

GOVERNANCE-BASED INSTITUTIONAL REALISATION: SILENT COMPLIANCE IN CHINA'S SOUTHWEST BORDERLANDS

Yu Ding^{1#}, Lei Niu^{2,*,*}

¹*Yunnan Minzu University, Kunming 650504, Yunnan, China.*

²*Southwest Forestry University, Kunming 650224, Yunnan, China.*

[#]*Yu Ding and Lei Niu contributed equally to this work and they are both first authors.*

^{*}*Corresponding Author: Lei Niu, Email: 1217925346@qq.com*

Abstract: This article develops an institutional account of how internationally recognised social, cultural and socioeconomic interests acquire practical effect through domestic governance in China's southwest borderlands. It identifies governance-based institutional realisation as the production of normatively relevant conditions through domestically generated programmes and administrative institutions rather than individualised legal claims. Silent compliance is narrower: independently established domestic performance satisfies the applicable legal qualifiers of a specified component of a binding international obligation without explicit attribution to that obligation. Yunnan's border-village programme illustrates the distributive capacity of developmental governance and its contribution to socioeconomic well-being, while documentary status, administrative inclusion and non-discrimination expose limits that aggregate indicators cannot capture. A dual-track model therefore distinguishes scalable public provision from the individualised legal visibility supplied by entitlement-based institutions. Comparison of the China–Vietnam, China–Myanmar and China–Laos borders further shows that cross-border social interests depend on counterpart administrative capacity and bilateral institutional operability. The analysis links treaty performance, borderland governance and regional institutional variation without treating explicit treaty discourse as its necessary starting point.

Keywords: Governance-based institutional realisation; Silent compliance; ICESCR; Border governance; Socioeconomic well-being; Transboundary communities

1 INTRODUCTION

Yunnan shares more than 4,000 kilometres of land boundary with Myanmar, Laos and Vietnam. Its border region contains twenty-five border counties, 110 border townships and 374 border administrative villages or communities [1-2], and many local ethnic communities maintain kinship, marriage, religious, linguistic and economic ties across the international boundary. Those ties do not erase state borders, but they make the region a useful setting for asking how internationally recognised social and legal interests acquire practical effect when social relations and administrative jurisdiction do not coincide. International legal analysis usually begins with norms: a treaty creates an obligation, domestic law translates it into institutions, and an identifiable legal subject obtains an entitlement, procedure or remedy. That sequence remains indispensable where status, discrimination or review is at stake. It is less complete as an account of socioeconomic provision. Schools, clinics, roads, water systems and public services may be produced by programmes whose rationale is development, public-service equalisation or border governance rather than explicit treaty discourse. Yunnan's modern border-village programme makes that institutional mismatch unusually visible. China is bound by the ICESCR [3], yet the programme's official logic is domestic and developmental. Yunnan's programme documents frame the initiative around border development, rural revitalisation, livelihood improvement and public-service provision rather than treaty implementation [1-2].

The point is not to treat development policy as treaty implementation merely because its outcomes correspond with substantive domains addressed by international instruments. A policy can improve socioeconomic well-being, public-service availability or institutional access without having been caused by a treaty, and favourable aggregate outcomes do not establish complete legal compliance. The problem is analytical: how should international law evaluate normatively relevant performance generated by institutions that do not begin with individualised legal claims or treaty language? This article answers that question through three linked concepts. Governance-based institutional realisation denotes the production of material, administrative and social conditions that bear on internationally recognised interests through domestically generated programmes and administrative practices. Silent compliance is narrower: it describes a dimension-specific legal conclusion where a binding obligation exists, domestic performance is independently established, the applicable legal qualifiers are satisfied, and the performance is not expressly attributed to fulfilment of that obligation. Entitlement-based realisation, by contrast, links legal status or an identifiable individual to an entitlement, procedure and review. The dual-track model developed below treats scalable provision and individualised legal visibility as complementary institutional capacities.

The border setting adds a further problem. Family contact, civil-status verification, border-resident movement and similar interests may depend on institutions in another jurisdiction. The article therefore distinguishes counterpart

administrative capacity—the ability of authorities across the border to identify persons, issue or authenticate documents and communicate routinely—from bilateral institutional operability, the existence and practical usability of mechanisms connecting the two administrative systems.

The comparison among the China–Vietnam, China–Myanmar and China–Laos borders is not a ranking of governance quality or overall compliance. It asks a narrower question: does variation in counterpart capacity and bilateral operability correspond to different forms of administrative difficulty? Vietnam and Laos largely present problems of coordination between functioning systems, although the China–Laos setting displays denser institutionalisation. In conflict-affected parts of northern Myanmar, by contrast, formal bilateral rules may coexist with uneven operational capacity, shifting the problem from interoperability toward status and verification.

The article makes four contributions. It identifies governance-based institutional realisation as an institutional mechanism; defines silent compliance as a legally constrained evaluative category rather than a causal theory; explains the complementarity between scalable provision and individualised entitlement; and identifies an underexamined bilateral institutional layer in the operation of cross-border social interests. Methodologically, it is a theory-building legal and institutional study based on treaties, UN monitoring materials, Chinese legislation, bilateral border agreements, official Yunnan data, and recent borderland scholarship. The evidence supports institutional propositions, not a controlled causal claim. The argument is also deliberately non-apologetic. Governance-based institutional realisation is not presumed to be preferable to entitlement-based realisation, and the article does not infer the absence of legal or administrative difficulty from developmental achievement. Its central claim is narrower: different institutional logics reveal different forms of success and failure. A programme may improve infrastructure and collective well-being while failing to identify an undocumented resident; a clear legal entitlement may stabilise an individual's position while doing little to create the school, clinic or transport network needed for practical access. The framework is useful only if it can explain both kinds of institutional limitation.

The article brings international norms concerning ethnic, linguistic and cultural communities together with socioeconomic treaty obligations without treating them as a single body of doctrine. Ethnic status identifies the population and explains why language, culture, family ties and cross-frontier contact matter; the ICESCR supplies the binding legal baseline for the socioeconomic fields in which programmatic governance is empirically most visible. The connection is institutional rather than doctrinal: the same border populations encounter different legal domains through the same local administrative environment. Keeping those domains distinct avoids using Article 27 as a catch-all standard for every problem affecting ethnic communities.

2 INSTITUTIONAL REALISATION BEYOND TREATY-CENTRED IMPLEMENTATION

2.1 Locating the Argument

International-law scholarship has long asked why states comply with international commitments and how formal rules interact with domestic implementation. Chayes and Chayes emphasise managerial conditions that shape compliance [4], while Guzman examines the reputational and strategic mechanisms through which international law affects state conduct [5]. Public-administration scholarship adds a different insight: formal rules are implemented through institutions whose capacity and street-level practices shape practical outcomes [6]. Performance-measurement research likewise distinguishes outputs from the effects they are intended to produce [7]. This literature illuminates compliance, implementation, and measurement, but it does not exhaust the question posed here: how domestically generated governance institutions can produce legally relevant conditions even when an international norm is neither the policy's stated rationale nor its demonstrated cause. The present framework therefore separates three questions that are often conflated: what institutions produce the relevant conditions, whether those conditions satisfy an applicable legal obligation, and whether the international norm itself caused the domestic policy.

International minority-law doctrine raises a related but different issue: an individual legal subject may depend on a continuing group context for language, culture or religion. The present argument does not replace that entitlement structure. It asks what happens when the material conditions for cultural continuity, social participation and livelihood well-being are generated through territorially organised governance before any individual claim is made. This matters in China because domestic ethnic governance and international minority-related norms do not organise their legal subjects in the same way. Treating the two vocabularies as interchangeable would obscure rather than resolve the institutional question. That question should not be turned into a claim of Chinese exceptionalism. The argument is institutional, not civilisational. Developmental states, large social-policy programmes and territorially organised public-service systems may all generate normatively relevant outcomes through administrative logics that do not begin with individualised claims. China's southwest borderlands are used because the coexistence of programmatic governance, documentary-status problems and cross-border institutional dependence makes the contrast unusually clear.

2.2 Governance-Based Institutional Realisation and Silent Compliance

Governance-based institutional realisation is a process in which domestically generated governance institutions, programmes or administrative practices produce conditions materially relevant to internationally recognised social and legal interests without requiring an individualised legal claim as the principal trigger of action. Three elements matter: a domestic justificatory logic; a predominantly programmatic, distributive or institution-building mechanism; and observable normatively relevant performance. The concept is narrower than good governance because the connection to

a defined substantive domain must be specified, but broader than formal treaty implementation because international law need not have caused the policy. Two exclusions are important. First, the concept does not include ordinary state activity merely because it has socially beneficial side effects. A road project, for example, becomes analytically relevant only when a treaty-relevant or otherwise normatively recognised dimension can be identified, and the evidence permits a connection between the intervention and conditions of practical access or well-being. Second, the concept does not imply that affected individuals are passive. Individuals may complain, negotiate, migrate, organise or otherwise influence administrative programmes. The claim is only that an individualised legal assertion is not the principal institutional trigger through which the relevant capacity is produced. For evidentiary purposes, the article uses three levels of description. Normatively relevant performance falls within a substantive field addressed by an international instrument. Obligation-congruent performance requires independent evidence that conduct or outcome materially corresponds to a specified component of a binding legal standard. Silent compliance is reserved for the narrower class of cases in which the applicable legal qualifiers can also be supported. This hierarchy is designed to prevent programme statistics from doing more doctrinal work than the evidence permits.

Silent compliance operates at a different level. It is not a mechanism of implementation but a legal characterisation of a particular relationship between state performance and a binding obligation. Four conditions must be present: the obligation must bind the state; relevant conduct or outcomes must be established independently; they must be materially congruent with a specified component of the obligation; and the domestic policy must not expressly attribute the performance to fulfilment of that obligation. A fifth constraint is essential. Material congruence alone is insufficient: the evidence must also satisfy the legal qualifiers applicable to the component being assessed. Where progressive realisation, non-discrimination, accessibility or another applicable qualifier cannot be established, the proper description is obligation-congruent performance, not silent compliance. These legal qualifiers are treated as distinct because progressive realisation and non-discrimination operate differently under the Covenant ([3], arts. 2(1)–(2); [8], paras. 1–2, 9; [9], paras. 2–3). The term 'compliance' is therefore used more cautiously here than in ordinary political discussion. A state may perform well in one legally specified dimension while remaining non-compliant in another. The ICESCR makes this especially important because progressive realisation, immediate duties, resource constraints and non-discrimination do not operate identically. The concept should never be used where the evidence merely shows a favourable social outcome. It requires a legal match between the evidence and the particular obligation being assessed, which is why the article sometimes stops at obligation-congruent performance rather than moving to silent compliance. This distinction prevents two common errors. It avoids treating every beneficial programme as compliance, and it separates compliance from causation. A road, school or health facility can bear directly on an ICESCR obligation even where the Covenant played no demonstrable role in policy formation; conversely, treaty language in a statute cannot establish compliance without evidence of implementation.

2.3 A Dual-Track Institutional Account

Entitlement-based realisation and governance-based institutional realisation solve different problems. Entitlement-based institutions make an individual legal position visible: nationality, residence, documentation, eligibility, discrimination and review can be attached to an identifiable legal subject. Governance-based institutions make populations, territories, collective needs and service deficits administratively visible and can mobilise resources at scale. Their relationship is therefore complementary rather than hierarchical. The distinction is ideal-typical rather than categorical. Legislation can create entitlements and authorise programmes at the same time; administrative schemes may contain eligibility rules and complaint procedures; courts may order governments to expand capacity; and bilateral agreements may establish both documentary entitlements and joint administrative mechanisms. What matters is the dominant route through which a problem is addressed. This prevents the model from becoming a binary classification of legal systems and makes it suitable for comparing institutions within the same state. Where practical effectiveness depends mainly on public capacity—roads, schools, clinics or territorial service provision—governance-based mechanisms should perform strongly. Where access depends on status, individualised exclusion or review, entitlement-based institutions become indispensable. Aggregate improvement in collective well-being and individual exclusion can thus coexist without contradiction. The analytical task is to identify which institutional function a given body of evidence can actually demonstrate.

3 LEGAL ARCHITECTURE AND COMPARATIVE DESIGN

3.1 Minority-Related Norms, Socioeconomic Obligations and the Binding Baseline

Article 27 of the ICCPR provides the clearest universal treaty formulation addressing the cultural, religious and linguistic interests of persons belonging to minorities. China signed the ICCPR in 1998 but has not ratified it. Article 27 therefore serves here as an analytical reference, not as a binding treaty benchmark for Chinese compliance. The wording of the provision is nevertheless institutionally significant: the legal subject is individual, while cultural, religious and linguistic practice may depend on a continuing social context ([10], art. 27). This is useful for the southwest border setting, where individual legal interests can rest on kinship, language and community networks extending across villages and national boundaries. Because China has not ratified the ICCPR, Article 27 cannot itself serve as the binding basis for a finding of Chinese treaty compliance. China's domestic framework orders the relationship differently. Constitution Article 4 combines equality, regional ethnic autonomy and language guarantees, while the Law on

Regional Ethnic Autonomy gives an important role to territorially organised institutions. The contrast is not a simple opposition between individual and collective arrangements. It concerns sequence: Article 27 starts from an individual legal subject acting in a community context; Chinese ethnic governance often starts from a recognised community or autonomous locality and distributes individual and collective benefits through that institutional frame. Border regions expose the practical consequences because citizenship, ethnic membership, local residence and cross-border kinship may overlap without being legally identical.

The sequencing difference has practical consequences. A territorially organised programme can improve community infrastructure, public services and livelihood conditions without first identifying each beneficiary as an individual legal subject. That is institutionally efficient for roads, schools, clinics and collective facilities. It is less reliable when a person falls outside ordinary administrative categories. The same feature that gives territorially organised governance its reach can make atypical status harder to see. The border setting therefore does not merely supply examples; it exposes the point at which collective administrative visibility and individual legal visibility diverge. The 1992 UN Minority Declaration adds a specifically transboundary dimension. Article 2(5) recognises peaceful contacts across frontiers with persons related by national or ethnic, religious or linguistic ties, while Article 8(4) preserves sovereignty and territorial integrity. The Declaration is not a treaty. Its significance lies in recognising a legitimate cross-frontier social interest without supplying the administrative machinery—documents, border passages, verification and intergovernmental contact—needed to make such interaction routine ([11], arts. 2(5), 8(4)). Article 2(5) should also be read with care. It does not displace immigration law, border-control authority, or the requirement that contact remain peaceful and lawful. Nor does it identify which state must bear the administrative burden of making contact possible. That institutional silence matters most where documents are unreliable, or authority is fragmented. The Declaration supplies a normative basis for taking the social interest seriously, but the machinery through which it can be exercised is largely left to domestic and bilateral law.

This is where counterpart administrative capacity enters the analysis. A cross-frontier social interest may be recognised normatively, yet routine exercise still depends on an authority able to identify persons, issue or authenticate civil documents, maintain sufficiently continuous administration and communicate with the neighbouring state. These functions are mundane, but their absence changes the legal problem. With a functioning counterpart, authorities usually coordinate two systems; without one, they may first have to establish who the person is, what status a document has, and who can verify it. Silent compliance requires a binding baseline, and the ICESCR supplies the principal one for the socioeconomic analysis. China ratified the Covenant in 2001. Article 2(1) combines an obligation to take steps with progressive realisation and available resources; Article 2(2) requires non-discrimination. Articles 11, 12, 13 and 15 address adequate living conditions, health, education and cultural participation, all of which bear directly on socioeconomic well-being. CESCR has long stressed that progressive realisation does not make all obligations merely aspirational, while non-discrimination is of immediate application ([3], arts. 2(1)–(2), 11–15; [8], paras. 1–2, 9; [9], paras. 2–3). The argument therefore assesses only those components for which the available programme evidence is probative.

The ICESCR baseline also explains why aggregate developmental evidence must be handled with precision. Article 2(1) is not an obligation to produce a particular income level by a fixed date, and Articles 11–13 contain substantive requirements that cannot be reduced to infrastructure counts. At the same time, the Covenant does not prescribe a single institutional form through which progress must occur. Administrative programmes, legislation, budgeting and public provision can all be relevant means. The legal question is whether the evidence supports the particular component of the obligation invoked, not whether the domestic policy uses treaty vocabulary. CERD's 2018 concluding observations are particularly useful because they recognise both sides of the institutional problem. The Committee welcomed a people-centred development approach and encouraged continued poverty reduction, infrastructure and public services in ethnic areas, but also requested more specific, disaggregated indicators capable of showing actual social outcomes and policy effects ([12], paras. 18–20). This closely parallels the distinction drawn here between aggregate territorial provision and individualised institutional access. The CRC provides an additional binding framework for birth registration, identity, education, non-discrimination and the cultural participation of minority children ([13], arts. 2, 7, 8, 28, 29(1)(c), 30).

3.2 Comparative Design and Operationalisation

The unit of comparison is the bilateral institutional configuration through which persons, documents and routine cross-border relations are administered along Yunnan's borders. Holding the Chinese national legal framework broadly constant does not eliminate differences in conflict, history, geography, or migration, but it provides more leverage than comparing three states in the abstract. The exercise is theory-building rather than causal identification. The design is a structured, focused comparison rather than a most-similar-systems experiment in the strict methodological sense. Conflict exposure, migration history, and local political economy differ across the three borders, and those differences cannot be neutralised by holding the Chinese legal framework constant. The comparison therefore aims at mechanism clarification: it asks where in the administrative sequence a problem emerges and whether the proposed variables help distinguish that location. The resulting propositions should be treated as portable hypotheses for later comparative testing, not as estimates of causal effect.

The comparison separates counterpart administrative capacity from bilateral institutional operability. The first concerns whether an authority across the border can perform routine administrative functions; the second concerns whether the

two sides have usable mechanisms for connecting those functions. They are related but not interchangeable: a detailed agreement can coexist with weak or uneven implementation capacity (Table 1).

Table 1 Analytical Variables, Observable Indicators and Expected Implications

Variable	Observable indicators	Expected implication
Counterpart administrative capacity	continuous authority in the relevant border area; routine civil-document issuance; identifiable verification authority; continuity of local administrative contact	Functioning capacity shifts problems toward coordination; fragmented capacity increases status and verification problems.
Bilateral institutional operability	valid border-management rules; functioning ports or border passes; standing local-government contacts; verification or information-exchange procedures	Greater operability routinises cross-border administration but cannot replace a missing counterpart.
Outcome form	where failure occurs in the administrative sequence	coordination/interoperability versus status/verification difficulty

4 TESTING THE FRAMEWORK IN CHINA'S SOUTHWEST BORDERLANDS

4.1 Status and Documentary Life

Status problems show where aggregate governance reaches its limit. Research on Myanmar brides in southwest China documents legal precarity and barriers to formal recognition even where women become socially and economically embedded in border communities [14]. The evidence does not justify a blanket claim that their children are excluded from education or health care. It does show why service availability and secure institutional access must be treated separately. Cross-border marriage illustrates the problem particularly well because social incorporation and legal incorporation need not move together. A woman may reside for years in a Chinese border community, participate in household production and raise children while remaining unable to complete the documentary steps that would stabilise civil or residence status. The precise consequences vary by case, and the available literature does not justify assuming uniform exclusion. What it does justify is treating documentary recognition as an independent institutional variable rather than as a side effect that improvements in local well-being will necessarily resolve.

Chinese compulsory-education law already weakens any simple equation between household registration and school access by requiring arrangements for children living with parents away from their registered locality ([15], art. 12). The harder cases concern uncertain nationality, residence, or civil documentation. Similar distinctions appear in displacement from Myanmar. Chinese authorities provided substantial material assistance to some influxes, particularly displaced Kokangs, while assistance to displaced Kachins was more limited and uneven [16-17]. Material assistance can improve immediate welfare without settling refugee or other legal status. The same caution applies to children. It would be legally inaccurate to infer exclusion merely from the absence of local household registration, because compulsory-education law contains mechanisms for children residing away from the place of registration. The harder cases involve uncertainty about identity, nationality or parental documentation. Those cases call for evidence about how local authorities apply access rules in practice. The article therefore treats them as a researchable gap in individualised accessibility rather than as proof of systemic denial.

CERD's 2018 observations reinforce the point. It noted China's participation in the Refugee Convention regime, to which it acceded in 1982, recommended an appropriate procedure for considering individual claims, called for universal birth certification regardless of parents' documentation, and urged greater efforts to identify stateless persons ([12], paras. 51-53). Material assistance and legal status are distinct institutional functions [18-19]. Developmental governance may provide services, welfare and emergency support; status-based institutions determine whether a particular person can convert that provision into stable, reviewable access. Statelessness sharpens the same distinction. China is not a party to the 1954 Convention relating to the Status of Stateless Persons or the 1961 Convention on the Reduction of Statelessness, and the domestic legal framework does not contain a general statelessness-determination procedure comparable to those found in some other jurisdictions. That absence does not establish that every undocumented border resident is stateless. It does, however, help explain why administrative uncertainty may persist when nationality cannot readily be demonstrated through ordinary documentary channels.

4.2 Programmatic Provision, Socioeconomic Well-Being and Silent Compliance

Yunnan's modern border-village programme is the clearest empirical case of governance-based institutional realisation. Launched across 374 border villages or communities, it organised investment around infrastructure, industry, public services and local governance. Official reporting records approximately RMB 13.8 billion in investment and 13,423 projects by the end of 2023 [20]. The programme's justificatory language is domestic—border development, rural revitalisation and livelihood improvement—rather than treaty implementation. From a governance perspective, it combines territorial planning, fiscal mobilisation, public-service equalisation, industrial support and grassroots administration within a single borderland policy package. From an area-studies perspective, it is also a regionally specific response to the demographic, infrastructural and geopolitical conditions of Yunnan's frontier. The programme therefore permits an observable comparison between developmental governance, local well-being and treaty-relevant socioeconomic performance rather than a loose association between development and international law.

The official indicator architecture is itself revealing. The programme initially used nineteen indicators and later moved to a consolidation framework with expanded indicators. Most are well suited to territorial outputs—roads, water, industry, public facilities, environmental improvement and local organisation. They are less suited to identifying whether a small, administratively marginal population can use those goods on equal terms. Official statistics are therefore treated here as evidence of programme inputs, outputs and aggregate outcomes, not as a substitute for household- or person-level evidence of accessibility. The chronology of the indicators also matters. The initial phase used six dimensions and nineteen guiding indicators; later consolidation work expanded the monitoring framework. Treating the later indicator set as if it had governed the programme from the beginning would distort the evidence. More importantly, both versions remain predominantly territorial and programmatic. They are designed to tell administrators whether a village has reached a target, not whether every individual within the village can convert the resulting facility into stable and recognised access.

Several outputs nevertheless fall within substantive domains addressed by the ICESCR. Water, roads, housing conditions and village infrastructure bear on Article 11; health-service capacity on Article 12; and schools and educational resources on Article 13. Official Yunnan data report per capita disposable income of RMB 20,631 in 2023 and RMB 22,488 in 2024, alongside substantial infrastructure and service expansion [2, 21]. These figures demonstrate programmatic capacity, improvements in material well-being and obligation-congruent performance; they do not, by themselves, establish full legal satisfaction of the corresponding treaty obligations.

The legal inference must remain component-specific. A functioning water system can improve living conditions; a village clinic can strengthen the institutional basis of access to health care; school infrastructure can expand educational capacity. None of these facts proves that the relevant service is affordable, culturally appropriate, non-discriminatory or equally accessible to every person. The appropriate legal characterisation therefore depends on the dimension for which the evidence is probative. Territorial indicators show whether roads, facilities or services exist, but they are less suited to identifying a small number of people whose documentary or residence status makes access insecure. CERD's request for disaggregated indicators illustrates the same evidentiary problem. Aggregate gains in community well-being can be real while residual exclusion becomes harder to see.

Whether the evidence reaches silent compliance must therefore be stated narrowly. China is bound by the ICESCR; the programme produces independently evidenced outcomes materially congruent with parts of Articles 11–13; and those outcomes are not officially framed as treaty fulfilment. The available record is strong enough to identify silent compliance with some programmatic aspects of socioeconomic implementation, but not to establish non-discrimination or equal accessibility across all legal-status categories. On those dimensions, the safer conclusion remains obligation-congruent performance. On this record, the strongest conclusion concerns the Article 2(1) duty to take concrete steps through appropriate means. The scale of investment, completion of programme targets and documented expansion of public-service capacity support more than a purely aspirational characterisation. By contrast, the record is too aggregate to sustain a general conclusion on Article 2(2) non-discrimination. This asymmetry is not an embarrassment to the theory; it is the reason for distinguishing silent compliance from full compliance in the first place.

4.3 Language, Education and Cultural Continuity under the 2026 Law

Language policy and cultural continuity expose a different limit: material educational capacity says little about the linguistic quality of access. Chinese law now contains several provisions that must be read together. Constitution Article 4 guarantees ethnic groups freedom to use and develop their languages; Article 37 of the Law on Regional Ethnic Autonomy addresses minority-language teaching; Education Law Article 12 establishes the national standard language as the basic language of education while retaining room for bilingual education; and Article 15 of the 2026 Law on Promoting Ethnic Unity and Progress requires the national standard language as the basic language of teaching while also providing for the learning and use of minority languages ([22], art. 4; [23], art. 37; [24], art. 12; [25], art. 15). The 2026 legislation demonstrates why statutory interpretation cannot be replaced by political characterisation. Earlier constitutional and statutory provisions remain part of the legal context. The central question is therefore one of reconciliation and implementation: which forms of bilingual education remain available, how local authorities interpret the statutory relationship, and whether practice differs across schools and regions. Those questions require evidence after the law enters into force.

The April 2026 communication from eight UN special-procedure mandate-holders raised a possible tension between the new provision and existing autonomy legislation and requested clarification. It was not a judicial decision or a treaty-body finding of violation [26]. Because the law entered into force only on 1 July 2026, the responsible conclusion is implementation-based: the effect of the statutory framework must be assessed through subsequent educational practice, not inferred from the text alone. The broader institutional point is modest but important—building schools and financing education cannot establish the cultural or linguistic quality of the resulting access. This approach also avoids giving the Special Procedures communication more legal weight than it possesses. The communication is important because it identifies a concrete interpretive concern and places it in an international legal frame. It does not itself determine the meaning of Chinese law, nor does it establish a treaty violation. Treating it as a question-generating source rather than an adjudication preserves the distinction between external legal scrutiny and domestic statutory interpretation.

4.4 Three Border Configurations

The China–Vietnam border combines functioning state administrations with a detailed bilateral regime. The 1999 land-boundary treaty and 2009 border-management agreement provide mechanisms for border-resident movement, agreed documents, ports and local-government contact [27–28]. The relevant institutional difficulty is therefore more likely to arise in recognition, verification and procedural coordination than in the absence of a counterpart authority. The relevant inference is deliberately modest. The bilateral agreements show that documents, movement and local-government contact are embedded in a standing administrative framework. They do not prove that every individual application is handled smoothly. Their evidentiary role is to establish the institutional stage at which problems are likely to arise: where both sides can issue documents and communicate routinely, failures more plausibly concern recognition, compatibility and coordination than the absence of a counterpart.

The China–Myanmar case separates formal rules from operational capacity. The 1997 border-management agreement is detailed: Article 20 expressly accommodates border-resident travel for religious activity, visits to relatives and friends, medical treatment, commodity exchange and traditional ethnic festivals ([29], art. 20; [30]). Yet conflict and displacement in northern Myanmar have produced periods and places in which authority, documentation and territorial control are uneven [16–17]. Formal institutional density can therefore coexist with status and verification problems when the counterpart required to operate the agreement is fragmented or intermittently unavailable. This distinction is one of the article's most important empirical findings. The 1997 agreement is detailed enough that weak formal law cannot plausibly explain every problem on the Myanmar border. The more persuasive issue is the uneven availability of the institutions presupposed by the agreement in conflict-affected settings. A rule requiring verification is useful only when someone on the other side can verify; a local-government contact mechanism is only as operational as the authorities able to participate in it. The case therefore shows why treaty density and administrative capacity must be measured separately.

That distinction is methodologically important. Bilateral legal density cannot be used as a proxy for counterpart capacity, because doing so would make the explanation circular. The claim about uneven capacity rests instead on evidence of conflict, displacement and fragmented territorial administration in northern Myanmar, while the 1997 agreement is used only to establish the formal mechanisms that would operate under ordinary conditions. The comparison therefore asks whether the administrative sequence fails at coordination or at the earlier stage of status and verification. The China–Laos setting falls within the coordination model but with denser institutionalisation. The 1991 boundary treaty and 2011 border-management agreement establish border-resident documents, joint mechanisms and administrative contact; the Mohan–Boten arrangements add a further layer of organised transport, commerce and personnel movement ([31]; [32], arts. 20–29; [33–34]). The point is not that economic-cooperation instruments regulate ethnic or cultural matters. They show how bilateral institutions can routinise cross-border relations once counterpart capacity exists.

Mohan–Boten is relevant for the same reason. The cooperation-zone arrangements were designed for economic and administrative integration, not for ethnic or cultural regulation. Yet they create repeated official contact, routinised movement and institutional channels that can reduce the transaction costs of managing cross-border social life. The theoretical point is functional rather than classificatory: institutions created for trade or border development may incidentally supply administrative capacity relevant to cross-border social interests without becoming normative instruments of that field themselves. Taken together, the cases suggest that some transboundary social interests are jointly produced institutional outcomes. International law can recognise an interest in cross-frontier contact, but no state acting alone can ensure that another administration will verify identity, recognise documents or maintain an operable crossing. The three cases therefore identify a bilateral institutional layer between normative recognition and domestic implementation.

This comparative result also places a limit on the idea that better domestic implementation is always sufficient. A state can improve its own registration system, clarify local procedures and expand services, but it cannot unilaterally produce reliable documents in another jurisdiction or guarantee continuity of an external administrative partner. Transboundary operability is therefore partly relational. That feature distinguishes it from many ordinary implementation problems and helps explain why bilateral institutions occupy an analytical space between universal norms and domestic administration.

5 INSTITUTIONAL IMPLICATIONS

The evidence supports four propositions. First, governance-based institutional realisation has a comparative advantage where practical effectiveness depends mainly on scalable public provision. Its strength lies in resource mobilisation and territorial coverage, not in relaxing the applicable legal baseline. Second, entitlement-based realisation becomes indispensable where access depends on status, individualised exclusion or review. These are distinct institutional tasks, which is why aggregate developmental success and improvements in community well-being can coexist with unresolved legal precarity.

The first two propositions are internal to the state, and the second two are relational. Internally, the question is which institutional logic is best suited to the task: provision at scale or legally individualised access. Relationally, the question is whether the domestic institution can connect to an external counterpart and whether the bilateral rules are usable in practice. Keeping those dimensions separate avoids attributing every failure to either national policy or international

law. Third, silent compliance should remain a demanding category. It is most plausible where domestic governance objectives overlap with a binding socioeconomic obligation and the available evidence can satisfy the legal qualifiers attached to the specific component under review. The concept is therefore narrower than functional similarity. Its utility lies in recognising normatively significant performance without pretending that favourable indicators establish overall treaty compliance. If every policy that improves well-being is described as silent compliance, the term collapses into praise for development. If it is restricted to evidence that can be matched to a binding obligation and its applicable legal qualifiers, it becomes a way to identify a real but often overlooked relationship between domestic governance and international law. Its analytical value lies in disciplined underclaiming. Fourth, transboundary interests add conditions outside the domestic dual-track model. Counterpart administrative capacity and bilateral operability determine whether a cross-border problem appears as routine coordination or as a prior problem of status and verification. Bilateral agreements do not replace international norms concerning ethnic and cultural communities, but they may supply administrative machinery that universal instruments leave unspecified. These propositions also suggest practical institutional connections. Programme evaluation should distinguish availability from accessibility and add disaggregated measures capable of identifying residual exclusion. Status procedures should connect people whose documentation is uncertain to services already produced through territorial programmes. Where a functioning counterpart exists, bilateral verification and local-government contact can turn questions of uncertain status into manageable questions of coordination. None of these adjustments requires replacing developmental governance with litigation-centred administration; they address different points in the same institutional chain.

Three connections deserve particular attention. First, status linkage can connect a person whose documentation is uncertain to services already produced by territorial programmes. Second, accessibility measurement can distinguish the existence of a service from the actual ability to use it. Third, reviewability can provide a route for correcting individualised exclusion without transforming the entire programme into a litigation-driven scheme. These are bridging institutions: they preserve the distributive advantages of governance while adding mechanisms that make residual exclusion visible. The framework is intended to travel, but cautiously. It should be testable in other developmental states, large social-policy and public-service programmes, and border regions where social relations cross jurisdictions with unequal administrative capacity. Its broader value will depend on comparative work capable of showing when governance-based provision and entitlement-based visibility reinforce one another and when they diverge.

The most promising comparative settings are not countries that resemble China in every respect, but institutional environments that reproduce the same problem structure. Large-scale social-policy programmes may generate aggregate gains in well-being while missing irregular migrants; developmental administrations may expand service capacity faster than individualised remedies; border regions may depend on neighbouring authorities with very different levels of documentary and administrative continuity. Testing the framework in such settings would show whether the proposed concepts identify general institutional patterns or merely restate features of the Yunnan case. Nothing in the framework presumes that governance-based institutional realisation is normatively preferable. Its advantages and blind spots are empirical propositions. A programme may mobilise resources more effectively than litigation while remaining poor at detecting individualised exclusion; entitlement-based institutions may secure legal visibility while doing little to create scarce public capacity. The framework is useful only if it can explain both kinds of institutional failure rather than redescribe favourable outcomes as success.

6 CONCLUSION

China's southwest borderlands show that institutional realisation need not begin with explicit treaty discourse. Domestic programmes can improve material well-being, public-service capacity and cultural continuity through their own political and administrative logics while also bearing on internationally recognised legal interests. That observation does not make every development outcome a legal achievement. It requires a disciplined distinction between the production of normatively relevant conditions, the legal evaluation of state performance and the causal influence of international norms. The significance of that claim is methodological as much as substantive. Starting from governance practice changes the questions asked of international law. Instead of asking only whether a domestic institution cites the treaty or resembles a familiar claim-remedy model, the analysis asks what capacity has been produced, which treaty-relevant dimensions it affects, who remains invisible to the programme, and whether the result depends on institutions beyond the state. This sequence is especially useful where international legal commitments acquire practical effect through administration rather than adjudication.

Governance-based institutional realisation captures the first process; silent compliance describes only those cases in which binding law, evidence and the applicable legal qualifiers support a dimension-specific conclusion. Yunnan's border-village programme illustrates both the promise and the limit of the approach. Its scale and socioeconomic outputs are substantial, but aggregate indicators cannot demonstrate the legal position or equal access of every individual. The dual-track account explains why: programme governance is well suited to provision, while entitlement-based institutions are better suited to status, individualised exclusion and review. The border comparison adds another constraint. Cross-border social and legal interests may depend on institutions beyond the implementing state. Vietnam and Laos show how functioning counterparts and bilateral mechanisms routinise coordination; the Myanmar case shows why detailed agreements are insufficient when the operational counterpart is uneven. Bilateral border law can therefore perform a function often missed in analysis of minority-related international norms: it can translate a general interest in peaceful cross-frontier contact into documents, passages and administrative relationships.

The article remains a theory-building study. Official statistics cannot substitute for village-level evidence of actual accessibility, the three-border comparison cannot isolate a single cause, and the effects of the 2026 legislation are not yet observable with confidence. Those limits narrow the claims but do not erase the institutional pattern. The central lesson is that international legal commitments may acquire practical effect through more than one institutional pathway. Understanding those pathways requires attention to scalable governance, individualised legal visibility and, at borders, the capacity of institutions on both sides to work together. Further work should therefore concentrate less on multiplying concepts and more on testing the ones proposed here. County- and village-level data could distinguish service availability from actual access across documentation categories. Interviews with local administrators could reveal how status uncertainty is handled in practice. Comparative work could operationalise counterpart capacity over time rather than treating it as a static national attribute. Such research would allow the framework to move from a structured theory-building account toward stronger causal and evaluative claims.

COMPETING INTERESTS

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REFERENCES

- [1] General Office of the Yunnan Provincial Party Committee, General Office of the Yunnan Provincial Government. Plan for building modern border well-off villages in Yunnan Province (2021-2025), 2021.
- [2] Yunnan Provincial Ethnic and Religious Affairs Commission. From happiness to greater happiness: A review of Yunnan's modern border happiness villages, 2024.
- [3] United Nations. ICESCR. 993 UNTS 3, 1966.
- [4] Chayes A, Chayes A H. On compliance. *International Organization*, 1993, 47(2): 175-205.
- [5] Guzman A T. How international law works: A rational choice theory. Oxford University Press, 2008.
- [6] Lipsky M. Street-level bureaucracy: Dilemmas of the individual in public services. Russell Sage Foundation, 1980.
- [7] Behn R D. Why measure performance? Different purposes require different measures. *Public Administration Review*, 2003, 63(5): 586-606.
- [8] CESCR. General Comment No. 3: The nature of States parties' obligations. UN Doc. E/1991/23, 1990.
- [9] CESCR. General Comment No. 20. UN Doc. E/C.12/GC/20, 2009.
- [10] United Nations. ICCPR. 999 UNTS 171, 1966.
- [11] United Nations General Assembly. UN Minority Declaration. GA Res. 47/135, UN Doc. A/RES/47/135, 1992.
- [12] Committee on the Elimination of Racial Discrimination. Concluding observations on the combined fourteenth to seventeenth periodic reports of China. UN Doc. CERD/C/CHN/CO/14-17, 2018.
- [13] United Nations. CRC. 1577 UNTS 3, 1989.
- [14] Zhong X. Making belonging at the margins: Borderland citizenship among Myanmar brides in southwest China. *Citizenship Studies*, 2025, 29(5): 337-353.
- [15] Standing Committee of the National People's Congress. Compulsory Education Law of the People's Republic of China, 2006 (as amended).
- [16] Song L. Refugees or border residents from Myanmar? The status of displaced ethnic Kachins and Kokangs in Yunnan Province, China. *International Journal of Refugee Law*, 2017, 29(3): 466-487. DOI: 10.1093/ijrl/eex031.
- [17] Song L. Chinese refugee law and policy. Cambridge University Press, 2020.
- [18] United Nations. Convention relating to the Status of Refugees. 189 UNTS 137, 1951.
- [19] United Nations. Protocol relating to the Status of Refugees. 606 UNTS 267, 1967.
- [20] National Ethnic Affairs Commission. Official materials on Yunnan's modern border happiness villages and programme consolidation, 2023-2026.
- [21] Yunnan Provincial Ethnic and Religious Affairs Commission. Press conference on completion of the 14th Five-Year Plan, 2025.
- [22] National People's Congress. Constitution of the People's Republic of China, as amended in 2018.
- [23] Standing Committee of the National People's Congress. Law of the People's Republic of China on Regional Ethnic Autonomy, 1984/2001.
- [24] Standing Committee of the National People's Congress. Education Law of the People's Republic of China, 1995 (as amended).
- [25] National People's Congress. Law of the People's Republic of China on Promoting Ethnic Unity and Progress. Adopted 12 March 2026; effective 1 July 2026.
- [26] United Nations Special Procedures. Joint communication concerning the Law on Promoting Ethnic Unity and Progress. OL CHN 5/2026, 16 April 2026.
- [27] People's Republic of China, Socialist Republic of Viet Nam. Treaty on the Land Boundary. Signed 30 December 1999; entered into force 6 July 2000.
- [28] Government of the People's Republic of China, Government of the Socialist Republic of Viet Nam. Agreement on the Management Regime of the China-Vietnam Land Border. Signed 18 November 2009; entered into force 14 July 2010.

- [29] Government of the People's Republic of China, Government of the Union of Myanmar. Agreement on China-Myanmar Border Management and Cooperation. Signed 25 March 1997; entered into force 29 September 1997.
- [30] People's Republic of China, Union of Burma. Boundary Treaty. Signed 1 October 1960; entered into force 4 January 1961.
- [31] People's Republic of China, Lao People's Democratic Republic. Boundary Treaty. Signed 24 October 1991; entered into force 21 January 1992.
- [32] Government of the People's Republic of China, Government of the Lao People's Democratic Republic. Agreement on the China-Laos Border Management Regime. Signed 23 August 2011.
- [33] Government of the People's Republic of China, Government of the Lao People's Democratic Republic. Common General Plan for Construction of the China-Laos Mohan-Boten Economic Cooperation Zone, 2015.
- [34] Government of the People's Republic of China, Government of the Lao People's Democratic Republic. Joint development planning framework for the China-Laos Mohan-Boten Economic Cooperation Zone, 2016.