

Research on Local Legislative Protection of Ethnic Minorities' Cultural Rights

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Keywords: Cultural Rights, Protection of Cultural Rights of Ethnic Minorities, Local Cultural Legislation

Abstract: Culture is the core identity of ethnic minorities, and "cultural rule of law" is a key pillar for protecting ethnic cultures and facilitating the construction of a cultural power. Currently, the protection of ethnic minorities' cultures in China remains at the traditional protection level and has not fully established the core perspective of "ethnic minorities' cultural rights", resulting in insufficient attention to the cultural interests and demands of ethnic minorities. Strengthening research on the protection of ethnic minorities' cultural rights can not only consolidate the theoretical foundation of the rule of law in related fields but also is of great significance for forging a strong sense of community for the Chinese nation. Research shows that there are still prominent problems in the current local legislation for the protection of ethnic minorities' cultures: the phenomenon of legislative duplication is relatively common, some clauses are not highly operable, and insufficient attention is paid to the integration and construction of a strong sense of community for the Chinese nation. Based on this, this paper focuses on proposing systematic improvement suggestions targeting the existing deficiencies in local legislation for the protection of ethnic minorities' cultures.

1. An Overview of Local Legislation on Cultural Rights of Ethnic Minorities in China

1.1 Definition of Cultural Rights of Ethnic Minorities

The specific content of cultural rights refers to the legal interests that the subjects of cultural rights obtain through such rights. Neither the nature nor the content of these rights has formed a relatively systematic and effective academic consensus; currently, they are still in a fragmented exploratory stage with diverse viewpoints. The author argues that when examining the meaning of ethnic minorities' cultural rights from the two fundamental perspectives of subjects of rights and content of rights, it specifically refers to the rights enjoyed by ethnic minority groups—whether concentrated or scattered across the country—to use their own ethnic languages and scripts, preserve or reform their traditional cultural customs, and develop, utilize, and protect their own ethnic cultures. Examples of such rights include the right to use ethnic languages and scripts, the freedom of religious belief, the right to preserve and reform ethnic customs, the right to education,

as well as the protection of traditional cultural classics and ancient buildings.

1.2 Local Legislation on the Protection of Cultural Rights of Ethnic Minorities

At present, local protection methods for ethnic minorities' cultures in China can be roughly categorized into three types: legal and judicial protection, non-legal protection, and administrative protection. These three types work in synergy to protect the cultural rights of ethnic minorities. In local cultural legislation concerning ethnic minorities, protection of cultural rights is achieved by incorporating ethnic customary law, integrating judicial procedural provisions, and combining administrative policy regulations. Specifically, first, local cultural legislation absorbs ethnic customary law and non-legal means, converting them into official sources of authority for protecting cultural rights. Second, efforts are made to advance the construction of public cultural facilities in ethnic regions, improve the development of cultural undertakings with ethnic characteristics, and require relevant government departments of provinces, autonomous regions, and municipalities directly under the Central Government to earnestly implement these measures to safeguard ethnic cultural rights^[1]. Third, legislation strengthens the protection of cultural relics and cultural heritage, enhances the preservation and inheritance of historical culture in urban and rural development, and builds and effectively utilizes national cultural parks.

2. Analysis of Deficiencies in Local Legislation for Protecting Ethnic Minorities' Cultural Rights

2.1 Room for Optimization in Value Concepts

The value framework constitutes the fundamental core issue in safeguarding ethnic minority rights, with its cognitive dimension directly influencing the effectiveness of rights protection practices. First, legislative value concepts exhibit inherent limitations. China's legal framework for protecting ethnic minority cultural rights has yet to fully integrate modern conservation principles such as ecological preservation, remaining confined to traditional perceptions of historical and cultural heritage's artistic value, educational functions, and political significance. Second, value cognition demonstrates imbalances. Current evaluations of ethnic culture's worth show pronounced biases: excessive emphasis on practical utility and economic attributes, while insufficient attention is paid to the humanistic and social values inherent in cultural expressions. Third, the intrinsic value of ethnic culture has transcended conventional economic evaluation systems, possessing qualitative attributes beyond monetary quantification^[2]. These cultural relics not only exhibit remarkable scarcity but also demonstrate irreplicable characteristics. Particularly for traditional architectural complexes and historical artifacts serving as carriers of civilization, irreversible damage renders restoration of authenticity nearly impossible even through financial compensation.

2.2 The Problem of Homogeneity of Legislative Protection Content is Prominent

Value concepts constitute the in-depth core issue in the protection of ethnic minorities' rights, and their cognitive dimension directly influences the practical effectiveness of safeguarding ethnic interests. First, there is a lag in legislative value concepts. The legislative value concepts for the protection of ethnic minorities' cultural rights in China have not fully incorporated new cultural protection concepts such as ecological protection, and remain confined to the traditional cognitive scope focusing on the artistic value, educational functions and political significance of historical and cultural heritage. Second, there is an imbalance in value cognition^[3]. The current evaluation of ethnic cultures shows an obvious bias: excessive emphasis is placed on their use value and

economic attributes, while insufficient attention is paid to the humanistic and social values inherent in the culture itself. Finally, the value connotation of ethnic culture has long transcended the traditional economic evaluation system and possesses characteristics that cannot be quantified by money. Such cultural relics are not only highly scarce but also prominently non-reproducible. In particular, traditional architectural complexes and historical relics, as carriers of civilization, once suffer irreversible damage, even economic compensation can hardly restore their authenticity.

2.3 Local Legislation is Not Normative and Operable

The insufficient standardization of local cultural protection legislation is primarily reflected in three aspects: vague wording of provisions, fragmented institutional design, and non-standard legislative procedures. Behind these issues lie the dual constraints of inadequate legislative technology and limited local legislative resources. For instance, some regulations lack clear definitions of core concepts; many local regulations fail to form a complete closed loop of "protection-utilization-supervision"; and in some regions, public participation in the legislative process is merely formalistic. At present, many local legislations targeting ethnic minorities' cultures do not take on-the-ground realities into account, lack public participation in the pre-legislative stage, and thus have significant room for improvement in terms of "aligning with the will of the people." Due to their low visibility and the absence of unified application rules and requirements, local regulations suffer from low judicial applicability. Most judges choose to apply conventional higher-level laws instead of local regulations; some judges even lack understanding of relevant local regulations, and parties involved in lawsuits rarely cite local regulations as a basis^[4]. These are all shortcomings manifested in the law enforcement and judicial processes during the implementation of laws.

3. Suggestions for Improving Local Legislation on Cultural Protection of Ethnic Minorities

3.1 Add New Protection Values

The purpose of legislation should clearly define the core principle of "synergy between cultural heritage protection and ecosystem preservation," and regard ecological protection as a fundamental prerequisite for cultural inheritance. First, local legislation should strengthen requirements for holistic protection. It should be clearly stipulated in local cultural protection legislation that the overall connection between traditional villages, historical buildings, and the surrounding natural landscape must be maintained. Any behavior that damages the ecological environment—on which cultural carriers depend for survival—shall be prohibited^[5]. At the same time, it should be emphasized that the development and utilization of cultural resources must strictly align with ecological carrying capacity, to avoid the dual degradation of cultural heritage sites and the natural environment caused by over-development. Second, detailed eco-friendly norms should be formulated for specific provisions. In terms of cultural heritage restoration, clear standards and rules should be established: priority should be given to the use of local materials and traditional techniques, and the use of chemical restoration agents should be strictly restricted to minimize pollution to the soil and surrounding ecology. In terms of cultural activities, targeted restrictive clauses should be added: in ethnic festivals and other cultural events, the use of materials that are prone to ecological damage (such as plastic decorations) should be reduced, to promote the coordination between event organization and ecological protection. This will help build a positive cycle of "nurturing ecological awareness through cultural inheritance and feeding back cultural vitality through ecological protection," realizing mutual empowerment between cultural heritage protection and ecosystem preservation^[6].

3.2 Avoid Duplicate Legislation

Highlighting local characteristics is the soul and essence of local legislation, and it is also a core criterion for measuring legislative quality. However, the current prominent problem of repetitive legislation in many local legislations has seriously restricted the expression of local characteristics. This problem arises because legislators have a cognitive bias towards the principle of "non-conflict": they mistakenly equate "avoiding conflicts in legislation" with "not being able to highlight local characteristics," falling into the trap of conservatism. Some legislators prefer to copy provisions from higher-level laws or other local regulations rather than innovate based on local realities, resulting in legislation that lacks pertinence. To address this issue, the key lies in correcting cognitive biases, improving the professional competence of legislators, and abandoning formalism—all of which rely on the cultivation of a high-quality team of rule-of-law professionals^[7]. Local legislation should maintain appropriate independence, reflect the uniqueness of local governance issues based on actual conditions, and form a differentiated and complementary relationship with higher-level legislation. Only in this way can the independence and local characteristics of local cultural protection legislation be maximized, and the practical value of local legislation be truly realized.

3.3 Improve the Operability of Legislation

Enhancing the operability of legislation is crucial for local cultural protection. To achieve this, it is necessary to establish an information feedback and post-legislative evaluation system, strengthen legislative publicity, and promote the effective implementation of regulations. The legislative process should promote publicity and opinion collection in stages:

During the drafting stage, public opinions should be widely solicited through questionnaires, field visits, and other methods; During the review stage, draft regulations should be published to collect comments, enhancing the public's understanding of the legislative intent; During the implementation stage, continuous publicity should be conducted through various platforms, and special training sessions should be organized for key groups such as judges and lawyers to ensure accurate enforcement^[8].

At the same time, the post-legislative evaluation mechanism should be improved to track the implementation effect of regulations and promptly optimize them when problems are identified. Judicial organs should be encouraged to summarize experience, refine typical cases, and learn from local practices to avoid common problems and improve the application effect of regulations. Through full-process publicity, multi-dimensional feedback, and regular evaluation, this approach not only ensures public access to information and participation but also promotes the continuous improvement of regulations, truly realizing a closed loop between legislative design and implementation.

4. Conclusions

As a multi-ethnic country with a thousand-year-old civilization, China boasts a vast array of outstanding traditional ethnic cultures, which have accumulated into a profound cultural heritage. These cultures not only carry ethnic memories but also contain enormous economic value and spiritual potential that can empower modern society. Fully safeguarding the rights of ethnic minorities in China is not only a positive contribution to the international cause of human rights but also enables the Chinese wisdom and solutions regarding human rights protection to gain global recognition. More importantly, this initiative can promote in-depth integration of cultures of all ethnic groups, consolidate ethnic cohesion, and lay a solid foundation for forging a strong sense of

community among the Chinese nation. Therefore, it is essential to effectively protect the rights of ethnic minority groups to use their own ethnic languages and scripts, preserve or reform their traditional cultural customs, and develop, utilize, and protect their own ethnic cultures—ensuring that ethnic cultures are inherited and developed sustainably under the protection of the rule of law.

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