adjudication mechanisms for coordination and safeguarding. On the other hand, the 'Interstate Compact Model' relies on the judicial system to confirm the justiciability of interstate compacts, ensuring their binding nature.

These examples illustrate that even in typical interregional collaborative legislative models worldwide, there are challenges to overcome. As a latecomer, China naturally experiences a similar process.

2.1.2. Background of Interregional Collaborative Legislation Issues in China

The earliest mention of interregional collaborative legislation can be found in the "Ten-Year Plan for National Economic and Social Development and the Eighth Five-Year Plan Outline" in 1991, which proposed to "formulate regulations and methods conducive to promoting regional cooperation and alliances." The recognized starting point for provincial-level interregional legislative cooperation was the "Framework Agreement on Cooperation in Legislation among the Governments of the Three Northeastern Provinces" in 2006. The primary reason for engaging in interregional collaborative legislation is to prevent the problem of transport vehicles evading local taxation due to varying fee standards, thereby increasing local government revenue.

2.2. Evaluation of the Value of Interregional Collaborative Legislation

2.2.1. Legitimacy Analysis of Interregional Collaborative Legislation in China

Regarding the issue of legitimacy, analysis can be divided into two time periods: the first period is before the amendments to the "Local Organization Law" and "Legislation Law," and the second period is after the amendments.

Before the amendments, the main viewpoints were as follows: Some scholars believe that the main reason for the legitimacy of interregional collaborative legislation lies in the indirect derivation from the Scientific Outlook on Development and the New Development Concept mentioned in the preamble of the Constitution [1,2]. Others argued that according to Article 3 of China's "Legislation Law," legislation in China should adapt to the needs of regional integration, which can serve as a basis for legitimacy [3]. Some scholars pointed out that relevant laws such as the "Environmental Protection Law" could provide a certain degree of legitimacy for interregional collaborative legislation in specific areas [1].

After the amendments, the academic consensus was more unified. In 2022, the amendments to the "Local Organization Law" and in 2023, the "Legislation Law" explicitly

established the interregional collaborative legislative system in legal form and granted the right to collaborate in legislation to provinces, autonomous regions, municipalities directly under the central government, prefecture-level cities with district status, and autonomous prefectures.

However, the amendments raised further questions about whether the legal basis before the amendments was insufficient to address the issue of collaborative legislation. This paper argues that this is not the case. The subsequent improvements and amendments to the law affirm the previous interpretation. The purpose of the amendments is to provide a smoother and less contentious path for collaborative legislation, allowing for more extensive collaborative legislation in the future. This does not mean that the previous interpretation was wrong or insufficient. Legal interpretations provide reasonable and appropriate solutions when legal provisions are not explicit. Furthermore, the amendments to the "Local Organization Law" and "Legislation Law" may also face constitutional basis issues. Regarding this, this paper suggests that the scientific outlook on development and the new development concept from the preamble of the Constitution, as used in previous scholarly interpretations, can serve as a constitutional basis. This reflects the unique legal effectiveness of China's Constitution compared to some other countries with different preambles.

2.2.2. Necessity Analysis of Interregional Collaborative Legislation in China

Regarding the necessity of interregional collaborative legislation in China, there are several viewpoints in academia: Some believe that collaborative legislation is a crucial step in optimizing the regional legal environment and promoting regional legal development in China, emphasizing the importance of a combination of central, collaborative, and single legislation [4]. Others argue that for "cross-administrative region affairs," coordination among local legislative bodies is necessary to alleviate the legislative burden on central government authorities [5]. Some advocate for the use of flexible policies to minimize collaborative legislation to avoid potential complexities [2].

This paper believes that collaborative legislation should be conditionally conducted and should not be avoided due to concerns about potential issues. Firstly, in the face of growing societal issues such as environmental protection in river basins, air quality, and the need for coordinated economic development over large areas, collaborative solutions across administrative regions are inevitable. Centralized legislation alone may be too broad, making interregional collaborative legislation highly significant. Secondly, while policies are flexible, they are also uncertain, and excessive policy uncertainty is not conducive to stable economic development. Environmental protection, in contrast, requires macroscopic and continuous planning and regulations rather than frequent adjustments. Lastly, for potential issues, alternative solutions should be sought, such as clearly defining the specific conditions for collaborative legislation, rather than avoiding it altogether.

2.3. Analysis of the Current State of Interregional Collaborative Legislation

2.3.1. Positive Achievements in China's Interregional Collaborative Legislation Process

Positive achievements in China's regional collaborative legislative process have been observed across various fields, levels, regions, and aspects.

In 2015, the 'Legislation Law' granted local legislative powers to the people's congresses and their standing committees in prefecture-level cities, setting the stage for regional collaborative legislative agreements in areas such as the Beijing-Tianjin-Hebei region, the Yangtze River Delta, and the Guangdong-Hong Kong-Macao Greater Bay Area.

In the Beijing-Tianjin-Hebei region, the three provincial-level people's congresses introduced a series of normative documents on collaborative legislation establishing mechanisms for collaborative legislative planning and routine regulatory clearing.

The Yangtze River Delta region established a joint legislative work mechanism for the provincial-level people's congresses in three provinces and one municipality, confirming the basic principles of collaboration in legislative planning, drafting, and resource sharing. In 2020, the first legal decision was made simultaneously regarding the development of demonstration zones.

In 2019, the 'Development Plan Outline for the Guangdong-Hong Kong-Macao Greater Bay Area' proposed a regional collaborative development strategy with a focus on 'one country, two systems' and the goal of building a world-class urban cluster in the Greater Bay Area.

Collaborative legislation has since expanded into various fields, including market economic order, government services, food safety, public services, and cultural tourism development.

2.3.2. Issues in China's Interregional Collaborative Legislation Process

Several issues have been widely discussed in China's interregional collaborative legislation process.

In practice, most collaborations have not yielded substantive results. Regional administrative agreements often contain non-binding content and lack enforceability. Regional cooperation organizations operate outside the administrative system and lack corresponding authority and enforcement power. Even innovative cross-file registration mechanisms are considered non-binding, relying on the principle of good faith [6].

Many administrative agreements are not publicly disclosed, with their signing only reported in the news. Lack of public disclosure hampers public oversight, limits theoretical research, and fails to provide valuable theoretical guidance [1].

There are differences in legislative authority among legislative bodies at different administrative levels, leading to potential contradictions between local government regulations and normative documents among different legislative bodies for common concerns [6].

Additionally, there is a lack of provisions regarding specific forms of local legislation, such as cross-level collaborative legislation, regulations for economic zones, autonomous regulations, and single-line regulations, as well as the specific exercise of these powers and coordination procedures for interregional collaborative legislation.

2.4. Improvement Paths for Interregional Collaborative Legislation

2.4.1. Overall Approach to Improving Interregional Collaborative Legislation in China

The overall approach to improving interregional collaborative legislation in China should encompass four main aspects: enhancing the knowledge, cognitive abilities, and legislative skills of collaborative legislators; regulating the exercise of interregional collaborative legislative powers;

fully utilizing the coordination roles of superior People's Congresses and their standing committees and the people's governments in interregional collaborative legislation; further improving the interregional collaborative legislative process.

2.4.2. Specific Paths to Improve Interregional Collaborative Legislation in China

Specific paths to improve interregional collaborative legislation in China include the following:

Choose an appropriate collaborative legislative model. In terms of legislative models, there are mainly four types: 'Superior Legislation,' where a higher-level legislative body enacts unified legislation. 'Joint Legislation,' where various legislative entities jointly formulate uniform legal standards. 'Demonstration Legislation,' where a particular region takes the lead in demonstrating and enacting parallel legislation. 'Negotiated Legislation,' where legislative entities coordinate and reach consensus before independently enacting legal standards. This article suggests primarily adopting the 'Negotiated Legislation' model. To address issues related to legislative authority, authorization should be used to ensure equal negotiations among regions, allowing for comprehensive consideration of each region's interests and reflecting the broader interests of a larger population.

Providing more ways and opportunities for public participation: Establishing public participation platforms, gradually improving information disclosure, and collecting feedback from the public will make the collaborative legislative process more responsive to the real needs of the people.

Constructing an interregional collaborative legislation safeguard mechanism: This includes establishing collaborative legislative working committees in specific fields for coordination and recommendations, creating collaborative legislative platforms jointly defined by the legislative legal work institutions, setting up platforms for sharing legislative information, and establishing mechanisms for clearing regulations in case of regional conflicts while promptly upgrading legislative positions.

Improving legal norms: Before addressing specific legislative problems, it is important to clarify the scope of interregional collaborative legislation adjustment in theory. However, ultimately, a comprehensive set of legal norms for interregional collaborative legislation should be established at the central level, further amending the "Legislation Law" and

other relevant laws to add provisions specifying the legislative subjects, the scope, and authority of collaboration, and providing the legal basis for collaborative legislation. Regarding the opinion of some scholars who propose amending the Constitution to establish a joint legislative body or adding regional legislative levels within the existing legislative system [7], this paper suggests that such extensive modifications to the constitutional system may not be necessary. A more achievable goal is to refine the specific implementation path at the level of laws such as the "Legislation Law."

3. Conclusion

Interregional collaborative legislation in China is currently both legitimate and necessary and has seen significant development. However, existing issues need further improvement. By gradually implementing the specific improvement paths presented in this paper to address these issues, interregional collaborative legislation will continue to develop further.

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