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Inheritance and Development: The Evolution and Overview of China's Fisheries Legal System

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Abstract: China's legal system governing fisheries in China has been stable during development. In line with China's national conditions and the spirit of the times, they have adhered to the concept of green development and maintaining the sustainable development of fishery production activities. Studying the history of Chinese fishery law is beneficial for the world to understand the evolution of this legislation and is a better gateway for the world to understand fisheries law with Chinese characteristics. Fishery, in this context, refers to fishing and fish farming. In China, fisheries are under the management of the Ministry of Agriculture and Rural Affairs, while fisheries enforcement has a special law enforcement department for collaborative management. Therefore, both fishing and fish farming in China's fisheries industry belong to the category of agriculture. This is different from the West and is precisely what makes China unique. This paper explores the Chinese fishery legal and general legal systems by investigating policy guidelines, laws, and regulations on China's fishery industry since 1949. Furthermore, it analyzes the development process of fisheries. Organizing the development status of China's fishery legal and regulatory system analyzes the problems of fishery production control and development, searches for paths and methods to solve the practical problems, and finally, makes a reasonable outlook on the development prospect of China's fishery.



Citation: Wu, W.; Liu, Y.; Pei, Z.; Lin, Y.; Sun, X.; Xing, J.; Wang, Y.; Liu, Y. Inheritance and Development: The Evolution and Overview of China's Fisheries Legal System. *Fishes* **2023**, *8*, 5. <https://doi.org/10.3390/fishes8010005>

Academic Editors: Yen-Chiang Chang and Dimitrios Moutopoulos

Received: 23 October 2022

Revised: 11 December 2022

Accepted: 19 December 2022

Published: 22 December 2022



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Keywords: China's fisheries legal system; development process; development status; problems; development prospects

1. Introduction

China is a largely agricultural country, and fisheries are an important industry in the agricultural and rural economy, an important way to implement the rural revitalization strategy, and an important element in the construction of ecological civilization [1]. Since 1949, China's rule of law has gradually improved after more than 70 years of development, and the legal system has been gradually stabilized. Fisheries laws and regulations refer to the sum of legal norms relating to fisheries, i.e., the collective term for legal norms that regulate various activities and relationships relating to fisheries. With the development of the fishery economy, China's legal system has continuously improved. To date, the revision of the Fisheries Law of the People's Republic of China (hereinafter referred to as the "Fisheries Law") has continued to advance, and the development of China's fisheries legal system will face new opportunities and challenges.

2. Legal Review: The Process of Development of China's Fisheries Legal System

The development process of China's fisheries law and regulation system can be divided into four stages according to time: the first stage was the period of gradual fisheries legislation from 1949 to 1960, which was the budding stage of the fisheries law and regulation system and mainly relied on policies and administrative regulations to regulate and guide fisheries production activities; the second stage was the period of stagnation of fisheries legislation

from 1960 to 1976, during which the third stage is the period of recovery and comprehensive development of fisheries legislation from 1979 to 1990, during which fisheries legislation was frequent and the level was improved compared with the previous period, and a system of fisheries laws and regulations was initially formed; The fourth stage is the period of adjustment and further strengthening of fisheries legislation from 1990 to the present, during which fisheries legislation reached a high level of technology, and the fisheries legal and regulatory system was improved on the basis of the previous ones.

2.1. Period of Progressive Fisheries Legislation, 1949–1960

In February 1950, the First National Fisheries Conference was held in Beijing, which formulated the “recovery-oriented” approach to fisheries production, which served to guide fisheries production activities and regulate fisheries management to a certain extent [2]. In 1953, the Third National Fisheries Conference proposed a new working policy. “Steady and focused development of marine fisheries, expansion of freshwater aquaculture, strengthening the management of State enterprises, increasing the volume of fishing, further developing mutual assistance and cooperation in fishery production, improving technology, increasing production per unit area, launching a patriotic and productive campaign: organizing public and private forces, improving processing, transportation, and marketing, and striving to increase the production of aquatic products. The key word in the guidelines has changed from “restoration” to “improvement”, indicating that China’s fishery production activities have been well developed under the first guidelines. Although these guidelines were not laws and regulations, they promoted the development of fishery production activities and, to a certain extent, played the role of legal regulation and guidance. On 12 July 1957, the Ministry of Fisheries of the People’s Republic of China issued the Instruction on the Handling of Intrusion of Fishing Vessels into Closed Areas; on 16 August 1957, the Ministry of Fisheries of the People’s Republic of China issued the Supplementary Provisions on the Notification of the Order of the State Council on the Closed Areas of the Bhai Sea, the Yellow Sea and the East China Sea for Machine Vessel Trawling Fisheries [3]. This series of administrative regulations issued by the State Council specifically addresses fisheries activities and is an important guarantee for the orderly conduct and rapid development of fisheries production activities in China.

2.2. The Period of Pause in Fisheries Legislation, 1960–1976

During the period from the founding of the People’s Republic of China to the reform and opening up of the countryside, China’s freshwater aquaculture production was affected by changes in policy, which led to the shrinking of the aquaculture industry during the period 1959–1961, when the country was extremely tight on food, there was a famine and many places fenced lakes to make fields and filled ponds to grow food. To increase the amount of fishing, the Ministry of Fisheries proposed a large number of emergency measures, which broke the original regulations on the protection of aquatic resources in the summer and autumn when fish reproduction and growth were in full swing, and had a devastating impact on fishery resources. As a result of the policy, legislative activity during this period came to a virtual standstill, and no laws or regulations regulating fisheries production activities emerged, making this a period of pause in fisheries legislative activity.

2.3. Period of Restoration and Full Development of Fisheries Legislation, 1979–1990

On March 16, 1978, the State Council decided to establish the State Administration of Fisheries to restore freshwater aquatic resources and to establish and improve the relevant fisheries laws and regulations [4]. In 1979, the State Administration of Fisheries issued the Interim Provisions on Certain Issues of Fisheries Licenses, under which fishing operators were required to apply for a license from the fisheries administration before they could carry out production. In 1979, the State Council Environmental Protection Leading Group, the State Planning Commission, the State Economic Commission, and the State Administration of Fisheries jointly promulgated the Standard for Fishery Water Quality, which imposed

financial liability and a deadline for the treatment of fish resources harmed by polluted waters. After the 1980s, a series of policies for the development of fisheries were adjusted. In 1981, China adopted the principle of restoring, developing, and improving freshwater fish farming. In March 1982, the National Freshwater Fishery Working Conference was held, which clarified the implementation of the right to use fish farming water and improved the production responsibility system. In 1985, the CPC Central Committee and the State Council issued the In January 1986, the Standing Committee of the Sixth National People’s Congress of the People’s Republic of China adopted the Fisheries Law, the first Chinese law specifically designed to regulate fisheries production activities; to better apply the Fisheries Law and further regulate fisheries production activities, on 20 October 1987, the Ministry of Agriculture, Animal Husbandry and Fisheries issued the Rules for the Implementation of the Fisheries Law of the People’s Republic of China [4]. Through the above series of institutional reforms, policy changes, and legislative activities, China’s fishery production activities have seen unprecedented development, and a system of fishery laws and regulations has gradually taken shape.

2.4. 1990 to the Present, a Period of Restructuring and Further Strengthening of Fisheries Legislation

Although the system of fisheries laws and regulations has taken initial shape, there are still many areas that need to be improved and strengthened. Since 1986, the Fisheries Law has undergone four revisions, in 2000, 2004, 2009, and 2013, to better adapt it to national development policies through continuous adjustments to Fisheries Law. To achieve sustainable and healthy development of the fisheries economy, the Standing Committee of the National People’s Congress, the State Council, and the Ministry of Agriculture and Rural Development have carried out a series of legislative activities. In addition to focusing on production priorities such as fishing and breeding, aquatic seed breeding, disease prevention and control, aquatic product quality management, fisheries resources conservation, aquatic scientific research, fishing ports, and fisheries safety, construction of fisheries law enforcement equipment systems and fisheries diesel subsidies have also been strengthened in a focused manner, addressing some of the difficulties in fisheries development.

3. Summary: Current Status of the Development of China’s Fisheries Legal System

Since the promulgation and implementation of the Fisheries Law, especially as China has entered a new stage of development, the national regulation of fishery production activities is more scientific and reasonable, and China has established the development policy of giving priority to aquaculture, farming, and fishing, and processing, and regulating and managing fishery production activities following the law to achieve the purpose of promoting the sustainable and healthy development of China’s fishery economy. In 2021, the total national aquatic product output was 66.902 million tons. The total national aquatic product production was 66.902 million tons, an increase of 2.16% over the previous year. Among them, aquaculture production was 53.941 million tons, up 3.26% year-on-year; fishing production was 12.959 million tons, down 2.18% year-on-year [5]. Table 1 shows that the ratio of aquaculture products to fishery products is 80.6:19.4; the output of seawater products was 33.872 million tons, up 2.20% year-on-year, and the output of freshwater products was 3.305 million tons, up 2.11% year-on-year. The ratio of marine products to freshwater products was 50.6:49.4.

Table 1. Fishery laws and regulations classification by content.

1. Basic Law on Fisheries	1. Fisheries Act (published and implemented in 1986, amended in 2000, 2004, 2009, and 2013) 2. Regulations for the Implementation of the Fisheries Act (issued in 1987) 3. Law of the People’s Republic of China on Property Rights (enriches the legal sources of fisheries rights and provides the basic legal basis for effective protection of fisheries rights)
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Table 1. Cont.

2. Legislation on fishing production	<ol style="list-style-type: none"> 1. Chapter III of the Fisheries Act Fishing 2. Regulations for the Implementation of the Fisheries Act 3. Regulations on the Management of Fisheries Fishing Licence (promulgated in August 2002 and amended in 2004, 2007, 2010, and 2018) 4. Other departmental regulations and normative documents relating to operational avoidance, construction of fishing vessels, fishing-related “three-no” vessels, fishing permits, etc.
3. Legislation on the conservation and management of fisheries resources	<ol style="list-style-type: none"> 1. Chapter IV of the Fisheries Act on the enhancement and protection of fisheries resources 2. Relevant provisions of the Implementing Regulations of the Fisheries Act 3. Order on the Closed Areas for the Bhai Sea, the Yellow Sea, and East Sea Machine-Trawl Fisheries (1955, 1957 Supplementary Provisions) 4. Opinion of the State Council and the Central Military Commission on the Delineation of the Line of the Closed Area for Bottom Trawling by Motorized Fishing Vessels off the Coast of the South China Sea and Fujian Province, as Transmitted by the State Bureau of Fisheries (1980) 5. Measures for the Collection and Use of Fishery Resources Enhancement and Protection Fees, Regulations on the Management of Yangtze River Fisheries Resources Regulations on the Conservation of Living Resources of the Bhai Sea, Regulations on the Administration of Aquatic Life Enhancement and Release, etc. 6. Departmental regulations and normative documents on marine seasonal fishing moratoriums, fishing closures in the Yangtze River, Pearl River, and Yellow River, minimum mesh size, amicability standards and juvenile fish ratios, aquatic ectoplasm resource reserves, and many other aspects 7. Outline of Action for the Conservation of Aquatic Life Resources in China
4. Legislation on farming	<ol style="list-style-type: none"> 1. Chapter II of the Fisheries Act Farming 2. Relevant provisions of the Implementing Regulations of the Fisheries Act 3. Relevant provisions of the Animal Epidemic Prevention Law, the Drug Administration Law, the Rural Land Contract Law, the Sea Area Use Management Law, the Agricultural Products Quality and Safety Law, and other laws 4. Administrative regulations such as the Regulations on the Administration of Veterinary Drugs and the Regulations on the Administration of Feed and Feed Additives Regulations and normative documents of the Ministry of Agriculture relating to the management of quality and safety of agricultural products, management of feed and feed additives, animal epidemic prevention and quarantine, veterinary drug management, etc. 5. Regulations specific to aquaculture management, such as the Measures for the Management of Aquatic Fry, the Regulations for the Management of Aquaculture Quality and Safety, the Measures for the Registration of Licenses for Aquaculture in Waters and Beaches, and standards and norms for water quality for aquaculture, safety limits for fishery feed, use of fishery drugs, and limits for fishery drug residues in aquatic products (mainly after 2000) 1. The Fisheries Act has only basic principle provisions (Articles 32, 34–36) 2. Environmental Protection Law, Marine Environmental Protection Law, Water Pollution Prevention and Control Law, Environmental Impact Assessment Law—the basic legal basis for ecological, environmental protection in fisheries waters 3. Regulations on Environmental Protection for Offshore Petroleum Exploration and Development, Regulations on Administration of Marine Dumping, Regulations on Prevention of Pollution and Damage to the Marine Environment by Pollutants from Land-based Sources, Regulations on Prevention of Pollution and Damage to the Marine Environment by Coastal Engineering Construction Projects, Regulations on Prevention of Pollution of the Environment by Shipbreaking, Regulations on Prevention of Pollution of the Marine Environment by Ships, Rules for the Implementation of the Water Pollution Prevention and Control Law—Protection and Management of Ecological Environment Involving Fisheries Waters 4. “Fisheries Water Quality Standards” (GB11607-89), “Regulations on the Method of Calculating Fishery Losses in Waters Pollution Accidents,” “Regulations on the Procedures for Investigating and Handling Pollution Accidents in Fisheries Waters”, “Measures for the Administration of Qualifications for Investigating and Identifying Fisheries Pollution Accidents”, “Code of Practice for Reporting Information on Pollution Accidents in Fisheries Waters and Emergency Handling”—Fisheries Waters Specific Bases for Handling Pollution Accidents 5. Regulations and normative documents related to marine environmental management, such as marine special protected areas, also address environmental protection and management of fisheries waters

Table 1. Cont.

5. Regulations on ecological protection and management of fisheries waters	<ol style="list-style-type: none"> Chapter II of the Fisheries Act Farming Provisions of the Implementing Regulations of the Fisheries Act Provisions of the Animal Epidemic Prevention Law, the Drug Administration Law, the Rural Land Contract Law, the Sea Area Use Management Law, the Agricultural Products Quality and Safety Law, and other laws Regulations on the Administration of Veterinary Drugs and the Regulations on the Administration of Feed and Feed Additives etc. Regulations specific to aquaculture management, such as the Measures for the Management of Aquatic Fry, the Regulations for the Management of Aquaculture Quality and Safety, the Measures for the Registration of Licenses for Aquaculture in Waters and Beaches, and standards and norms for water quality for aquaculture, safety limits for fishery feed, use of fishery drugs, and limits for fishery drug residues in aquatic products (mainly after 2000) The Fisheries Act has only basic principle provisions (Articles 32, 34–36) Environmental Protection Law, Marine Environmental Protection Law, Water Pollution Prevention and Control Law, Environmental Impact Assessment Law—the basic legal basis for ecological, environmental protection in fisheries waters Regulations on Environmental Protection for Offshore Petroleum Exploration and Development, Regulations on Administration of Marine Dumping, Regulations on Prevention of Pollution and Damage to the Marine Environment by Pollutants from Land-based Sources, Regulations on Prevention of Pollution and Damage to the Marine Environment by Coastal Engineering Construction Projects, Regulations on Prevention of Pollution of the Environment by Shipbreaking, Regulations on Prevention of Pollution of the Marine Environment by Ships, Rules for the Implementation of the Water Pollution Prevention and Control Law—Protection and Management of Ecological Environment Involving Fisheries Waters “Fisheries Water Quality Standards” (GB11607-89), “Regulations on the Method of Calculating Fishery Losses in Waters Pollution Accidents”, “Regulations on the Procedures for Investigating and Handling Pollution Accidents in Fisheries Waters”, “Measures for the Administration of Qualifications for Investigating and Identifying Fisheries Pollution Accidents”, “Code of Practice for Reporting Information on Pollution Accidents in Fisheries Waters and Emergency Handling”—Fisheries Waters Specific Bases for Handling Pollution Accidents Regulations and normative documents related to marine environmental management, such as marine special protected areas, also address environmental protection and management of fisheries waters
6. Regulations on the conservation and management of aquatic wildlife	<ol style="list-style-type: none"> Fisheries Act: only basic principle provisions (Art. 37) The Environmental Protection Act, the Marine Environmental Protection Act, also contains provisions in principle Wildlife Protection Law, List of State Key Wildlife Protection, Regulations on the Import and Export Management of Endangered Wild Animals and Plants, Regulations on Nature Reserves—Basic Comprehensive Legal Basis Implementing Regulations on Aquatic Wildlife Protection “Aquatic Wildlife Utilization Concession Scheme”—the direct basis for aquatic wildlife protection and management A series of other relevant departmental regulations and normative documents relating to aquatic wildlife nature reserves, resource protection fees, import and export, operation and utilization, etc.
7. Laws and regulations on the supervision of fishing ports and management of fishing vessels	<ol style="list-style-type: none"> Fisheries Act: basic principle provisions (Art. 27) Regulations on Traffic Safety Management in Fishing Port Waters Maritime Traffic Safety Act—the basic legal basis for the supervision of coastal fishing ports and the management of fishing vessels Radio Administration Regulations, Regulations on the Administration of Waterways, Regulations on Navigational Beacons, Regulations on the Administration of Safety in Inland Waterway Traffic, Regulations on the Investigation and Handling of Marine Traffic Accidents, Regulations on Ship Registration—Important Administrative Regulations on the Supervision of Fishing Ports and Management of Fishing Vessels Regulations and normative documents: many aspects of fishing vessel water traffic management, fishing port management, fishing vessel registration, fishing vessel crew examination and licensing, reporting to and from fishing ports, fishing beacons, fisheries radio, fisheries safety communication networks, fishing vessel water accidents and search and rescue at sea, prevention of pollution from fishing vessels, etc.

Table 1. Cont.

8. Legislation on the administrative supervision and management of fisheries	<ol style="list-style-type: none"> 1. Relevant provisions of the Fisheries Act and the Regulations for the Implementation of the Fisheries Act 2. Administrative Punishment Law, Administrative Compulsory Law, Administrative Permit Law, Administrative Procedure Law, Administrative Reconsideration Law, State Compensation Law, Administrative Supervision Law, Civil Service Law—Basic Administrative Law System 3. Provisions on Procedures for Administrative Penalties in Agriculture, Provisions on Administrative Penalties in Fisheries, Provisions on Hearing Procedures for Administrative Permits in Agriculture, Provisions on Administrative Penalties for Supervision of Fisheries Ports and Navigation, and Specifications for the Production of Agricultural Administrative Law Enforcement Instruments—Administrative Penalties and Permits in Fisheries. 4. Other departmental regulations and normative documents relating to fisheries law enforcement documents, law enforcement uniforms, fisheries administrative law enforcement vessels, and the fisheries management command system.
9. Regulations on the market and distribution of fish products	<ol style="list-style-type: none"> 1. Measures for the Management of Wholesale Aquatic Products Markets 2. Relevant regulations and normative documents: Measures for the Management of Chinese Famous Brand Agricultural Products, Interim Measures for the Management of Information Collection in Wholesale Aquatic Products Markets of the Ministry of Agriculture, Measures for the Management of Designated Markets of the Ministry of Agriculture, etc.
10. Domestic legislation on foreign-related fisheries management	<ol style="list-style-type: none"> 1. Basic provisions of the Fisheries Act (Arts. 8, 23, 46) 2. Law on the Territorial Sea and Contiguous Zone, Law on the Exclusive Economic Zone and Continental Shelf, Declaration on the Baselines of the Territorial Sea, Regulations on the Management of Foreign-related Marine Scientific Research—Basic Legal Basis for Foreign-related Fisheries Management 3. Interim Provisions on the Administration of Fishing Activities by Foreigners and Foreign Vessels in Waters under the Jurisdiction of the People’s Republic of China, Interim Measures on the Administration of Waters under Provisional Measures of the China-Japan Fisheries Agreement, Measures on the Administration of Waters under Provisional Measures of the China-Korea Fisheries Agreement and Transitional Waters, Regulations on the Administration of Offshore Fisheries, etc. 4. Other specific matters: regulations and normative documents relating to the prohibition of the use of large-scale drift gilet operations on the high seas, management of self-caught fishery products in offshore fisheries, tax exemptions for offshore fisheries, safety production in offshore fisheries, monitoring of vessel positions in offshore fisheries, fishing logbooks in offshore fisheries, management of crew members in offshore fisheries, as well as surrounding waters and Antarctic fisheries.
11. Other relevant domestic legislation	<ol style="list-style-type: none"> 1. The provisions of the Criminal Code relating to the crime of illegal fishing of aquatic products and the crime of illegal hunting and killing of precious and endangered wild animals, and the crime of illegal acquisition, transport, and sale of precious and endangered wild animals and precious and endangered wild animal products. 2. “Provisions of the Supreme People’s Procuratorate and the Ministry of Public Security on the Criteria for Filing and Pursuing Criminal Cases under the Jurisdiction of Public Security Organs (I)” “Provisions of the Supreme People’s Court on Several Issues Concerning the Trial of Cases Related to Sea Areas under Our Jurisdiction (I) (II)” 3. Regulations and normative documents such as the “Emergency Circular of the General Office of the Ministry of Agriculture on Strengthening the Safety of Fishing Vessel Production”, “Regulations on Fisheries Statistics”, and “Provisional Measures for the Assessment of Fisheries Statistics The Law on Quarantine of Animals and Plants in and out of the Country, the Law on Agriculture, the Law on Agricultural Technology Extension, the Law on Work Safety, and other laws relating to fisheries 4. Local rules, regulations, and other legal documents on fisheries.

Table 1. Cont.

12. International treaties concluded and to which our country is a party	1. Multilateral treaties. Relevant treaties on the use, conservation, and management of biological resources, such as the United Nations Convention on the Law of the Sea, the Convention on International Trade in Endangered Species of Fauna and Flora, and the Convention on Biological Diversity. Global/regional treaties on international fisheries, international fisheries treaties on single living resource species.
	International treaties on the safety of fishing vessels at sea on the management of fishing vessels, and the prevention of pollution from fishing vessels, such as the International Convention for the Safety of Life at Sea, the International Regulations for Preventing Collisions at Sea, and the International Convention for the Safety of Life at Sea. 2. Bilateral agreements. Bilateral agreements on marine fisheries are signed by the country with neighboring countries. Bilateral agreements on border rivers and lakes are signed by the country with neighboring countries. The fisheries cooperation agreements that we have signed with non-neighboring countries are based on our entry into the waters under the jurisdiction of other countries to conduct offshore fisheries.

3.1. Classification in Terms of the Hierarchy of Legal Effects

The sources of fisheries laws and regulations are mainly the relevant provisions in the Constitution, fisheries laws, fisheries administrative regulations, fisheries local regulations, fisheries regulations, autonomous national regulations and unilateral regulations on fisheries, and other laws and regulations on fisheries or fisheries management to be observed, interpretation of fisheries laws, international fisheries treaties, etc.

Fisheries laws and regulations of different origins have different levels of validity based on the principle of constitutional supremacy: the relevant provisions in the Constitution are the highest level of validity [6].

According to the principle of order of equivalence: laws take precedence over administrative regulations, local regulations, and rules; administrative regulations take precedence over local regulations and rules; local regulations take precedence over local government regulations at their level and at lower levels; regulations made by the people’s governments of provinces and autonomous regions take precedence over regulations made by the people’s governments of larger municipalities within their administrative regions; departmental regulations have an equal effect among themselves and between departmental regulations and local government regulations, and are applied within their respective spheres of competence. They shall be applied within the scope of their respective authority [7]. Where autonomous regulations and single-issue regulations make modifications to laws, administrative regulations, and local regulations under the law, the provisions of the autonomous regulations and single-issue regulations shall apply in the autonomous region; where the regulations of the special economic zone make modifications to laws, administrative regulations and local regulations per authorization, the provisions of the regulations of the special economic zone shall apply in the special economic zone. The Administrative Procedure Law of the People’s Republic of China provides that the courts shall hear administrative cases based on laws, administrative regulations, and local regulations. Local regulations apply to administrative cases occurring within the administrative region. Reference is made to the regulations of ministries and commissions of the State Council and local regulations [8]. The people’s courts hear administrative cases in national autonomous areas based on the autonomous and single-issue regulations of such national autonomous areas. The Legislative Law provides that in the event of inconsistency between local regulations and departmental regulations on the same matter, the State Council shall put forward its opinion, and where the State Council considers that local regulations should be applied, it shall decide to apply the provisions of the local regulations in that locality; where it considers that departmental regulations should be applied, it shall refer the matter to the Standing Committee of the National People’s Congress for a ruling. Where there is an inconsistency between departmental regulations or between departmental regulations and local government regulations on the same matter, the State Council shall rule on the

matter. Concerning the question of how to refer to regulations, the 1999 Interpretation of the Supreme People's Court on Several Issues Concerning the Implementation of the Administrative Litigation Law of the People's Republic of China stipulates that the people's courts hearing administrative cases may cite legally valid regulations and other normative documents in their adjudication documents. The court shall not apply any of the following cases: (1) Matters that do not fall within the competence of the administrative organ, and the administrative organ makes regulations. (2) Regulations that impose obligations on citizens but have no legal basis. (3) Regulations that are inconsistent with the corresponding contents of laws and administrative regulations. (4) Regulations that interpret, supplement, or concertize general provisions of laws or administrative regulations, the contents of which are contrary to the legislative intent or violate the principles of the socialist legal system.

According to the principle of the precedence of special laws: if the special provisions are inconsistent with the general provisions of laws, administrative regulations, local regulations, autonomous and unilateral regulations, and rules enacted by the same organ, the special provisions shall apply. The prerequisites for the precedence of special laws are that the special laws chosen are from the same source of validity or the same source of validity as the general laws and that they are in the same position of validity according to the principle of equal order of precedence, that their specific provisions are inconsistent or inconsistent, and that the provisions of the special laws do not contradict the spirit of the basic principles of the Constitution and the laws. However, it is important to note that national autonomous and unilateral regulations and special economic zone regulations may conditionally take precedence over administrative regulations or local regulations of the same level of validity or even over laws.

Following the principle of the precedence of the new law over the old one, when there is an inconsistency between a new general provision and an old special provision on the same matter between laws, it is impossible to determine how to apply them. When there is an inconsistency between a new general provision and an old special provision on the same matter between administrative regulations, and it is not possible to determine how to apply them, the State Council shall rule. In the event of inconsistency between a new general provision and an old special provision formulated by the same organ, the organ that formulated the provision shall rule.

Under the principle of the primacy of substantive law: procedural law may not be invoked in contradiction with substantive law [9].

According to the principle of the primacy of international law: a sovereign State may not refuse to comply with its international obligations under international law on the grounds of domestic legal norms; where a State's domestic legislation relates to international legal norms, an international treaty or international practice to which the sovereign State is a party or which it has accepted is also binding on domestic legal norms, which may not be inconsistent with that international treaty or international practice. The domestic legislation of a State is also binding on the domestic legal norms when it relates to international legal norms, which may not conflict with the international treaty or international practice.

3.2. Classification by the Content of Laws and Regulations

There are numerous laws, administrative regulations and departmental regulations in the system of fisheries laws and regulations, which can be roughly classified into 12 categories according to the contents of different laws and regulations: (1) basic fisheries laws; (2) laws and regulations on fishing production; (3) laws and regulations on the conservation and management of fisheries resources; (4) laws and regulations on aquaculture; (5) laws and regulations on ecological environmental protection and management of fisheries waters; (6) laws and regulations on protection and management of aquatic wildlife; (7) laws and regulations on the supervision of fishing ports and the management of fishing vessels; (8) legislation on the administrative supervision and management of fisheries; (9) regulations on the market and circulation of aquatic products; (10) domestic regulations

on foreign-related fisheries management; (11) other relevant domestic regulations; and (12) international treaties concluded by China and to which it is a party.

3.3. Annotation: Author Arrangement

China has a large number of fisheries laws and regulations and a complex system of laws and regulations that specifically address fisheries production activities, such as the Fisheries Law, the Rules for the Implementation of the Fisheries Law, and the Regulations on the Administration of Aquaculture Quality and Safety. Another part is the specific provisions related to the legal relations regulating fishery production activities, such as the provisions of the Criminal Law on the crime of illegal fishing of aquatic products. According to incomplete statistics, China has formulated and promulgated more than 600 national and local laws, regulations, and rules related to fisheries, forming a relatively complete system of fisheries laws and regulations, which basically meets the needs of China's fisheries development situation and also basically adapts to the development trend of international fisheries regulations. China has a large number of fishery laws and regulations with a complex system. There are laws and regulations specifically for fishery production activities, such as the Fisheries Law, the Rules for the Implementation of the Fisheries Law, and the Regulations on Aquaculture Quality and Safety Management. Another part is the specific provisions related to the legal relationship regulating fishery production activities, such as the provisions of the Criminal Law on the crime of illegal fishing of aquatic products. According to incomplete statistics, China has formulated and promulgated more than 600 national and local laws, regulations, and rules related to fisheries, forming a relatively complete system of fisheries laws and regulations, which basically meets the needs of the development situation of fisheries in China and also basically adapts to the development trend of international fisheries regulations." The above-mentioned laws and regulations regulate certain aspects of fisheries and, in general, are divided into several parts. Domestic laws and regulations are biased toward conservation, exploitation, etc. In contrast, international law and related laws and regulations have prominent contributions in areas such as law enforcement and dispute resolution between countries. Overall, this part of the treatise is a summation of the statutes concerning fisheries, revealing the evolution of China's fisheries legislation and enforcement during this historical period and serving as an important pavement for the resolution of fisheries issues in the next step [10].

4. Coming to Grips: The Development of China's Fisheries Legal System

With the current rapid economic and social development and the ongoing structural reform on the supply side of the fisheries industry, China's fisheries legal system has been effectively implemented to a certain extent in various sectors, but many problems still exist.

4.1. Weak Protection of Production Rights and Interests in the Legal System of Farming and Dilution of the Concept of Green and Ecological Development

China's aquaculture waters have been reasonably planned and utilized. Aquaculture permits have been issued to those who meet the conditions following the law, but the development and utilization of mudflats in aquaculture waters are currently encountering many difficulties [11]. For example, the area of aquaculture in China has been decreasing yearly since 2015, with a total reduction of 1.28 million hectares to date, including the shrinkage of 1 million hectares of freshwater aquaculture. The Fisheries Law stipulates that the expropriation of collectively owned waters and mudflats is handled under the provisions of the Land Management Law on land expropriation, and the lack of clear compensation standards for expropriation has led to inconsistent standards across the country. In the mariculture area, with the rapid development of sea use by port industries and traffic channels, the scope of farming waters is shrinking and being finely divided. More fishermen are losing their sea and competing for sea [12]. In addition, the unstable implementation of planning measures for aquaculture waters and beaches, the unclear

policy on the use of maritime areas for aquaculture purposes, and the lack of detailed regulations on the right to use waters and beaches in higher-ranking laws have greatly weakened the protection of the rights and interests of aquaculture producers.

The current legal system for aquaculture still lacks institutional arrangements that are compatible with deepening the structural reform of the supply side of fisheries and enhancing the supply of high-quality, green, and safe aquatic products. For one, the provisions for preventing and controlling aquatic organisms and disease prevention and control need to be strengthened. The economic loss of China's fisheries due to diseases in 2018 was 2.61 billion yuan, with 205,000 tons of production loss and 15.3 hectares of the affected area; two, there is insufficient scientific and technological support for fisheries, the development of the aquatic seed industry is lagging, and the legal provisions for the preservation of original seeds, the research and development of good seeds, and the transportation, sale, and introduction of aquatic seeds in different places need to be improved; for three, The system of production records for farmers is not sound, the approval system for the introduction of species from outside the country by farmers is not sound. There is a lack of sufficient green ecological risk assessment, which is not conducive to the sustainable development of the aquaculture industry.

4.2. Lack of Responsibility for Ecological and Environmental Protection of Water Areas and Fragile Basis for Conservation of Fishery Resources

The main legal provisions for ecological and environmental protection of waters are Articles 20 and 36 of the Fisheries Law and related supporting regulations. According to the data of the Report, in 2018, the main exceed indicator in China's marine fishery waters was inorganic nitrogen, and the main exceed indicator in inland waters was total nitrogen; 140 fishery pollution accidents were reported nationwide, and the economic loss of fishery caused by pollution was RMB 820 million [13]. In the marine fishery industry, pollution in waters mainly stems from problems such as unsupported near-shore sewage pipeline networks, a low proportion of sewage treatment, and excessive direct discharge; in inland aquaculture, pollution in waters mainly stems from problems such as unsound long-term mechanisms for pollution control, incomplete compensation mechanisms, and unclear responsibilities for ecological restoration. All these require further implementation of the legal responsibility for ecological and environmental protection of waters and clarification of the responsible parties.

In addition, river planning and development and the construction of large-scale water conservancy projects harm the ecological environment of the waters and the conservation of fishery resources. The provisions of Articles 32 to 35 of the Fisheries Law on reducing the impact of engineering construction on fishery resources have not been strictly enforced. Although our regulations on closed areas, closed periods, and fishing gear management have had a positive effect on the conservation of fishery resources, there is still a gradual decline in many fish species. As one of the important ways to conserve fishery resources, marine ranching has attracted much attention, but since it involves the use of sea areas, construction of sea-related projects, ecological breeding, and resource enhancement, the relationship between the body of inputs and the responsibilities and powers of government departments still needs to be further clarified.

4.3. The Fishing Management System Is Not Effectively Implemented, and Legal Liability Is Not Yet Clear

Problems with the fishing management system are among the important issues of concern in the development of China's fisheries legal system. First, the fishing limit system is stipulated in Articles 22 and 23 of the Fisheries Law and its related supporting system. Still, it has been implemented only on a pilot basis in specific areas, at specific times, and for specific species and has not been fully implemented. Second, there are serious problems with fishing licenses. For example, the procedure for issuing fishing permits is not strict, the conditions for issuing fishing permits are not realistic, and the legal liability for fishing without a fishing permit is not clear. In particular, there is no provision for the punishment

of fishing-related “three noes” vessels, and there is no legal basis for the supervision of fishing-related “three noes” vessels. Thirdly, the safety supervision of fishing vessels is not effective [14]. The basic information about fishing vessels lacks modern means of intercommunication and exchange, and there are many illegal fishing vessels with fake and swapped names and numbers. The inspection of fishing vessels’ safety production facilities lacks regulation, and the safety responsibility system of vessel owners is not fully implemented. For example, a major incident involving the fishing vessel “Qinghai Fishing 01039” of Hainan Province in July 2019 in the Aisha Sea revealed serious problems in terms of illegal overcrowding, incomplete crew, low certification rate of ordinary crew members, and failure to form up according to reports.

4.4. The Status and Responsibilities of Law Enforcement Subjects Need to Be Clarified, and Law Enforcement Capacity Needs to Be Improved

At present, China has a total of 2679 fishery law enforcement agencies, 2581 fishery vessels of various types, and 27,400 licensed law enforcement officers [15]. However, the fisheries laws and regulations clearly define the status of fisheries departments at all levels as the main law enforcement agencies and their supervisory responsibilities, and the supervisory responsibilities of relevant government departments are not yet clearly defined; the joint law enforcement of fisheries, marine police, public security, transportation, environmental protection, market supervision, and other departments at all levels needs to be strengthened. The efficiency of law enforcement needs to be improved, as does the ability to enforce the law.

In the new round of institutional reform, the institutional setting of fisheries supervision and enforcement needs to be further rationalized, but what needs to be addressed more is the scale and pace of law enforcement. In the implementation of legal responsibilities for fisheries violations, there are problems such as lenient responsibilities and penalties, vague definitions of degrees, poor connection between execution and punishment, single means of punishment, and the cost of violating the law is too low compared with high profits, making it difficult to form an effective legal deterrent, etc. There are also problems such as insufficient authorization for administrative enforcement of fisheries law, lack of penetrability of some punitive measures, and lack of corresponding penal provisions for some prohibitions. In short, a nationwide “one-stop” regulatory mechanism has not yet been established.

4.5. Policies for the Development of Fishing Areas Are Still Inadequate, and the Management System for Foreign-Related Fisheries Still Needs to Be Improved

China still has 7965 fishing villages and an 18.78 million fishing population, including 6.18 million traditional fishermen, and the growth of fishermen’s income in 2018 was lower than that of rural residents [16]. There are insufficient focus points to achieve the comprehensive revitalization of fishing villages, and the economic structure of fishing areas is relatively homogeneous. The infrastructure construction of traditional fishing villages cannot keep up, and the public service system needs to be improved, especially with the increase in the fishing ban and resource conservation. The pressure on fishermen to re-employ and sustain income is greater, and fishermen have no land, lack production skills, and the protection of rights and interests cannot be implemented.

Supportive policies and measures have not been fully implemented in foreign-related fisheries, and there are problems with the management of labor in offshore fishing enterprises, difficulties in the entry and exit of foreign crew members, and less support for the construction of overseas bases. Foreign fishing vessels illegally cross the border, domestic fishing vessels operate in violation of fisheries agreements, and normal operations are also disturbed. Cases of foreign fishing infringement occur from time to time. The management system for foreign-related fisheries still needs to be improved.

In summary, with the continuous development of the fisheries economy, the problems revealed by China’s fisheries legal system in the above aspects have aroused widespread

concern in society, and the process of amending the Fisheries Law and its related supporting provisions has been actively promoted with good prospects for development.

5. Outlook: Prospects for the Development of China's Fisheries Legal System

5.1. Strengthen the Protection of the Rights and Interests of Farming Production and Focus on Green and Ecological Development of Farming

Article 123 of the Property Law stipulates that “the rights to prospect, mine, take water and use waters and beaches for farming and fishing acquired following the law shall be protected by law” [17]. This is the first time that the basic civil law of the country has regulated the issue of fishing rights, and it is also the basis for the amendment of the Fisheries Law. On this basis, the legal provisions of Articles 11, 14, and 15 of the Fisheries Law on the planning and use of farming waters and shoals, expropriation management, and protection of key farming waters should be implemented to protect the legitimate rights and interests of fishery producers following the law. First, the rights of collectively owned waters and beaches should be confirmed, and farming licenses should be issued under the law; second, the boundaries of farming waters and beaches should be clarified, and disputes over boundary delimitation and crossing should be avoided at the source; third, the planning of farming waters and beaches should be reasonably formulated, and incorporated into the unified spatial planning of the country following the requirements of the “unification of multiple regulations”; fourth, the use fees for farming waters and beaches should be appropriately reduced or even exempted according to the actual situation, effectively reducing the burden of fishermen and protecting their rights and interests [18]. As early as 2015, Chaos Faze, a member of the National Committee of the Chinese People's Political Consultative Conference and an academician of the Chinese Academy of Engineering, submitted a proposal on exempting the use of sea areas for fisheries, hoping to exempt fishermen from the use of sea areas, and hoping that this measure to protect the rights and interests of fishermen will be put into practice as soon as possible.

In promoting the development of green and ecological aquaculture, first, implement legal provisions on quarantine of aquatic seeds and disease prevention and control, and step up supervision to avoid disease losses; second, legislate to encourage the use of high science and technology, cultivate new species of aquaculture, and develop and promote green aquaculture models; third, strictly control the transportation, sale, and introduction of aquatic seeds, clarify the division of responsibilities and strengthen all-round quality supervision; fourth, improve aquatic product trade policies, promote factory-scale aquaculture, and innovate integrated promotion models to promote the benign and sustainable development of aquaculture.

5.2. Maintaining the Ecological Environment of the Waters and Strengthening the Basis for the Conservation of Fishery Resources

Concerning the restoration and maintenance of the ecological environment of waters, the main responsibility of farming producers must first be clarified [19]. Raise the awareness of the responsibility of farming producers to maintain the ecological environment of farming areas through the management of water discharges from farming areas and the centralized collection and disposal of farming by-products and waste. Secondly, the government's responsibility for protection should be clarified. Both coastal and inland regions need to establish a system of fixed pollution source regulation with discharge permits as the core and promote integrated management of the ecological environment on land and sea in a coordinated manner. At the same time, the linkage of various government departments should be brought into play to coordinate the promotion of watershed protection. Once again, it is necessary to promote the convergence of the Fisheries Law with the Water Pollution Prevention and Control Law and the Marine Environmental Protection Law, refine the standards for the environmental protection of waters, and improve and perfect the institutional measures for the ecological protection of fisheries.

Concerning the conservation of fishery resources, we must actively promote the sustainable use of fishery resources. First, the fishing quota system should be reasonably

determined through dynamic monitoring and analysis. Second, according to the status of fishery resources and the law of fish reproduction and growth, we should scientifically establish closed seasons and closed areas, regulate the management of fishing moratoriums and ambush periods, and provide appropriate subsidies to fishermen. Third, promote the construction of marine pastures reasonably. On 6 March 2019, Mo Angolan, a deputy to the National People's Congress and a researcher at the Yellow Sea Fisheries Research Institute of the Chinese Academy of Fisheries Sciences, spoke at a plenary session held by the Shandong delegation at the second session of the 13th National People's Congress, saying that it is necessary to play the role of scientific and technological support to overcome various bottlenecks in the development of the industry in a new way of modern aquaculture, especially on the construction of marine pastures put forward three proposals. "First, the importance of strengthening the key and common technology research on marine ranching; second, the construction of marine ranching information technology comprehensive security system; third, the establishment of a multifunctional service platform for marine ranching that integrates the functions of detection, scientific research, management and care, replenishment, tourism, etc., to create a modern marine ranch that gives full play to ecological and environmental protection, biological resources conservation, fishery enrichment, recreational fishing, etc." [20]. Fourth, to promote the close connection between administrative law enforcement and criminal justice, simplify the inspection and identification procedures of public security organs, and promote public interest litigation as a means of fishery resource protection.

5.3. Improving the Level of Fishing Regulation and Clarifying Legal Responsibilities

The initiatives to reasonably determine fishing limits and strictly approve the issuance of fishing licenses, which have been mentioned earlier, are regulatory management of fishing. However, the comprehensive enhancement of fishing regulation is also a safeguard for regulated fishing. On the one hand, we should increase the supervision of fishing ports. According to the distribution of fishing ports, the distribution of supervision forces and the unloading habits of the catch, etc., determine the designated fishing ports for anchoring fishing vessels and landing the catch, and establish a system for declaring landing and traceability management [21]. At the same time, the entry and exit of fishing vessels from and to ports should be regulated, and the inspection system of fishing vessels should be standardized. On the other hand, it is necessary to increase the supervision of fishing-related "three-no" vessels. It is necessary to clarify in the law the criteria for identifying fishing-related "three-nothing" vessels and the legal responsibilities of their owners and to give the fisheries supervision and law enforcement departments the necessary means of administrative enforcement and administrative penalties for cleaning up and banning fishing-related "three-nothing" vessels.

5.4. Increase Fisheries Enforcement Efforts and Train a High-Quality Enforcement Team

China's fisheries supervision and management are under unified leadership and hierarchical management. With the deepening of institutional reform, departmental responsibilities have changed, and the concept of comprehensive management has taken root, with departments such as fisheries administration, fishing ports, marine police, transportation, environmental protection, resources, and markets collaborating in their regulatory functions, to ensure full coverage and no blind spots in fisheries law enforcement. In marine waters, joint regional law enforcement is encouraged; inland waters, joint cross-provincial watershed supervision are encouraged [22]. At the same time, training for fisheries law enforcement officers is conducted regularly and irregularly to improve their theoretical knowledge and enforcement level. Finally, efforts should be made to ensure the use of modern law enforcement facilities and equipment. The fisheries law enforcement departments should be given the necessary administrative coercive means to seize, detain, confiscate fishing vessels and gear, board and inspect, and suspend flights for investigation. The circumstances under which they can take administrative coercive measures should be clarified.

The increase in fisheries enforcement will greatly facilitate the effective implementation of fisheries laws.

5.5. Improving Supporting Policies for Fishing Areas and Achieving International Convergence in the Management of Foreign-Related Fisheries

To promote the comprehensive and coordinated development of fishing areas, explore the implementation of the PPP model (Public-Private Partnership) for the construction of fishing ports, and improve relevant supporting policies to guide the flow of social funds to the construction and management of operational services such as fishing port supplies, ship maintenance, aquatic processing, and product trading, and properly improve the management norms for leisure fisheries, to drive the development of fishing areas and fishing villages through fishing ports. PPP (Public-Private Partnership), or the government-social capital cooperation model, is a project operation model in the field of public infrastructure. Under this model, private enterprises and private capital are encouraged to cooperate with the government and participate in the construction of public infrastructure. According to this broad concept, PPP refers to the process of cooperation between the government public sector and the private sector in which non-public sector resources are involved in the provision of public goods and services, thereby enabling the cooperating parties to achieve more favorable results than would be expected if they acted alone [23].

Concerning the management of foreign fisheries, we must first encourage and support the development of China's offshore fisheries. In line with China's "One Belt, One Road" and "Strong Ocean State" initiatives, we will reasonably promote the development of offshore fisheries. Tariff reductions and exemptions should be granted for introducing high-quality aquatic products in short supply in the domestic market. The coordinated development of the entire industrial chain of capture, processing, and distribution of offshore fisheries should be fostered. Secondly, we should actively participate in the development and utilization of international fisheries resources, effectively safeguard the rights and interests of national marine fisheries, actively participate in the formulation of bilateral and multilateral fisheries treaties, agreements and standards, and norms, and expand the space for the development of China's offshore fisheries, while at the same time dealing with illegal cross-border fishing in waters under our jurisdiction following the law. Finally, concerning the management and protection of foreign crew members, the proportion of foreign crew members should be determined, the rights and obligations of foreign crew members should be clarified, and the management of foreign crew members' entry and exit in domestic ports should be regulated. Support should be provided to facilitate the reduction of operating costs for Chinese offshore enterprises.

6. Conclusions

To sum up, with the continuous development of China's economy and politics, China's fisheries laws have gone through different historical periods and gradually moved towards perfection. The current fisheries legal system is relatively complete, but many problems remain. We will continue to regulate aquaculture and fisheries, restore the water environment, protect the sustainable development of fishery resources, strengthen law enforcement and supervision, effectively promote the construction of fishing areas, and protect the interests of fishermen. The move is also in line with China's "One Belt, One Road" and "maritime power" strategy, gradually aligning fisheries laws with international standards. The revision of the Fisheries Law has attracted much attention because it will greatly promote the high-quality development of China's fishery legal system and fishery, as well as the development of China's agricultural industry and economy and China's comprehensive national strength.

Author Contributions: Conceptualization, W.W. and Y.L. (Yang Liu); methodology, Z.P.; software, Y.L. (Yan Lin); validation, X.S.; formal analysis, J.X.; writing—original draft preparation, Y.W.; writing—review and editing, Y.L. (Yu Liu). All authors have read and agreed to the published version of the manuscript.

Funding: Major Projects of National Social Science Foundation of China “Study on the Development Strategy of China’s ‘Dark Blue Fisheries’ under the Background of Accelerating the Construction of a Marine Power” (Grant No.21&ZD100). Economic and Social Development Research Project of Liaoning “Research on intangible cultural heritage promoting rural revitalization in Liaoning” (2023lslybkt-09). Social Science Planning Fund of Liaoning “Research on high-quality development path of marine economy in Liaoning” (2022). Project approved by Liaoning Provincial Department of Education “Research on the digital transformation and development of Liaoning marine industry” (2022). Youth Fund for Research in Humanities and Social Sciences “The Study on International Law Issues of Applying Floating Platforms to Safeguard Rights and Law Enforcement in the South China Sea” (20YJC820049). Southern Marine Science and Engineering Guangdong Laboratory (Zhuhai): “Research on legal issues related to unmanned ship and marine unmanned equipment” (SML2020SP005).

Institutional Review Board Statement: Not applicable.

Data Availability Statement: The data presented in this study are available on request from the corresponding author.

Conflicts of Interest: The authors declare no conflict of interest.

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