

Plural Legal System under a Unitary State: Jurisdictional Conflicts in Cross-Border Commercial Disputes in the Greater Bay Area and Lessons from the EU Experience¹

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Keywords

Greater Bay Area; Jurisdictions; regional conflicts; Brussels Treaty; Legal Harmonization

Abstract

For historical reasons, significant differences exist between the legal systems of Guangdong, Hong Kong, and Macau. This article examines how these jurisdictional conflicts can lead to parallel litigation and forum shopping, wasting judicial resources. Drawing on a comparative analysis with the EU Brussels Treaty, the study proposes a model framework for resolving cross-border commercial disputes in the Greater Bay Area. The article employs doctrinal and comparative legal methodologies to provide practical recommendations for harmonizing regional legal practices without compromising the “One Country, Two Systems” framework.

Research Article

Submitted: 1 February 2025 / Accepted: 7 February 2025 / Published online: 24 April 2025

Trans. Soc. 2025. 1(2): 28-38.

<https://doi.org/10.63336/TransSoc.024>

Online ISSN: 3079-8310

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¹ This article was originally developed as a final examination paper for the Civil Procedural Law course during the first author's first year of master's studies in 2022. The first author revised and refined the original draft, the second author updated the reference sources, and the third author was responsible for editing and linguistic refinement.

While this is a modest piece, its publication reflects a hope that it may serve as a small contribution to fostering academic exchange and supporting the development of this journal as it continues to grow as a platform for legal research.

1. Introduction, Literature Review, Methodology, and Background

The Greater Bay Area represents a significant economic development project that simultaneously poses a unique legal challenge due to the coexistence of three distinct legal systems—those of Guangdong, Hong Kong, and Macau—under the “one country, three legal systems” framework. This article investigates how jurisdictional conflicts in cross-border commercial disputes undermine legal efficiency and fairness, leading to parallel litigation and forum shopping.

Existing scholarship has underscored the challenges of managing jurisdictional disputes in multi-system regions. Early research points out the inadequacies in the definition of “Foreign-related Civil Legal Relationships” in Chinese legislations and the reliance on judicial practice to solve conflict of law issues (Guangjian 2011). This blurriness, combined with the general Mainland Chinese policy that encourages parallel litigations in international cases have long been affecting judicial fairness and certainty. (Yikui 2004) Prior studies also indicate that conflicting legal rules further compromise judicial certainty and create inefficiencies. Comparative analyses of the EU Brussels Treaty demonstrate that despite legal diversity, a common framework can harmonize judicial practices effectively. However, the literature also reveals a gap in adapting these insights to the Greater Bay Area while maintaining the region’s autonomy under the Basic Law.

To bridge this gap, this study employs a doctrinal and comparative legal analysis. The doctrinal approach examines statutory laws, judicial precedents, and constitutional provisions (e.g., Articles of the Basic Law for Hong Kong and Macau), while the comparative method evaluates the EU Brussels Treaty as a potential model. Together, these methods provide a comprehensive framework for addressing jurisdictional conflicts.

Historically, Hong Kong’s common law system contrasts with the civil law influences in Guangdong and Macau—differences stemming from colonial legacies and divergent legal evolutions. These variations result in complex jurisdictional issues when commercial disputes cross regional boundaries. This section sets the stage for the subsequent analysis by outlining the theoretical and practical challenges inherent in harmonizing these distinct legal frameworks.

2. Differences in the Jurisdictional Systems of Guangdong, Hong Kong and Macao

China’s “one country, three legal systems” framework originates from historical developments. During the period when China maintained closed borders, the legal system across the country was uniform—known as the Chinese legal system (中华法系)² (Jinpan 2014). However, after opening its doors to the world,

² The Chinese legal system is an ethical legal framework based on agriculture, family, and the people, accompanied by an autocratic monarchy. This legal system includes both statutory law and supplementary case law, which had a profound influence on East Asian neighboring countries such as Japan, Korea, and Vietnam at the time. However, after China opened its doors to the world, Western colonial powers introduced the civil law system, which originated from Roman law and influenced the entire European continent. This shift caused Chinese law to primarily adopt this system as a model, deviating from its

colonial powers introduced their own legal systems into different regions: Hong Kong adopted British common law³ (Lo, Cheng et al. 2020), while Macau retained Portuguese law⁴ (Vai 2019). Consequently, each region has deviated from China's original legal trajectory in its own unique way.

As a result, Guangdong and Macau have incorporated elements of the civil law system, whereas Hong Kong has continued to follow the common law system⁵. Although their legal origins differ, the fundamental logic behind their legal legitimacy remains the same (Blackstone 1859).⁶ In both systems, the core concept of jurisdiction—as expressed in the Latin term *ius dicere*, meaning “to speak the law”⁷—reflects the role of modern courts in interpreting and applying laws through judicial rulings (Pires 2015). Moreover, jurisdiction inherently carries an element of state authority, since the power to declare and enforce laws through judicial decisions is an exercise of sovereignty upheld by principles such as democracy, the rule of law, and the separation of powers (Dorsett and McVeigh 2012).

On a formal level, however, the two legal systems diverge. Civil law jurisdictions typically predefine jurisdiction through abstract legal provisions found in civil procedure or court organization laws.⁸ Courts in these systems allocate cases based on fixed, predictable criteria—such as judicial hierarchy (*Hierarquia*) and the nature of the lawsuit (*Matéria*)—and often rely on geographical elements (*Território*), for example, administrative divisions, to determine which specific court has jurisdiction. Even in international or extraterritorial contexts⁹ (Wang 2014), it is common for civil law jurisdictions to base a court's

original path.

³ Since the Qing government's defeat in the First Opium War in 1842 and the signing of *the Treaty of Nanjing* with Britain, Hong Kong ceased to follow the traditional development trajectory of the Chinese legal system. Instead, British common law was gradually applied in Hong Kong. However, British common law was not originally applicable in Hong Kong. After Britain successively acquired colonies through treaties such as the Treaty of Nanjing, British legal principles generally required maintaining the original laws of the colony. However, to protect the commercial interests of foreign merchants in Hong Kong, the British Crown declared that British common law would apply to foreigners in Hong Kong as personal law. The territorial application of common law, on the other hand, was extended to the entirety of Hong Kong through the Supreme Court Ordinance (No. 15 of 1844). After Hong Kong's return to China, common law was preserved under Article 8 of *the Basic Law of Hong Kong* and has been in continuous use to this day.

⁴ Macau also diverged from the development trajectory of the Chinese legal system after the Qing government and the Kingdom of Portugal signed *the Sino-Portuguese Treaty of Friendship and Trade* in 1887, which granted Portugal the right to permanently lease Macau. Portugal extended the application of nearly all its domestic laws to Macau, planting the seeds for Macau's adherence to the civil law system. After the signing of *the Sino-Portuguese Joint Declaration*, to ensure that Macau would have a legal system suitable for local conditions immediately after its return to China, the Macau government chose to continue using Portuguese law as a model and drafted the localized *Five Major Codes of Macau*, officially solidifying its path within the civil law system.

⁵ The former emphasizes systematic structure, relying on abstract codified norms as the core mechanism to respond to ever-changing circumstances. The latter, in contrast, is a judge-made legal system that continuously refines its rules through judicial precedents, using specific case rulings to address legal variations.

⁶ "... (says Julianus,) the written law binds us for no other reason but because it is approved by the judgment of the people, therefore those laws which the people have approved without writing ought also to bind everybody."

⁷ Law (*ius*) and statute (*lex*) should not be considered identical in a strict sense. The former carries metaphysical meanings such as fairness and justice, whereas the latter is merely a set of human-made, enacted rules. Therefore, strictly speaking, courts only declare law (*ius*), not statute (*lex*), since in civil law countries, the latter is the exclusive responsibility of specialized legislative bodies.

⁸ For example, Mainland China's *Civil Procedure Law* and *Organic Law of the People's Courts*, as well as Macau's *Code of Civil Procedure* and *Judicial Organization Framework Law*.

⁹ China and Macau do not explicitly distinguish between international jurisdiction (also known as extraterritorial or abstract jurisdiction, *competência internacional*) and domestic jurisdiction (territorial or specific jurisdiction, *competência interna*) in their civil procedure laws. The author believes that the

jurisdiction on the geographical connection between the case elements and the court's legal domain.

In contrast, Hong Kong, while adopting statutory ordinances¹⁰ (Johnston and Harris 2012) domestically to handle a high volume of litigation, maintains its common law tradition in extraterritorial matters. Hong Kong's system relies on case law and legal principles rather than predefined statutory rules.¹¹ Whether domestically or in extraterritorial situations (especially within domestic jurisdictional divisions), Hong Kong law does not employ geographical criteria such as administrative divisions. Instead, domestic jurisdiction is determined solely by judicial hierarchy and the nature of the lawsuit (Shujie), while extraterritorially—particularly in the Greater Bay Area—jurisdiction is allocated based on the principle of “judgment effectiveness (判决有效性).” (Johnston and Harris 2012)¹²

3. Definition, Issues, and Significance of Resolving Jurisdictional Conflicts

The legal conflicts addressed in this paper are between legal domains¹³, pertaining to jurisdictional matters¹⁴ that are civil or commercial in nature¹⁵, and inherently regional.¹⁶ Due to the distinct jurisdictional systems in Guangdong, Hong Kong, and Macau, it is inevitable that multiple jurisdictions may claim authority over the same legal dispute, resulting in significant confusion.

For instance, if a Hong Kong merchant (Plaintiff A) and a Macau merchant (Defendant B) agree to perform a contract within the Greater Bay Area, a subsequent dispute could potentially fall under the jurisdiction of all three regions.¹⁷ This overlapping authority gives rise to two main forms of conflict: parallel litigation and forum shopping.

lack of distinction in the latter is due to Macau's geographical limitations, as its domestic jurisdiction does not require further subdivision of courts based on administrative districts, leading to an overlap between domestic and international jurisdictional systems. However, in the case of China's Civil Procedure Law, given the striking similarities in legislative provisions, the absence of a clear legal distinction between extraterritorial and territorial jurisdiction raises questions. This is because the former determines which sovereign state's court has jurisdiction over a transnational civil case, while the latter, after confirming that a court within that state has jurisdiction, further specifies which domestic court within that state has jurisdiction.

¹⁰ See, for example, the High Court Ordinance.

¹¹ Regarding the legal sources of Hong Kong conflict of laws.

¹² Regarding the "Principle of Jurisdictional Effectiveness."

¹³ If all relevant "connecting factors" of a legal relationship that gives rise to a legal dispute occur within a single jurisdiction, then only the domestic law of that jurisdiction is needed to regulate the relationship, without involving any conflict of laws.

¹⁴ In a broad sense, private international law encompasses three types of conflicts: jurisdictional conflicts, substantive governing law conflicts, and judgment enforcement conflicts. This paper aims to resolve the upstream issue of jurisdictional conflicts, thereby indirectly simplifying the downstream challenges related to substantive law and judgment enforcement.

¹⁵ Criminal or administrative cases, as matters of public law, generally do not have extraterritorial effect. In principle, courts are granted jurisdiction based on the territoriality principle. For example, a criminal court typically cannot claim jurisdiction over an offense committed abroad solely because the suspect resides within its jurisdiction.

¹⁶ This conflict does not involve issues of sovereignty between nations but merely a jurisdictional conflict between different legal regions within a single country.

¹⁷ The Hong Kong court would have jurisdiction over the case because Party A is in Hong Kong and the summons can be effectively served. The Macau court would have jurisdiction because the defendant has a domicile or residence in Macau (CPC, Article 17(a)). Meanwhile, the Mainland Chinese court would also have territorial jurisdiction because the place of contract performance is in the Mainland China (*Civil Procedure Law*, Article 23).

Parallel litigation may manifest in two ways:

1. Duplicate litigation: Where, for example, a Macau merchant simultaneously sues a Hong Kong merchant in both Mainland China and Macau courts.
2. Counter-litigation: Where, upon learning of an initial lawsuit in Mainland China or Macau, a Hong Kong merchant decides to counter-sue in Hong Kong on the same dispute.

These conflicts are further complicated by differences in history, culture, and political background across the regions, leading to varying conflict-of-laws rules. Consequently, the governing law and judicial interpretations may differ from one jurisdiction to another.¹⁸ Since the plaintiff generally has the freedom to choose the forum, this unilateral choice can place the defendant at a disadvantage, forcing a reactive stance in a potentially less favorable court.

Moreover, if a defendant anticipates that the conflict-of-laws rules applied by the chosen court will be unfavorable, they might initiate a counter-lawsuit in another jurisdiction. This action, in turn, spawns additional instances of parallel litigation, creating a vicious cycle of legal uncertainty and inefficiency.

Resolving these issues—specifically, eliminating parallel litigation and curbing forum shopping—is crucial. Such resolution would reduce unnecessary lawsuits, improve the efficiency of litigation, and ensure that jurisdictional rules are not manipulated to the detriment of justice.

4. Approaches for Resolution of Jurisdictional Conflicts

Theoretically, there are three possible approaches to eliminating interregional jurisdictional conflicts: (1) unifying national substantive law, (2) implementing separate legislative reforms in each region, and (3) unifying national conflict-of-laws rules (i.e., the jurisdictional system). The practical feasibility of each approach is analyzed below.

4.1 Unifying National Substantive Law: Impracticality

The core of jurisdictional conflicts lies in the differences between legal systems. If substantive law were unified, then—regardless of differing jurisdictional rules—any court exercising jurisdiction would render the same judgment, thereby eliminating duplicate lawsuits and forum shopping. However, this approach is impractical from both legal legitimacy and necessity perspectives.

Legal Legitimacy: Under the assurances made by Deng Xiaoping and the central government, the Special Administrative Regions (SARs) were promised that their legal systems would remain unchanged for fifty years after their return. The National People's Congress established the SARs and their legal systems in accordance with the Constitution, granting Hong Kong and Macau a high degree of autonomy (as guaranteed by Article 2 of the Basic Law) that includes legislative power and independent judicial authority. Unless the NPC revokes these powers, the central government cannot unilaterally unify legislation or interfere with regional autonomy.¹⁹ Moreover, this approach does not satisfy the conditions

¹⁸ Ibid.

¹⁹ Article 2 of the *Basic Law of the Hong Kong/Macau Special Administrative Region of the People's Republic of China* grants the Special Administrative Region a high degree of legislative autonomy and independent judicial power. Therefore, it is necessary to avoid enacting any national laws (including

for enacting national laws under Annex III of the Basic Law (Yu 2018).

Necessity: The flexibility and case-specific nature of precedent is a strength of Hong Kong's common law system. Additionally, the Greater Bay Area Outline Development Plan is fundamentally market-driven and emphasizes market access and regulation under unified rules (Youlin 2017). Eliminating legal diversity merely for the sake of "convenience" would sacrifice the "seeking common ground while preserving differences" philosophy inherent in the One Country, Two Systems framework. Furthermore, there is no guarantee that a centrally unified law would be superior to the existing legal frameworks of Hong Kong and Macau.

4.2 Separate Legal Amendments in the Three Regions: A Temporary Solution

Allowing each region to retain its independent legal system offers the highest level of protection for the "Two Systems" framework. However, this approach must recognize that most interregional conflicts do not involve issues of sovereignty and are avoidable. Since Hong Kong's handover in 1997, numerous scholars have proposed legislative adjustments in each region to better align their systems.

4.2.1 Proposals for Harmonization

Some suggest that each region should capitalize on its unique legal system and adopt straightforward measures to increase commonality (Likun 1998). For example, Guangdong and Macau could incorporate the common law doctrine of "forum non conveniens"²⁰, while Hong Kong might adopt the civil law principle of "plaintiff follows defendant" through case precedents to better protect the defendant's interests.²¹

Other proposals advocate extending the scope of contractual jurisdiction agreements so that parties are bound to sue in the chosen forum.²² This could enhance party autonomy in civil and commercial disputes.

A further suggestion is to combine the forum non conveniens principle with governing law provisions

national conflict-of-laws rules) that are not permitted by the Basic Law, as well as establishing any institutions that would override the judicial authorities of Hong Kong and Macau in resolving conflicts.

²⁰ The greatest advantage of Hong Kong's common law legal system is its flexibility and specificity. One of its most distinctive features in the scope of jurisdiction is the "forum non conveniens" principle. This principle allows a defendant to request a stay of proceedings if they believe that litigation in a particular jurisdiction would be unfair to them. Additionally, the court may exercise self-restraint in asserting its jurisdiction, considering whether international legal order and coordination are maintained.

²¹ The general principle of using the defendant's domicile and habitual residence as the basis for jurisdiction provides the maximum level of protection for the defendant, ensuring that they are not unexpectedly required to litigate in another jurisdiction and reducing the time needed to respond to a lawsuit. While the common law principle of "actual control (or effectiveness)" facilitates litigation by ensuring that the summons is served and that the defendant's presence in the jurisdiction allows for convenient enforcement of judgments, it largely disregards whether the case has any substantive connection to the forum. Likun, D. (1998). "On the Conflict and Coordination of Judicial Jurisdiction in Civil and Commercial Cases Between Mainland China and Hong Kong," *Shanghai Academy of Social Sciences Academic Quarterly*: 112-119.

(Wei 2006) Chengzhi, W. (2008). "Conflicts and Coordination of Interregional Civil and Commercial Jurisdiction in China—A Study Based on Judicial Practice in Guangdong Province." *Jinan Journal (Philosophy and Social Sciences Edition)*(4): 49–55.

This principle prioritizes "judicial system efficiency" over "the interests of the parties."

²² Ibid.

so that the local law applies²³ (Tao 2008); however, this approach cannot coexist with treaty-based jurisdiction because it may result in competing courts and undermine party autonomy.

4.2.2 Limitations

Despite these proposals, separate legal amendments do not fully resolve the differences in jurisdiction. The inexistence of a coordinating body and the absence of institutional mechanism that offer solutions through constitutional means (Guangjian 2021) implies that interregional judicial cooperation relies heavily on the respective wishes of the three regions and suffer from a lack of cohesion. In particular, the Mainland Chinese part of the Greater Bay Area comprises both Special Economic Zones (SEZ) and non-SEZ municipalities, and the current legislative framework presents technical obstacles to interregional integration. SEZ municipalities such as Shenzhen and Zhuhai were granted special legislative power to encourage experimentation and innovation during the early years of Reform and Opening Up, while non-SEZ areas face constraints under the Constitution and the Legislation Law of the PRC (Chunye 2023). Harmonization through separate legal amendments, therefore, would require extensive national intervention and coordinated horizontal and vertical efforts, making the process lengthy and challenging.

4.3 Unifying Interregional Private Law: The Inevitable Path for a Unitary State

Since 1997, several attempts have been made to establish a unified interregional private law. The three regions have entered multiple judicial assistance arrangements based on Article 95 of the Basic Law of Hong Kong and Article 93 of the Basic Law of Macau. However, these arrangements have largely focused on subordinate aspects—such as service of process, evidence collection, recognition and enforcement of judgments, and arbitration²⁴—rather than directly addressing the core jurisdictional issues. Moreover,

²³ Conflict of laws primarily includes a court's jurisdiction, the governing law to be applied to the case, and the recognition and enforcement of judgments from other jurisdictions. Since both jurisdiction and the determination of governing law are based on the principle of closest connection, some scholars have proposed the possibility of merging these two aspects. As stated in the original text: "When a court in one jurisdiction (e.g., a Mainland Chinese court) accepts a case for which it has jurisdiction under its domestic law and determines, based on its conflict-of-laws rules, that the substantive law of another jurisdiction should be applied as the governing law (e.g., Hong Kong law), and if that jurisdiction has an alternative court with jurisdiction over the case (e.g., a Hong Kong court), then the court should relinquish jurisdiction and allow the alternative court to exercise jurisdiction."

²⁴ "Arrangement on Mutual Entrustment of Service of Judicial Documents in Civil and Commercial Cases Between the Courts of Mainland China and the Hong Kong Special Administrative Region," "Arrangement on Mutual Entrustment of Service of Judicial Documents (and Evidence Collection) in Civil and Commercial Cases Between the Courts of Mainland China and the Macau Special Administrative Region," "Arrangement on Mutual Entrustment of Service of Judicial Documents in Civil and Commercial Cases Between the Macau Special Administrative Region and the Hong Kong Special Administrative Region," "Arrangement on Mutual Entrustment of Evidence Collection in Civil and Commercial Cases Between the Courts of Mainland China and the Hong Kong Special Administrative Region," "Arrangement on Mutual Recognition and Enforcement of Civil and Commercial Judgments Between Mainland China and the Macau Special Administrative Region," "Arrangement on Mutual Recognition and Enforcement of Civil and Commercial Judgments With Choice of Court Agreements Between Mainland China and the Hong Kong Special Administrative Region," "Arrangement on Mutual Recognition and Enforcement of Matrimonial and Family Civil Judgments Between Mainland China and the Hong Kong Special Administrative Region," "Arrangement on Mutual Recognition and Enforcement of Civil and Commercial Judgments Between Mainland China and the Hong Kong Special Administrative Region," "Arrangement on Mutual Enforcement of Arbitral Awards Between Mainland China and the Hong Kong Special Administrative Region," "Arrangement on Mutual Recognition and Enforcement of Arbitral Awards Between Mainland China and the Macau Special Administrative

many of these arrangements have been unilateral and fall short of constituting a comprehensive tripartite agreement (Guangjian 2021).²⁵

4.3.1 Comparative Law Reference — the EU Brussels Treaty

It is argued that lessons from comparative law should be employed, with the EU's Treaty of Brussels serving as a model for China. China, with its multiple legal jurisdictions and two major legal systems, faces a unique challenge in coordinating legal frameworks within the Greater Bay Area. An examination of the legal frameworks of former colonial powers—namely, Portugal and the United Kingdom—and the successful operation of the EU's legal framework offers valuable insights. Despite the UK's recent withdrawal from the EU, key elements of EU law, including the Treaty of Brussels, continue to be incorporated into domestic legal systems with success (Shudian 2009). The Treaty of Brussels was designed based on the commonalities among diverse legal systems, drawing on principles from Germany, which has influenced Mainland China's procedural laws; from Portugal, which has shaped Macau's legal system; and from the United Kingdom, which has informed Hong Kong's legal framework. The treaty adopts the principle of "plaintiff follows defendant" as a standard rule while also recognizing contractual jurisdiction based on party autonomy. In addition, Hong Kong's "actual control/effectiveness" principle is mainly integrated into governing law rules and the mechanisms for judgment recognition and enforcement, although the mere act of serving a summons as confirmation of jurisdiction is not widely accepted within the EU. In practice, the United Kingdom has successfully adapted within this framework.

4.3.2 Challenges and Rebuttals

We argue that several challenges must be addressed when borrowing from the EU model. Concerns have been raised about the legal basis for a unified tripartite agreement on jurisdiction, given that Article 95 of the Basic Law of Hong Kong and Article 93 of the Basic Law of Macau primarily facilitate judicial relations and mutual assistance rather than serving as a comprehensive legislative mandate. Although these articles have been interpreted expansively by the Standing Committee of the National People's Congress to include jurisdictional matters, such interpretation raises questions about the proper division of legislative and judicial functions. Historical precedent illustrates that initial limitations in judicial cooperation can evolve into more comprehensive frameworks, as seen in the transition from the European Economic Community to the Brussels system.²⁶

Another major challenge arises from the fact that Guangdong, Hong Kong, and Macau each possess independent final adjudication authority. Under the principle of "equal legal domains," it is argued that a supreme judicial body akin to the EU Court of Justice cannot be established to oversee all three jurisdictions and issue binding interpretations on jurisdictional provisions within judicial assistance

Region," "Arrangement on Mutual Recognition and Enforcement of Arbitral Awards Between the Macau Special Administrative Region and the Hong Kong Special Administrative Region."

²⁵ This arrangement should be tripartite rather than unilateral. See Tu Guangjian, "Interregional Private Law in China After the Return of Hong Kong and Macau: Achievements, Reflections, and Prospects."

²⁶ "In order to establish progressively an area of freedom, security and justice, the Council shall adopt: (...) (c) measures in the field of judicial cooperation in civil matters as provided for in Article 65".

arrangements. While this gap is significant under the One Country, Two Systems framework, a softer approach—seeking alignment through judicial interpretation rather than unifying substantive law—appears more flexible and less controversial. Achieving consistency in the interpretation, application, and enforcement of jurisdictional provisions does not necessarily require a unified supreme body.

In terms of interpretation and application, it is argued that when private litigation involves jurisdictions with a common legislative inspiration or shared legal heritage—such as commercial disputes where Mainland Chinese legal regimes exhibit notable common law influences—a common solution can be achieved by drawing equivalence between analogous terms or rules, despite wording divergences arising from system differences (Zhang Liang 2024). To this end, the three regions could jointly establish a coordinating committee composed of legal experts, court representatives, and scholars to analyze key difficulties in the tripartite agreement and propose model solutions for each jurisdiction. Such a committee might also draft a non-binding model law to serve as a reference for future legislation and as a source of legal doctrine. This model law would offer harmonized solutions, reducing regional disparities in legal application, and courts could then cite these model solutions as doctrinal references in their judgments.

In addition, it is argued that private parties, exercising their autonomy and seeking to minimize legal risks in cross-border disputes, may stipulate that certain contractual clauses be interpreted in accordance with the rules established in this model law. Corporate bankruptcy has been a longstanding sensitive issue in judicial cooperation due to labor and investor protection concerns as well as regional protectionist practice. A similar rationale could thus be applied to interregional corporate governance, allowing entities to pre-determine the applicable substantive law governing corporate registration, structure, internal functioning, and bankruptcy processes, irrespective of the adjudicating region (Zhe 2024). To further ensure consistency in judicial rulings, a common case reporting platform could be established among the three regions, enabling courts to refer to and align their interpretations when applying the tripartite arrangement (Jianhua 2021).

However, there are inherent limitations to this consensual and doctrinal approach. Since the solution relies on the discretionary margin of judicial appreciation and the volition of the parties, individual judges' interpretations or a lack of consensus among stakeholders may lead to divergent outcomes. Moreover, as reiterated by Supreme People's Court in a recently promulgated judicial interpretation, private arrangements on applicable law is subject to the mandatory limitations imposed by national laws.²⁷ When imperative law across regions makes provisions that lead to mutually exclusive solutions, discrepancies in law application may persist, compelling parties to resort to parallel litigation and forum shopping. In light of these challenges, a legislative approach remains necessary to achieve a

²⁷ Article 1 of *Reply of the Supreme People's Court on the Validity of Hong Kong and Macao Investment Enterprises Registered in the Mainland of the Guangdong-Hong Kong-Macao Greater Bay Area Choosing Hong Kong or Macao Law as the Applicable Law of the Contract or Agreeing on Hong Kong or Macao as the Place of Arbitration* (最高人民法院关于在粤港澳大湾区内地登记设立的香港、澳门投资企业协议选择港澳法律为合同适用法律或者协议约定港澳为仲裁地效力问题的批复)。

comprehensive resolution.

5. Conclusion

Jurisdiction is the cornerstone of civil litigation, serving as the foundation upon which individuals and businesses place their trust in the judicial system. A well-defined jurisdictional framework ensures that disputes are resolved impartially by institutions with democratic legitimacy and judicial independence, preventing unnecessary private settlements and forum manipulation. However, in the context of the Greater Bay Area, the coexistence of three distinct legal systems—Mainland China’s civil law tradition, Hong Kong’s common law system, and Macau’s Portuguese-influenced legal framework—has complicated this traditionally domestic matter. The absence of a unified jurisdictional allocation standard has led to inconsistencies, inefficiencies, and legal uncertainty, manifesting in challenges such as parallel litigation and forum shopping.

Over the past two decades, separate legislative reforms and bilateral judicial cooperation agreements have attempted to address these conflicts. While these measures have provided incremental improvements, they remain insufficient in achieving comprehensive legal harmonization. The persistence of jurisdictional fragmentation within the Greater Bay Area continues to hinder legal certainty and economic integration, underscoring the need for a more structured and forward-looking solution.

Given these challenges, it is argued that a model law inspired by the Treaty of Brussels offers the most viable path forward. Such a framework would provide a unified set of jurisdictional principles tailored to the region’s unique legal landscape while respecting the autonomy of Hong Kong and Macau under the One Country, Two Systems principle. By promoting consistency in judicial interpretation and application, a model law would reduce unnecessary jurisdictional disputes, enhance procedural efficiency, and reinforce the credibility of the legal environment in cross-border commercial activities.

Ultimately, resolving these jurisdictional conflicts is not just a legal necessity but an economic imperative. A well-coordinated legal system will foster greater investor confidence, facilitate smoother commercial transactions, and contribute to the sustainable development of the Greater Bay Area as a globally competitive economic hub. While the path to legal integration will require careful negotiation and institutional innovation, the long-term benefits of a coherent and predictable jurisdictional framework far outweigh the challenges of implementation. If meaningful reforms are pursued, the Greater Bay Area can serve as a model for legal coordination in complex multi-jurisdictional regions, ensuring both stability and prosperity in the years to come.

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