

The Rule of Law of Government Cooperation in Disaster Prevention and Mitigation

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Abstract: Government cooperation is an important means for the government to deal with problems in a complex environment, including horizontal and vertical dimensions. In the context of catastrophe and risk, government cooperation has its necessity and particularity. This paper summarizes the problems of government cooperation in disaster prevention and reduction in China, and analyzes the relevant reasons for the problems. On this basis, from the perspective of the rule of law, this paper discusses the ways to improve the ability of government cooperation.

1. Introduction

Government cooperation has always been the focus and difficulty of our government's ability to build the rule of law. Especially in the work of disaster prevention and mitigation, government cooperation is essential. Government cooperation is essentially the cooperative governance of public affairs between different departments or different levels of government. Perfecting government cooperation by means of rule of law is not only a positive response and thinking to the cooperative relationship, but also a necessary way to innovate the government governance structure and enhance the government governance ability.

At present, the research on government cooperation in the field of disaster prevention and mitigation in China is mainly focused on: first, the research on the concept and model of government cooperation ^[1]. The second is the research on government cooperation for emergency and emergency management ^[2]. The third is the government cooperation research on the specific disasters and dangers such as air pollution, watershed pollution, earthquakes, public health events and so on ^[3]. Most of the existing government cooperation theories in China come from the West. From the existing research in our country, there are generally more administrative management and less research based on the rule of law in our country.

2. Problems of Government Cooperation in Disaster Prevention and Mitigation

2.1 Transverse problems: poor operation caused by fragmentation

China's major emergency management model is a sub-industry, temporary major emergency management model. Article 4 of the Law of the people's Republic of China on Emergency response stipulates that the state shall establish an emergency management system with unified leadership, comprehensive coordination, classified management, hierarchical responsibility and territorial management. The original intention of classified management is to realize the professional and vertical disposal of emergencies, but at the practical level, department segmentation, fragmentation and lack of effective cooperation is a major criticism of emergency management in China ^[4]. Judging from the actual situation, the main manifestations of the poor horizontal cooperation of the government are as follows:

2.1.1 Passive collaboration is more than active collaboration

As a result of the division, the departments in charge often only pay attention to the local interests, regardless of the overall interests, each person sweeps the snow in front of the door, regardless of the frost on the tiles of others. The formation of mutual blockade, draw a circle on the

ground as a prison situation, is not conducive to the overall disaster prevention and rescue, coordinated response. In the face of disaster risk, show the non-autonomy of cooperation. In daily disaster management, various departments basically focus on the areas of departmental jurisdiction, and the exchange of information across departments is relatively small. In the cooperation of emergency handling, most of them are led by the superiors, and the subordinates respond in the form of response, and there is a lack of cooperative autonomy in peacetime and wartime.

2.1.2 Waste of resources caused by shallow collaboration

Disaster prevention and mitigation is a systematic project, in which the rights, interests and responsibilities involved are also enormous. At the government level, the benefits of efficient collaboration for disaster prevention and rescue have long been recognized, and cross-departmental and cross-regional collaboration has been mentioned in contingency plans at all levels, as well as in plans related to disaster prevention and mitigation. There are also some guidelines and collaboration paths. However, under the division of sections, the linkage and cooperation of departments mostly appears on paper. In fact, there are a lot of contention for power and responsibility, especially the trend of repeated construction and blind development in infrastructure and staffing, thus resulting in a huge waste of manpower, material resources and financial resources.

2.1.3 There is a lack of holistic thinking in the absence of law and mechanism

Due to the lack of effective laws, mechanisms, rigid provisions or restrictions. In the absence of the requirements of the government or department at the next higher level, in the face of disaster risk, putting aside humanitarian, moral and other factors, the cooperation between governments or departments is based on their own interests and decides whether to cooperate with other regions. However, this kind of cooperation is due to the lack of due authority and legal protection, not to mention a set of perfect coordination mechanism. Take the system of “ecological compensation” as an example, due to the lack of legal support, it can not be effectively implemented.

2.2 Longitudinal problems: cracks in upper and lower cooperation caused by the imbalance in the distribution of powers and responsibilities

2.2.1 The allocation of intergovernmental vertical responsibility and power has not been raised to the height of legal decentralization

As can be seen from the relevant provisions of the legislation Law, the decision of the CPC Central Committee on comprehensively promoting several major issues of governing the country according to law, and the National Plan for Comprehensive disaster Prevention and reduction (2016-2020). It clearly puts forward the division of powers between the central and local governments to deal with natural disasters, and strengthens the main responsibility of local party committees and governments. However, so far, in dealing with major disasters and risks, the allocation of vertical responsibility and power among governments at all levels has been regulated neither through the Constitution, laws, administrative regulations, nor through local regulations. However, it is mainly deployed and implemented in the form of normative documents of the State Council and local governments, so it still stays at the level of administrative decentralization.

2.2.2 Rough division of intergovernmental vertical responsibilities and powers

At present, China is generally defined by the statement of principle of “defining the responsibility of government expenditure at all levels according to the division of powers between the central and local governments”, and it still needs to be further defined in implementation ^[5]. Among them, some public affairs clearly divide the responsibilities and powers between the central and local governments, but in disaster prevention and mitigation, it is still far from the goal of dividing the responsibilities and powers of governments at all levels. From the perspective of disaster prevention and mitigation planning, clear disaster response to the local-led principle, the higher government as the cooperation of the local government, participate in cooperation and resource scheduling. However, in the actual disaster response, but still the right to control in the

higher departments.

3. Analysis of the Causes of Government Cooperation in Disaster Prevention and Reduction

Fundamentalism leads to "division of labor does not cooperate", in order to pursue local interests and even do not hesitate to damage the interests of the whole. Downs regards every social actor, including individuals and groups, as "the hegemon of the field" and applies this concept to the bureaucracy. This egalitarianism creates difficulties and obstacles to cooperation between different governments, and even expands into sectoral or local protectionism^[6]. There are two reasons for the emergence of egalitarianism: first, the division of the administrative system. It is based on the administrative division of man-made cutting to govern the country and the local, this model can be called "closed administration" model^[7]. Based on this administrative model, officials often use closed vision and thinking to carry out the response to public emergencies, and can not take the initiative to think about the establishment of an equal cooperation mechanism among the administrative regions in the region. Second, each administrative region pursues the alienation of the goal. Due to the value diversification of local governments in the region, the goals pursued by local governments have more or less deviations. When unexpected public events occur in the region, all localities proceed from safeguarding their own goals and ignore the maintenance of the common interests of the region. In this way, it is easy to give rise to the problem of "fundamentalism".

In addition, there is a problem of "duality" in the relevant system design in our country, which aggravates the friction and consumption of the cooperative system. With the existence of the duality of the system, the stability and reliability of the operation of the system have been repeatedly questioned by the society, and the contradiction between the new and the old system has been intensified. Poor coupling in system design^[8]. As a result, the convergence of the system is not smooth. The most prominent problem in the implementation of the system is the division of the social organization pattern, which coexists with the division of government organizations. The operation of the system cannot be linked up between departments, industries and fields, and there is a phenomenon of obstruction in the implementation of the system. The problem of progressive or regressive is formed in the operation of the system. The self-confidence in the operation of the system in our country is the important foundation of establishing the progressive operation of the system, and the practical efficiency of the operation of the system is the premise of each progressive operation.

4. The Legal Path of the Cooperation of the Government of Disaster Prevention and Reduction in China

4.1 Perfecting relevant laws and regulations

In order to meet the requirements of legalization and standardization of the legal system in order to meet the requirements of public emergencies. It is necessary to start from two aspects: first, to improve the relevant laws and regulations on intergovernmental cooperation. Through the formulation of comprehensive laws, we will raise the relationship between the government to the legal level, standardize the respective roles of the central and local governments in the relations of interest, power, finance and public administration, and clarify the distribution of powers and responsibilities. The purpose of this paper is to lay a solid foundation for the linkage governance model of public emergencies between the central and local governments. The second is to formulate procedural laws and regulations related to dealing with public emergencies. As the current "Law of the People's Republic of China on Emergency Response", "Law on Safety in Production", "Law on Earthquake Prevention and Disaster Reduction", and other laws and regulations only state the various measures that should be taken by governments at all levels in the event of emergencies. For example, the issues of prevention, rescue and late recovery and reconstruction are only limited to the determination of responsibility, not on how to perform their respective responsibilities, how to carry out rescue operations, or how to strengthen the cooperation between the central and local

governments at all levels. Therefore, these laws and regulations are too macro and general, the need to formulate special procedural laws and regulations related to public emergencies has important practical significance.

4.2 Perfecting the design of relevant systems

In the context of institutional reform, national emergency command centers have been established at the central level and local emergency command centers have been established in various localities to enable the central authorities to carry out unified coordination and control over the localities^[9]. At the local level, the main person in charge of the emergency command center is the main leader of the government at the corresponding level, which defines the executive head responsibility system for dealing with public emergencies. In this way, when performing the main functions of responding to public emergencies, such as policy planning, mobilizing and deploying necessary social resources, and assessing event information and incident risks, the cohesion of resources within local administrative regions will be enhanced. Furthermore, it is convenient to establish a dynamic and flexible cooperative governance mechanism for public emergencies between the central and local governments.

The “Law on the Response to Unexpected Public Events” emphasizes the establishment of a graded early warning system for public emergencies. The hierarchical management system is based on scientific analysis and evaluation, and accords with the two basic principles of “ability standard” and “center of gravity downward” in the construction of emergency management system in our country. Although there are clear and hierarchical management provisions in the law, but in the actual response process, despite the differences in the impact and harmfulness of the incident, there is still a need for two-way communication between superiors and subordinates^[10]. The key point of the vertical government governance structure is to improve the integrated and two-way emergency system construction of the emergency command center at all levels from the central to the local level. This includes three aspects: one is to ensure the legal autonomy of the local emergency command center, the second is to emphasize the emergency assistance from the central government to the local government, and the third is the timely and accurate information feedback from the local government to the central government^[11].

4.3 Unification of relevant policies

The central government gives both psychological and material support to local governments by formulating policies related to disaster prevention and mitigation. In terms of stabilizing the psychology of the public, the central authorities should formulate propaganda policies in a timely manner, work closely with the localities, regularly publish the progress of public emergencies, publish matters needing attention, and improve the ability of the whole society to prevent and save themselves. In the management of the source of funds, on the one hand, do a good job in the allocation of special management funds. Within the scope of the responsibility and capacity of the local government, the funds needed for governance may be borne by its own finance. If it exceeds the scope of the local finance, the central government shall allocate special funds for disaster prevention and mitigation to the local governments in the financial budget. On this basis, Local governments have issued corresponding supporting measures to ensure that funds are in place. On the other hand, we should introduce policies to optimize the structure of local fiscal revenue, continue to promote the reform of the tax system, rationally distribute taxes and tax rates between the central and local governments, increase the tax sources of local governments, and strengthen their own financial resources to deal with disaster risks. In addition, it is necessary to rationally distribute the transfer payment strength of the central government to various localities, and formulate different standards of transfer payment according to the different levels of economic and social development of various localities.

5. Conclusion

We often refer to the concept of “win-win collaboration”, and there is a particular need for active

intergovernmental collaboration in disaster prevention and mitigation. We should correct government behavior by means of rule of law, correctly handle various relations inside and outside the organization in both horizontal and vertical dimensions, create good operating conditions and environment for disaster prevention and mitigation, and maximize organizational goals and benefits.

References

- [1] Liu Zuyun. Intergovernmental Relations: cooperative Game and Government Governance [J]. Xuehai, 2007 (01): 79-87.
- [2] Wang Weiquan. On the present situation and perfection of local emergency cooperation in China [J]. Theoretical discussion, 2016 (04): 150-154.
- [3] Ye Hong, Jiang Liu. A study on the Transformation of Natural disasters in Western Minority regions under the concept of Governance [J]. Qinghai ethnic Studies, 2017, 28 (03): 60-63.
- [4] Wang Hongwei. Theory and practice of Emergency Management [M]. Social Science Literature Press, 2010.08, p. 75.
- [5] Lou Jiwei. Deepening the Reform of Power and Expenditure Responsibility to Promote the Modernization of National Governance System and Governance Capacity [J]. Financial Research, 2018, (1):7.
- [6] Downs, Anthony. 1967. Inside Bureaucracy [M]. Boston: Scott, Foresman and Company.
- [7] Bruce Gilley, Provincial Disintegration, Reaching Your Marker is More than Just a Matter of Distance[J]. Far Eastern Economic Review,2001(11).
- [8] Zheng Jiahao. The Environmental Restriction and Cooperation Orientation of Government Governance-- Also on the Basic Contradictions of Government Governance from the Perspective of Complexity [J]. Exploration, 2019 (04): 136143.
- [9] Ma Jie, Wei Wei, Kan Yanqiu. The Action and Logic of Regional Cooperation Boundary Expansion of Local Government—Taking "1+7" to "8+3" in Chengdu Economic Zone as an Example [J]. Journal of Gansu Institute of Administration, 2019 (01): 4755.
- [10] Song Suijun, Hu Jinhua. Cooperative Governance: a New Concept of Emergency Government Information Disclosure System [J]. China Legal Science,2019,7 (01): 30-54.
- [11] Wang Yanhong. The Experience of German Local Government Cross-regional Cooperation and Its Enlightenment to China [J]. Foreign Social Sciences, 2019 (02): 82-88.