Hierarchy of Chinese legislation

Description

Very often in a contract or a legal opinion, it is critical to distinguish what kind of laws and regulations are applicable or concerned. Most countries have more than one legislature bodies and legislation at different levels is given different legal force. China has enacted its legislation law in the year of 2000, namely, the Law of Legislation of China (â€œLegislation Lawâ€•), and we hereby introduce the outlines of Chinese legislation system as framed in the Legislation Law.

1. Law
The word â€œlawâ€• in its broad sense refers to any piece of legislation having legal force despite the level of the legislative body, but in its narrow sense, it refers to only the legislation passed by the National Peopleâ€™s Congress (â€œNPCâ€•) or its standing committee and signed by the president upon being published. The law in its narrow sense has the highest authority subject to no other legislative power. However, the standing committee of NPC is also empowered by the Legislation Law to create law (in its narrow sense) which shall not violate the principles or provisions set forth by the constitution and the laws made by NPC.

The newly enacted Property Law of China was passed by the NPC.

2. Administrative Regulation
Here, the phrase of â€œadministrative regulationâ€• is defined to mean only the legislation made and passed by the state cabinet or state council pursuant and subject only to the constitution and laws created by NPC and its standing committee. Administrative regulations shall be signed by the prime minister of the state upon being published.

In many cases, the state council has passed ancillary implementing regulations or rules as authorized and required in laws created by NPC and its standing committee.

3. Local Regulation
Local regulation here refers to legislation passed by the local peopleâ€™s congress at the provincial or municipal level subject to the constitution, laws created by NPC and its standing committee and the administrative regulations. Local regulation shall only be applied within the administrative territory of that province or municipality.

4. Ordinance
4.1 Ministerial Ordinance
The ministerial ordinance refers to the rules made by the ministries under the state council such as Ministry of Commerce subject to the constitution, laws created by NPC and its standing committee and the administrative regulations. This type of law applies throughout the country.

4.2 Local Ordinance
This term refers to the rules made by the local provincial or municipal governments subject to the constitution, laws created by NPC and its standing committee and the administrative regulations and

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local regulations.

5. Judicial Interpretations
Judicial interpretation issued by the supreme peopleâ€™s court is not recognized as a source of law by the Legislation Law. However, in reality, these judicial interpretations carry substantial weight in legal practice. Judicial interpretation stands independent without subjecting themselves to any other legislation (excluding the constitution) and may to some degree alter the original laws by wielding its discretion in interpreting the laws (referring to laws made by NPC and its standing committee).

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