

How Does International Law Apply in the Macao SAR Legal System? — Thinking on Monist Approach (Monism) from a Practical Perspective

Zhu Lin

The manner in which international law is applied is undoubtedly a determining factor in the implementation of international law in the Macao SAR. Since the Basic Law of Macao does not provide for the hierarchy of international law in Macao law system, and the Court of Final Appeal ruling No. 2/2004 does not accept the provisions of the Macao Civil Code regarding the hierarchy of international law in Macao law system, moreover, as Article 40 of the Basic Law of Macao SAR is identical to Article 39 of the Basic Law of Hong Kong SAR, there are different views on whether the two core human rights Covenants stipulated in this Article "shall be implemented through the laws of the Macao Special Administrative Region", which means that the Macao SAR should also follow the dualist approach of applying international law adopted by Hong Kong during the British Hong Kong era. In such a case, the debate between constitutional law scholars and international law scholars on whether the Macao SAR should adopt a monist approach to the implementation of treaties has not been settled.

Until today, the implementation of treaties (including binding resolutions of international organizations) in the Macao SAR has been in practice for twenty years. Therefore, this article attempts to demonstrate, from an empirical point of view, the role of monism in guiding the practice of the Macao SAR, taking into account the publication of international instruments in the Macao SAR, the legislative measures adopted by the Macao SAR in response to the Convention, and the cases in which the Macao judicial authorities have invoked the Conventions. It also answers the question of whether there is a continuity between the way in which the Macao SAR has applied the International Conventions and the way in which they were applied in the past.

International law (including binding international instruments such as jus cogens, treaties and Security Council resolutions), as it is implemented in the Macao SAR by the executive, legislative and judicial authorities, is both universal

and unique. This article also attempts to analyze their universality and uniqueness from the perspective of comparative law.

How to Improve the Coordinating Mechanism of Cross-departmental Affairs of Macao Government

Lou Shenghua

For cross-departmental affairs, Macao SAR government has established four types of coordinating mechanisms, and different types of mechanisms have shown different practical effects. Insufficient authority of institutions, weak legal foundation, lack of clear working mechanism and responsibility supervision, and complexity of policy issues are factors that affect the governance effect of the current cross-departmental coordinating mechanism. Therefore, it is necessary to improve the current cross-departmental affairs coordinating mechanism in several aspects, such as improving the legal foundation, merging government departments, granting authoritative resources, establishing mechanisms of responsibilities and supervision, strengthening information technology infrastructure and fostering culture of departmental cooperation.

Government Procurement Law of Macao: History, Status Quo and Its Innovation

Tang Tat Weng

The laws and regulations applicable to Macao have a history of more than 120 years. With the transformations of government's organizational structure and the socio-economic development starting from decade 30 of the last century, the legal provisions were originally included in the budget specifications had gradually changed to be regulated by exclusive individual laws. As for the current government procurement legal system, it was established since 1984 and has been implemented for more than 37 years.

After the establishment of Macao Special Administrative Region Government and entering into the 21st century, the rapid socio-economic development of Macao SAR and the expectation of publics for the government's governance have fostered the government to carry out a large number of procurement projects, especially social infra-structure constructions, to promote the sustainable development of the region. Based on the provisions of government procurement legal system established since 1984 have been unable, to a certain extent and in certain aspects, to meet the needs of socio-economic development of the society and the internal government, under the demands of the society and the internal government, the Macao SAR Government has been determined to launch a reform of government procurement law in 2016, carrying out a related public consultation and an internal consultation of government. In this regard, the author of this article takes this opportunity to put forward some thoughts on the reform of the government procurement law, expecting to give new thoughts and vision for the establishment of a new Public Procurement Law, in order to achieve good governance for the public procurement that meets the needs of current Public Administration.

Macao Gives Better Play to Its Platform Role between China and Portuguese-Speaking Countries in Serving the Nation's New "Dual Circulation" Pattern

Lao Pun Lap

China's new "Dual Circulation" development pattern is a chance for Macao SAR to give full play of its role as the Platform between China and Portuguese-speaking Countries ("the Platform"). However, there are still hurdles to overcome, including the lack of policy supports and advantages, the willingness and ability of Macao enterprises to serve Portuguese-speaking countries, the development of artificial intelligence technology might weaken Macao's language advantages and so on.

On this basis, this article aims to make policy recommendations to advocate better development of “the Platform”: 1. deepening Guangdong-Macao cooperation in Hengqin (Zhuhai) to strengthen the policy advantages of “the Platform”; 2. giving weight to the initiatives of enterprises; 3. building up a modern financial services platform between China and Portuguese-speaking Countries; 4. constructing a scientific and technological cooperation platform; 5. developing cross-border e-commerce.

In the future, Macao SAR government and society will take advantages of the Sixth Ministerial Conference of the Forum for Economic and Trade Cooperation between China and Portuguese-speaking Countries to further promote an extension of “the Platform”, namely “the Three Centres”. In the new era of digital economy, Macao SAR will strive to develop modern financial services between China and Portuguese-speaking Countries, build up online and offline connections, and make new contributions to the development of “the Platform” and China's comprehensive opening-up.

Review of the 20 Years of Legislation of the Macao Special Administrative Region

Chio Heong Jeong

This article analyzes the legislative profile of the Macao Special Administrative Region between 20th December, 1999 and 20th December, 2019; in summary of five characteristics: 1. "Midnight Legislation" opening a new era of legislation; 2. firmly safeguarding the national sovereignty; 3. the comprehensive content ensuring governance by law; 4. advancing with times to perfect the legislative system ; 5. features in other aspects.

Retrospect and Prospect of Research on Sino-Portuguese Relations : An Essay of Chinese Academic Studies over the Past 40 Years

Jin Guoping

In the history of the world, the fifteenth century was a splendid century for the Iberian nation. Located at the westernmost end of the Eurasian Plate, Portugal, a small country on the Atlantic Ocean, bravely plunged into the blue sea with a dhow, and acted as the historical role of the "pathfinder" in the new world, opening the curtain of the great European geography discovery and setting off the first wave of globalization. The Portuguese went south along the west coast of Africa, bypassing the Cape of Good Hope, and arrived in India in 1498, "discovered" Brazil in 1500, and came to China in 1513. This article will review the Chinese academic circles' research, during the 40 years of reform and opening up, on the footprints of the Portuguese in South China, before they settled in Macao in 1557, and will express their views on future research.