

Thinking about Macao and the Construction of Poles of Guangdong-Hong Kong-Macao Greater Bay Area: A Collaborative Governance Perspective

Sheng Li Yin Yechang

The Guangdong-Hong Kong-Macao Greater Bay Area (GBA), which is underpinned by three poles: “Hong Kong-Shenzhen”, “Guangzhou-Foshan” and “Macao-Zhuhai”, can contribute to building a new development paradigm of China in the 14th Five-Year Plan period. As an important part of the construction of GBA, the Macao-Zhuhai Pole plays a pivotal role in improving the economic environment of the West Pearl River Estuary and promoting the sustainable and moderately diversified development of Macao's economy. However, since the construction of the Macao-Zhuhai Pole is the cooperation of different tariff areas in a sovereign country under the framework of “one country, two systems”, it is also faced with a multitude of challenges regarding the scope of cross-border collaborative governance. Using the collaborative governance model of Ansell and Gash (2008), this paper analyzes the differences of initial conditions arising from institutions and resources between Macao and Zhuhai in the face of collaborative governance at length. This has thus affected the effect of collaborative governance of the Macao-Zhuhai Pole. Then within the small wins framework, this paper finds that establishing and consummating the mechanism for citizens to participate in the construction of the Macao-Zhuhai Pole by encouraging civil exchanges and business cooperation can build up a relationship of trust from small things. At the same time, stimulating enthusiasm for public supervision can further promote the full implementation and continuous improvement of relevant policies and ultimately achieve the goal of improving the level of collaborative governance. Therefore, we suggest that Macao can go for a small wins strategy and promote the mutually beneficial cooperation step by step in various fields with Zhuhai, gradually enhancing the level of trust, truly strengthening policy coordination and planning interface, and fully leveraging the comparative advantages of both parties.

Experience in Data Enabling Cross-sectoral Collaborative Management of Water Environment of Guangzhou and Implications for Macao

Yan Haina Yin Yifen Wang Luhan

In recent years, reports on the cross-functionality of the Macao government, overlapping agencies and poor inter-departmental collaboration have frequently appeared in the press. How to change the above-mentioned phenomena and further promote the reform of cross-departmental collaborative governance in Macao is an urgent issue that the SAR government needs to address now. Compared to the traditional idea of restructuring powers and responsibilities and carrying out institutional reforms based on administrative organisations, data empowerment offers a new option to address the issue of cross-sectoral collaborative governance without changing the division of functions and boundaries of powers and responsibilities of departments. In this regard, Guangzhou's experience of data-enabled cross-sectoral collaborative governance of the water environment can provide some lessons for the SAR government.

The first is to rationalise and clarify the boundaries of departmental responsibilities and improve the top-level design of cross-sectoral collaboration.

The second is to establish an authoritative coordinating department above all departments and promote the convergence of data governance and institutional reform.

The third is to establish a three-dimensional supervision and accountability mechanism and promote the convergence of data systems and monitoring systems.

The fourth is to promote the convergence of multi-dimensional data and facilitate cross-sectoral value integration.

The Legal Nature of the Inter-regional Agreements and Their Position in the Hierarchy of the Sources of Law of the MSAR

Ilda Cristina Ferreira

The development and intensification of the economic and commercial relations between the MSAR, HKSAR and Mainland China, particularly within the scope of the Greater Bay Area, have an inevitable impact on cooperation, the latest example being the building of the Guangdong-Macao In-depth Cooperation Zone in Hengqin, and the emergence and proliferation of agreements.

A wide variety of cooperation agreements have been concluded with diverse terminology, including agreements, protocols, memoranda of understanding, platforms, in an array of fields, such as economic, commercial, fiscal, legal, tourism, education or intellectual property and more are yet to be concluded. However, not all of these instruments create binding obligations.

This raises two relevant questions at the technical-legal level: the first relates to the legal nature of inter-regional agreements and the second, assuming that they are binding agreements, their position in the hierarchy of sources of Law in the MSAR.

One might think a priori that these are merely academic concerns and of little relevance, still they are not. The absence of an explicit legal norm on this matter creates a vacuum for the legal practitioner. Is he (or not) before an agreement that creates and produces legal effects for the Parties? How to act in case of conflict between the local rules (ordinary domestic law) and the rules of the inter-regional agreement (interregional law) and if these rules have conflict with the rules of an international law agreement applicable in the MSAR? Which of the rules should prevail? Can MSAR legislation revoke rules on inter-regional agreements?

The author addresses the sui generis legal-constitutional relationship between China and its SARs, under the Principle “One Country, Two Systems”, and resorts to concepts and principles of international law (although within a geo-political context of a sovereign state) and to the monist rationale and established praxis to analyze the two questions and to demonstrate how the

principles of legal certainty, good-faith and pacta sunt servanda are guaranteed within the framework of the MSAR's bilateral and multilateral relations.

Exploration and Discussion on the e-Procurement Model which Could Be Implemented by the Government of Macao SAR

Tang Tat Weng

With the development and popularization of information technology, e-government has become one of the key means of realizing the administrative modernization in public administration. At the same time, the government can provide residents with more convenient services through e-government. In 2005, the Macao Special Administrative Region (Macao SAR) promulgated the legal system for electronic documents and electronic signatures, but failed to solve the problem that electronic documents have the same legal effect as paper documents, making it impossible to realize e-procurement for a long period of time. In 2020, Macao SAR successively promulgated the “E-Government Law” and its implementation rules to solve the long-term facing problem.

Since the public tender procedure for government procurement is regulated by law, any procuring entity must comply with the statutory steps to implement the public tender procedure, which facilitates introducing the possibility of electronizing these statutory steps. This article uses the public tender procedure as an example and sets it as the basis of the procurement process, which is divided into seven stages according to the nature of work. Following this, six fundamental elements of the procurement procedure are induced from the statutory steps with the electronic process having the required legal effects as paper documents. In the meanwhile, the review behaviours in the procurement process can also be signed with an electronic signature to make it legally effective, so as to achieve the feasibility of the electronic reviews.

At present, the Macao SAR government is drafting a new “Public Procurement Law” and issued its first draft in January 2020 through the internal consultation of government. There are only four aspects of the regulation

concerning e-procurement. Two aspects are the electronic steps of the public tender procedure, another aspect is the electronic catalogue and electronic order placement of the execution of contracts in central procurement, and the last aspect is to study the possibility of the electronic procurement procedure within three years of the law entering into force. It can be seen that the draft of the new “Public Procurement Law” has extremely limited regulations for e-procurement, and has some inconsistencies. It is neither comprehensive nor well positioned. Furthermore, it is not conducive to the implementation of the first three aspects of electronic regulations, and it may even hinder the implementation of an electronic procurement process.

Based on the preliminary discussion and analysis of this article, there is a suitable legal basis for changing the traditional method of procurement procedure to an electronic model. However, simply implementing e-procurement procedure is not enough to take advantage of the benefits and effectiveness that e-procurement can bring. Therefore, the author of this article has conceived a more comprehensive and complete concept, which the e-procurement procedure serves as a basis, with some complementary and value-added functions. This will help establish and maintain an integrated and unified e-procurement application system applicable to all procuring entities, which will enable the synergy and convenience that e-procurement can deliver.

Social Group Model or Public Model? — Choice on Policy Consultation from the Cost-Benefit Perspective

Ao Io Weng

Policy consultation is the key element for government’s democratic decision making. How to collect representative public opinion and avoid “consultation fatigue” is the main challenge for Macao policy consultation. To solve it, this paper first analyzes the characteristics, advantages and drawbacks of two main consultation models (i.e. public model and social group model) in Macao, then according to the Wilson’s policy typology it establishes a cost-benefit analytical

framework for the choice of policy consultation. Based on this framework, the social group model focusing on organized groups is suggested when policy cost and benefit are concentrated, on the contrary public model favouring unorganized mass is preferred when policy cost and benefit are diffused. If cost and benefit are differently distributed, then the comparison between cost and benefit should determine whether social group model or public model is relatively preferable.

The Situation and Analysis of Legal Book Publishing in Macao in the Past 20 Years After the Return to the Motherland

Wong Kwok Keung

This article analyzes the general situation of legal publications in Macao based on the statistics of relevant legal publications published in the two decades since the return of Macao, including the annual number of publications, publication types, publication topics, publication languages, publishing units, editors, etc.