

CPC Leadership and PRC Constitution

Party constitution & State constitution and Legislature

Shan Gao

10/20/2011

CPC's Leadership and PRC's Constitution

Introduction

One famous Chinese jurist once had said that “the progress of the rule of law” in China always follows the routine “two steps forward and then one step back”. For a long time, CPC always had trouble in dealing with its role under the ideology of rule of law and constitutionalism, especially when it comes to the separation of politics from government institution. Since the foundation of PRC, CPC has kept maintaining his role as a leader in all aspect of the nation, inserting its ideology of Marxism, Leninism, Maoism, the Deng xiaoping Theory and the “Three Represents” theory into the state Constitution is one of the ways. In fact, as time went by, there is an inconsistent of the recognition on CPC's role under “Rule of Law” in relation with the principle of “leader in all aspect of the nation”, which had been set up in both the State Constitution and the CCP Constitution.

The 1982 State Constitution and Party Constitution after 11th CPC National Congress are significant events on the history of PRC. Both Constitutions actually announced the end of an era, an era that CPC can explicitly take control of everything in PRC. Since 1980s and Open up policy, the development in economic is tremendous. The embrace of private economy, the recognition of human rights and emphasize of the Rule of Law can be seen as the response to such development in the political area. Although people are increasingly concerned about current silentness of political reform, some reforms had taken places during 1980- 2006 and they are producing positive effect to the society.

Party's Constitution is the supreme rule for the CPC member, State Constitution is the supreme law for the Chinese. NPC is the highest organ of the State Power. The Constitution stated that Political party need to obey the Constitution and it also said that all the Chinese is under the leadership of CPC. People always confused by such statements and the logic behind them. Who possess the supreme authority? What's the relationship between the CPC party Constitution and State Constitution? All these questions are touches the fundamental issue of the CPC's leadership and essential nature of the CPC's leadership. All these questions are tricky, ambiguous and controversial. In order to give readers some clues, this report is trying to present the Chinese Scholars (including Taiwan) discussion about the CPC's leadership. In interpreting this topic, the report will separate into 3 chapters, which are specifying the CPC's leadership in relation with the State Constitution, Party Constitution and Legislature.

The first chapter will explore the similarity between the Party Constitution and State Constitution and scholars view on Party's Constitution's effect on the State Constitution. The next chapter will have a further discussion on the CPC's leadership in relation with the State Constitution. It will present you the disputes on who possess the supreme authority of the power. In Chapter3, the reports will talk about

the relationship between the CPC and NPC, how CPC legalize its power through the NPC, and how CPC carry out its leadership through the internal and external system. Hope this organization and analysis can give reader a good start on understanding the presented questions.

Content

Introduction

Chapter I CPC leadership: State Constitution and Party Constitution [ch1](#)

Introduction & Summary

1. The amendment of the State Constitution in reflection of the Party Constitution
2. The Party Constitution's importance to State Constitution

Chapter II CPC's leadership, CPC and the State Constitution [ch2](#)

Introduction & Summary

1. The revision of the state Constitution and CPC leadership
2. Constitution and CPC leadership, who is the supremacy authority
 - 1) One Taiwanese Scholar's view
 - 2) What is CPC's leadership and how CPC carry it out
 - 3) Disputes on whether there is a confliction between the CPC leadership and Constitutional principle
 - a. Views on there is a confliction
 - b. Views on there is no confliction
 - 4) Does CPC process supreme authority?
 - 5) CPC's view on Centralized leadership (over-concentration) issue
 - a. What is the over-concentration?
 - b. The consequence of this problem
 - c. The causation and CPC's attitude toward it
3. Constitution principles and CPC's leadership
 - 1) Rule of Law and Rule the Party by Law

- a. Rule the party by law is WRONG
 - b. Rule the party by law is RIGHT
- 2) Three Representatives and CPC's leadership

Chapter III CPC's leadership, the relationship between CPC and the Legislature, the NPC

Introduction & Summary [ch3](#)

1. the role of NPC as the highest organ of the State power
2. Debates on the confusion of two authority: CPC's decision making power and NPC's decision approval power
3. the connection between CPC and NPC
 - a. Taiwanese Scholars view
 - b. Mainland Scholars view
 - c. Political leadership
 - d. Organization leadership: Appointment and remove an official
 - 1) The party organ and party headquarter
 - 2) Supervision

Chapter I

CPC leadership: State Constitution and Party Constitution

INTRODUCTION

No one say State Constitution copies the Party Constitution, however, if you look close enough it is easy for you to discover the fact that: State Constitution records all the changes in the Party Constitution. Behind such interesting similarity, some scholar's points out that Party Constitution is the guard of the State Constitution, Party Constitution provides official tool to interpret some fundamental constitutional principles.

SUMMARY

In this chapter, it talks about the Party Constitution's effects on the State Constitution and how the scholars see this issue. To illustrate this topic, this chapter will first go through the amendment of the State Constitution and Party Constitution. By comparing the provisions in both Constitutions, the reader will find out the similarity and how State Constitution "copies" the Party Constitution. Next, this chapter will give some scholars view on the relationship between the State Constitution and Party Constitution

1. The amendment of the State Constitution in reflection of the Party Constitution

In mainland China, State Constitution and CPC Party Constitution have a very close relationship. If you go back to check the history of the Constitution amendment (Chapter 3 has a detailed discussion) you will find out that each Constitution revision is based on the Party Constitution. From the most recent revision, which incorporated the "Three representatives Theory," to "the Four Cardinal Principles in 1982" the connection between the State Constitution and Party Constitution become an important feature for the CPC's leadership. From the following discussion, you will see how CPC's leadership was supported by this connection between the State and Party Constitution.

One of the outstanding parts of the 1982 Constitution was the reorganization of the nation's main task "to concentrate its effort on socialist modernization along the socialist road with Chinese characteristics." However, like other essential principles that mentioned in the state constitution the changes are due to the CPC Constitution's revision. By proving this conclusion we can check some important amendments during the 1980s' CPC national congress and compared those amendments with the 1982's Constitution. It would not be hard to realize that all those theories and conclusions repeated in CPC's national congress reports later become part of State Constitution.

On 1982, 9, 6 the 12th National Congress of the CPC of China amended and adopted the 1982 CPC Constitution. It stated that:

Class struggle is no longer the principle contradiction. At the present stage, the principal contradiction in Chinese society is one between the ever-growing material and cultural needs of the people and the low level of production. Owing to both domestic circumstances and foreign influences, class struggle will continue to exist within a certain scope for a long time and may possibly grow acute under certain conditions, but it is no longer the principal contradiction.

Also, it points out that the four modernizations is the primary and core goal in the future, CPC shall focus on lead people to build socialist modernization. On Dec 1978, the Third Plenary Session of the Eleventh Party Central Committee proposed that "CPC shall assure that all man shall be equal under the law, no one shall possess the power beyond the law." On 1981 the CPC 6th Plenary session of the Eleventh Party Central Committee has passed RESOLUTION ON CERTAIN QUESTIONS IN THE HISTORY OF OUR PARTY SINCE THE FOUNDING OF THE PEOPLE'S REPUBLIC OF CHINA. In this document, it provided that "As with

CPC leadership and PRC's Constitution

other social organizations, Party organizations at all levels must conduct their activities within the limits permitted by the Constitution and the law.”

Now compared with the changes in Party Constitution, let's get back to the 1982's State Constitution. In the paragraph 7 of the preamble of the Constitution, you can find this sentence:

“The basic task of the nation is to concentrate its effort on socialist modernization along the socialist road with Chinese characteristics.”

Also in the next paragraph you can find such sentence:

“Under the leadership of the Communist Party of China and the guidance of Marxism-Leninism and Mao Zedong Thought, the Chinese people of all nationalities will continue to adhere to the people's democratic dictatorship and the socialist road,”

This sentence is the mimic of Deng Xiaoping's Four Cardinal Principles, which means the principle of upholding the socialist path; the principle of upholding the people's democratic dictatorship; the principle of upholding the leadership of the Communist Party of China, and the principle of upholding Marxist-Leninist-Mao Zedong thought. You can also find similar language that requiring CPC obey the law, such as:

[A]ll political parties ... [i]n the country must take the Constitution as the basic standard of conduct, and they have the duty to uphold the dignity of the Constitution and ensure its implementation.

More examples can be discovered in the later amendments, such as in 1993, the NPC passed and recognized the Constitution Principles “China is currently under the primary stage of socialism” and “the state-owned economy is the force in the national economy”. These principles are originated from the 1992's CPC party constitution. The CPC party constitution provides that:

The Party must carry out fundamental reform of the economic structure that hampers the development of the productive forces, and keep to and improve the socialist market economy;

In 1999's Constitution, it provides that, the similar words can be found in 15th of Party Central Committee:

[T]he Communist Party of China leads the people in promoting socialist democracy. It integrates its leadership, the position of the people as masters of the country, and the rule of law, takes the path of political development under socialism with Chinese characteristics, expands socialist democracy, improves the socialist legal system, builds a socialist country under the rule of law, consolidates the people's democratic dictatorship, and builds socialist political civilization.

Other principles “The lawful private property of citizens may not be encroached upon.[article 13] ” And “The state respects and protects human rights. [Article 33] ” all can find its origin from the CPC Constitution.

Thus all these examples can indicate the fact that without the change of the CPC Party Constitution, there will be no any symbolic creation or changes on the Constitution.

2. The Party Constitution's importance to State Constitution

Like one scholar pointed out that, the CPC Constitution is of special importance and functions in the political affairs of the Party and the state. It possesses the universal law features and becomes a law from its external forms, substance, stability and coercion. Party Constitution has many functions such as standardizing the leadership and ruling power, regulating the inner party relations guaranteeing the state laws, etc. Due to the significant nature of the party constitution, it produces some effect on the state constitution.ⁱⁱ

First, the Party Constitution ensures the enforcement of the state constitution because they share the same value. State constitution and state law are made by the people under the leadership of the CPC, same as the party constitution; they all represent the people's will and interest. The Party Constitution carry out higher standard than the state constitution, thus the party member and party organ's conduct is in the region of the state constitution if that conduct is comply with the Party constitution, Second, due to the fact that CPC's core leadership in the society, Party constitution is the guarantee of the state constitution. Deng Xiaoping once said: without the party constitution, regulations and disciplines, there is no guarantee for the state constitution. Jiang zemin once had said that "To rule the Party and manage it strictly before running a Country. Uphold the Party's Strict Administration to Itself"

In summarize the relationship between the CPC's constitution and State Constitution, one scholar holds that, whether the state Constitution can be strictly observed, the key is the CPC itself. The history of PRC shows that as long as CPC itself and its leader can follow the constitution, the state Constitution can be strictly observed. Moreover, CPC Party Constitution created some important principles that involved the state constitution. CPC's interpretation of these principles would greatly determine the NPC understands of such terms and principles.

He then cites an example to illustrate his analysis. The CPC Party Constitution provides that "Leadership by the Party means mainly political, ideological and organizational leadership. "Each form of the leadership will directly or indirectly influence the implementation of the Constitution. For example, arrange the secretary of CPC municipal political -legal Commission also served as the member of standing committee of the municipal CPC committee and chief of the local Public Security Bureau. Such practice has been existed for a long time and still takes as a common practice. As the result of such practice, the political status of the court and Procuratorate is inferior to the public security bureau. Based on the reality of the Party Constitution's influence, in building the constitutional supervision system we can first test that whether the party member's conduct was conform to the Party Constitution.

Chapter II

CPC's leadership, CPC and the State Constitution

INTRODUCTION

From now on, all matters within the competence of the government will be discussed and decided upon, and the relevant documents issued, by the State Council and the local governments concerned. The Central Committee and local committees of the Party will no longer issue directives or take decisions on such matters. Of course, the work of the government will continue to be carried out under the political leadership of the Party. Strengthening government work means strengthening the Party's leadership. ON THE REFORM OF THE SYSTEM OF PARTY AND STATE LEADERSHIP August 18, 1980

The above statement is coming from the Deng Xiaoping's famous speech. For many years since the 11th CPC national congress in 1980s, the argument about the party's leadership never ends, this become especially problematic when it comes to the regime of Constitution. The Constitution set up some principles such as Rule by law, People as the master of the country and under the leadership of the CPC... Do these principles indicate CPC's centralized leadership? Does these principles conflicts with the CPC's leadership? Who has the supreme authority, Law or the Party? Whether the Party ruled by law, or party rule China by law? This chapter will explore some of these issues and hope it can clarify some of the issues.

SUMMARY

This chapter is mainly focusing on the topic of CPC's leadership in relation with the State Constitution. In this chapter, the writing is trying to explain what is the CPC's leadership? What's the scope of the leadership, how CPC carry out its leadership, who is superior, CPC or the state Constitution and how state Constitution principle developed in relation with the party's leadership theory? In order to answer these ambiguous and tricky questions, this chapter will first give an introduction on the revisions of the 1978 and 1982's Constitutions, let the reader have an general view on how the CPC itself saw these problems and how the

revisions reflect the CPC's attitude on its leadership. Then, this chapter will provide a short discussion on "what is the scope of the CPC's leadership and how CPC carry out its leadership." Later, this chapter will have a long and detailed debate on the topic "CPC's centralized leadership and its confliction with the Constitution." Last, as a summary, the chapter will go through two important Constitutional principles "Rule of Law" and "Three representatives." The reader will learn how these principles interact with the debates on the CPC's leadership.

1. The revision of the state Constitution and CPC leadership

In the history of PRC, there are actually 7 revisions for the state constitution since 1954. For the purpose of the discussion in this report, we can divide PRC's constitutions as date prior 1982 and date after 1982's Construction. The 1982 Constitution started many reforms both in the economics and politics and it is a watershed that distinct the constitution's position on CPC's centralized leadership. This part of the chapter is mainly talking about the revision of the 1982's constitution. This revision had so many new features that produced grate effect on the recognition of CPC's leadership and the understanding of CPC's relationship with the state, the law and people. In fact, the 1982's constitution is the start point and it sets the theory foundation for all the later discussions, debates and reforms of CPC's leadership in relation with China's political structure.

Some highlights of 1982's revision are provided here before we go deep into the details of the revision:

- The 1982 constitution was drafted under the NPC's commission instead of CPC's committee;
- In the preamble, it deleted the expression of NPC is under the leadership of CPC;
- In the main body, moved the section of people's civil right before the section of state structure
- Set up the Four Cardinal Principles in the preamble and clarify the CPC leadership is political, organization and ideology;
- Removed all the CPC term and relevant requirements from the main body of the Constitution.

First, NPC went back to the position as the highest organ of the state power. This can be reflected by the two facts.

1) The NPC became the "leader" in the constitution revision. The 1975 and 1978 Constitutions were actually created by the members of Politburo and the Standing Committee of Politburoⁱⁱⁱ. For the 1982 constitution, the decision for revision was made by NPC, the actual draft was also conducted by Constitutional Amendments Committee.

2) During the culture revolution, the article 16 of 1975 constitution provided that "NPC is the highest state power under the leadership of CPC" this is clear language indicated that CPC is more superior to the NOC, it confused the distinction between the CPC and the government. Thus, the 1978 and 1982 Constitution deletes the part of "under the leadership of CPC"^{iv}

Second, another essential change is to move the section of the fundamental rights and duties of citizens before the section of the structure of the state. The drafter reasoned that the state was created by the will or consent of its people, who are the source of the political power. Later Deng Xiaoping agreed with this arrangement. This new change reflected the acceptance of people's right.^v

Third, the CPC's principle was put in the preamble instead of the main body of the constitution. In 1981, Deng Xiaoping asked Peng zhen to keep 4 principles in the Constitution, which are: 1, The Four Cardinal Principles; 2, The people's democratic dictatorship led by the working class and based on the alliance of workers and peasants; 3, democratic centralism; 4, The system of regional autonomy for ethnic minorities. After repeated analysis and debates, the committee believed it is hard to put the Four Cardinal Principles in the main body of the constitution. For example, it is unrealistic to requiring everyone hold the belief of Marxism and Maoism. Moreover, even Deng Xiaoping had once emphasized that "we shall avoid mentioning Marxism and Maoism in the main body of the Constitution"^{vi} 《邓小平年谱（1975-1997）》中

About the CPC's leadership, the 1982 abolished life tenure in leading posts in order to prevent centralized leadership^{vii}. But at the same time it kept the system of people's democratic dictatorship in the Constitution instead of people's democratic. One drafter reasoned that, as we know the class struggles will exist for a long time. Considering the fact that the Chinese people must fight against those forces and elements, both at home and abroad, we cannot abandon the dictatorship over the enemy."

Although some people have disputes about this, one of the drafter, Wang hanbing, believed that the preamble is enforceable under the law and it can be applied in a flexible manner.

Another significant revision is the fact that though the expression of "Chinese people of all nationalities led by the Communist Party of China" had appeared for 3 times in the preamble, it never appeared in the main body of the Constitution after 1982. In fact, you cannot find the term "CPC" or "led by CPC" from the first provision to the last provision.^{viii} This arrangement was not coincident; it was the result of deeply analysis and debates. To understand such arrangement, we can compared 1975 Constitution and its draft that passed during 1970. Those constitutional documents were created during the end of "culture revolution", they denied "all people equal under the law". Furthermore, in the main body of the Constitution it frequently mentioned the expression "under the leadership of CPC". Such requirement can even find in the section of "civil right of the people." Ironically, the draft of 1975 constitution even provided that people's basic right and duty is to support Mao Zedong and its partner Lin biao and support CPC's eldership. Apparently, such sentence was later deleted.

1982 Constitution was created after the 11st CPC national congress, when the CPC try to correct the "culture revolution's" mistakes. At meantime, the new party constrictioin required that "The Party must conduct its activities within the framework of the Constitution and laws of the country" during the 12th CPC national congress's report, it provided that "from the top level to the grass root level of any party organ or party member, all shall not violate Constitution and law". Thus, under these circumstances, it is reasonable to remove the CPC or its leadership from the main body of the Constitution.

In summary, it is widely believed that the 1982 Constitution made some significant and fundamental changes. All these changes are serving the purpose of correcting the left mistakes of the culture revolution. It is clear that, the 1982 constitution is a start point for the new direction of CPC leadership theory, it set the ideology foundation: The Forth Cardinal Principles; it recognized the civil right and CPC activity within the scope of the law; it also not so successfully but somehow clarified CPC leadership is political, ideology and organization.

2. Constitution and CPC leadership, who is the supremacy authority

Some scholars believe that although there are many defects and flaws, 1982 Constitution was a good start for reforming centralized party leadership. However, other scholars hold a different view on this issue. They argued that after 1982 constitution, some expression though conflicts with the CPC leadership, they never being clarified or changed. For example, the constitution provided that people are the master of the country and CPC support Rule of Law on the one hand. But on the other hand, it claimed that CPC leads people making the law and CPC's activity shall not exceed the law. Based on such expression in the constitution, a strange question has emerged: Since CPC lead people making the law, who are more superior.

For this question, there are several theories. One theory provided that such dilemma or the contradiction is the direct reflection of CPC's centralized leadership. Such expression in the preamble is purely aid CPC to legalize its ruling. Another theory provided that there is no confliction within the constitution because CPC represents people's will, Constitution represents and protects people's will, thus expression of CPC lead people making law could not possible create supreme authority issue. The third theory even argued that despite all the conflictions, people's interest and people's will is the connection between the Constitution and Party's leadership. As long as the people's interest is represented and people's will is exercised, it could not have any confliction.

1) One Taiwanese Scholar's view

Some Taiwanese Scholars argued that the PRC Constitution is contradicting with the concept of constitutionalism; also the expression in the preamble indicated the nature of CPC's centralized leadership. Here is the excerpt from his argument:

Compared with other countries, even you can find similar language of human rights protection in PRC's constitution, the prerequisite of the constitution framework is not conforming to the concept of Constitutionalism.^{ix}First of all, the article 57 of the Constitution provides that NPC is the highest organ of state power. But at meanwhile, it also provides that "Under the leadership of the CPC and the guidance of Marxism- Leninism, Mao Zedong Thought, Deng Xiaoping Theory and the important thought of 'Three Represents', the Chinese people of all nationalities will continue to adhere to the people's democratic dictatorship and the socialist road." These

provisions suggested that in china, CPC exercise centralized leadership. Under centralized leadership, there is no separation of legislative and administration. CPC is self supervision and self executing.

Moreover, according to the CPC's ideology, law only reflects the will of ruling class. Thus, law cannot be the fair rule for everyman of the society. CPC emphasized that the foundation of the country is based on the dictatorship of the proletariat. Obviously, such dictatorship is contradicted with the concept of civil rights.

Furthermore in the preamble of the Constitution, it provided that all Chinese is under the guidance of the Marxism- Leninism, Mao Zedong Thought, Deng Xiaoping Theory and the important thought of 'Three Represents. This is contradicted with the article 36 Citizens of the People's Republic of China enjoy freedom of religious belief.

2) What is CPC's leadership and how CPC carry it out

As we reader above, Chen kuide pointed out some contradictions between the preamble and the main body of the Constitution. All these contradiction are relating to the issue of CPC's centralized leadership and its relationship with the state law. Before we discuss the confliction, let's take a look on what is the CPC's eldership and how CPC carry it out.

After the 13th National Congress of the CPC, the party's leadership had been defined as political, ideological and organizational leadership. ***Political leadership means** practice democratic and scientific decision-making formulate and implement the correct line, principles and policies; ensure the socialism nature of the country...**Organizational leadership means** that the Party must play the role as the core of leadership among all other organizations at the corresponding levels. **Ideological leadership means** that in control of the creation, spreading and developing the socialist ideology.

Different type of the leadership has different way of carrying it out, for example: CPC exercise political leadership though the legal procedural to make the CPC's will become the state will^{xi}; The CPC's ideological leadership is exercised though the education; The CPC's organization leadership is exercised though the party's organ in various level of the social activity. To party's inner system, like the party organ or party member, the leadership was exercised though the Party constitution and other party regulations. To the external system, such as the lay person, the leadership was exercised though the education and recommendation of the carders. To the state, the leadership was exercised though the legal procedural. By transmit the party's will into the state will though the legal procedural.

3) Disputes on whether there is a confliction between the CPC leadership and Constitutional principle

a. Views on there is a conflict

Some scholars might not directly criticize or make conclusion that the current CPC leadership is centralized leadership, but they do point out some unreasonable conflictions between the Principle in the preamble and CPC's leadership. Here is one of the theories:

Socialist democracy with Chinese characteristics was once again characterized as “under the leadership of CPC, people are the master of the country and the rule of law” since 1982. However, the CPC's control over all aspect of the state and the society trigger two elements in relation with the constitutional principle.

One element is the NPC's position as the highest organ of state power in relation with the principle of “people as the master of the country”. According to the Constitution, CPC upholds and improves the system of people's congresses, the system of multiparty cooperation and political consultation under its leadership. CPC can render its proposal into State's will though due course of the law. Another element is the Constitution's nature of independence in relation with the principle of “rule of law”^{xii}. according to the 15th of CPC national congress, it means that under the leadership of CPC, people shall managed the state afire, economic afire and society in accordance with the rule of law. Safeguard the state afire in accordance with the law and archive the socialism democracy in steps. The rule of law will not be changed due to the change of the leader.

Thus, if the above assumption is true, when it comes to the leadership of CPC, a tricky question became obviously: Who is superior, the Party or Constitution?^{xiii}

b. View on there is no confliction

Apparently, based on different theories or different angles, some scholars managed to find a way to this question, they reasoned that the party cannot conflict with the constitution. This is illogical because the CPC represents people's will and Constitution represents people's will and thus there is no way to have any contradiction. Moreover, many scholars site the words from the top leader of CPC, such as Jiang zeming and Deng Xiaoping, to support their opinion Furthermore; they argued that the NPC's national report gave the conclusion for this question “People's interest” is the connection between the party and Constitution.

For example, they first analysis the definition of the constitutional principle

“Rule of law” Rule by people is the essence of the socialist democracy. Rule of law is CPC's basic strategy to lead people. The constitution and law represent the unification of party's proposal and people's will. Thus, based on the above analysis, the key that connect the concept of Rule of people and Rule of law is the Popular sovereignty and people's interest.

Then they discussed the purpose of CPC's leadership,

The purpose of CPC's leadership is to ensure the people's position as the master of the country. The meaning of rule of law is to rule the state in accordance with the constitution and law. The state law and the Constitution will represent the unification of Party's proposal and people's will. So there would be no conflict of the interest.

Also, some CPC officials' words become part of the argument. **Jiang zemin** once sated in his speech to the CPC central party school “developing the socialist democracy, building socialist civilization is the

important goal of socialist modernization construction" "the key of developing socialist democracy is to maintain the dialectical unification of three goals of insisting on the leadership of CPC, people's position as the country master and rule of law"^{xiv} One scholar sits Deng Xiaoping's opinion on the relationship between the CPC and the law.^{xv} First, CPC cannot see people as the tool, in the contrary; CPC shall recognize itself as the tool of the people in accomplishing certain task in the history. Second, the reason why CPC can lead people lies to the fact that CPC is the servant of the people, it represent the interest and will of the people. In Deng Xiaoping's famous speech *The reform of the system of party and state leadership* he provided that "The reason why CPC can rule the people is due to the fact that CPC can best representing the interest of the people and CPC can try to organize people fight for their interest and will. In understanding the CPC's leadership, we shall recognize that CPC cannot exceed the power of the people."

Furthermore, In 15th CPC national congress report's, it stated that "CPC leads people enact the law and constitution and CPC's conduct shall not beyond the law". In 16th CPC national congress report's "party's activity shall within the region of the law" even though the CPC is the only ruling Party, it must act inside a legal framework. No Party organization or leader should have any privileges beyond the law.

4) Does CPC process supreme authority?

The preamble in the Constitution recognized CPC as the leader but did not directly speck that CPC is the ruling party. In 2004 CPC National congress's document "decision on further improve the CPC governing capacity"^{xvi} provides that the position of ruling party is not inherited. NPC is highest organ of state power, but NPC does not possess the supreme power. NPC shall not exceed Popular sovereignty. Only people shall possess the supreme power. If the NPC's legislation infringes the basic human rights or civil rights, it would automatically invalid.

5) CPC's view on Centralized leadership (over-concentration) issue

Clearly, people had disagreement on whether CPC's leadership is centralized leadership and whether CPC is more superior to the Constitution. Nevertheless, it would be helpful and complete to incorporate CPC's view on its leadership issue. Also this would be easier for the reader to understand the next topic "the Constitution principle and CPC leadership."

The fact of the Centralized party leadership is to transform every administrative management into the hands of the party, which is unreasonable both under the practice and theory. Like Deng Xiaoping pointed out in his speech, this problem exists, in varying degrees, in leading bodies at all levels throughout the country.

a. What is the over-concentration?

Over-concentration of power means inappropriate and indiscriminate concentration of all power in Party committees in the name of strengthening centralized Party leadership. Moreover, the power of the Party committees themselves is often in the hands of a few secretaries, especially the first secretaries, who direct and decide everything. Thus "centralized Party leadership" often turns into leadership by individuals.

b. The consequence of this problem

Over-concentration of power in the hands of an individual or of a few people means that most functionaries have no decision-making power at all, while the few who do are overburdened. This inevitably leads to bureaucratism and various mistakes, and it inevitably impairs the democratic life, collective leadership, democratic centralism and division of labour with individual responsibility in the Party and government organizations at all levels.

c. The causation and CPC's attitude toward it

Deng believed that the reason behind this problem is the influence of feudal autocracy in China's own history and also to the tradition of a high degree of concentration of power in the hands of individual leaders of the Communist Parties of various countries at the time of the Communist International. However, this problem is not evolved in the single day, it has long history:

During the revolution, the issue of centralized party leadership began to merge. At the same time, some people against it, some people support it. The view was very inconsistent. After the founding of PRC, the attitude toward centralized party leadership seemed suspicious. This was especially true when it came to the Zhou enlai's speech on "party lead everything" in 1962. The problem was that the speech gave positive approval on centralized party leadership, meanwhile attached many limitations on it. For example:

On the extent of leadership: The party only takes care of the main party principle, party did not touch the details of the business.

On the subject of the leadership: It is the party organization that carries out the leadership not the individual member.

During the culture revolution period, the centralized party leadership issue reached to its summit, and it was clearly written in the party constitution. During the 3rd Plenary Session of the 11th CPC national congress, the report mentioned centralized party leadership in a wild manner. It stated that: we should works hard on the separation between the party and enterprises while under the centralized leadership of the party. After the 12th CPC national congress, the centralized party leadership never be mentioned again and the report for the first time summarized the leadership by party means political, ideology and organization leadership. Some scholars believe this was the substantial denial to the centralized party leadership

In a word, centralized leadership is more than an expression. No matter it was actual existed in the past and denied since 1982 or it is still exist, CPC currently developed many theories to support and legalize its leadership. Typically, as you can learn from different sources, CPC represents the people, thus it leads people make law and itself obey the law. CPC is safeguarding rule of law, it cannot exceed the law.

3. Constitution principles and CPC's leadership

From this part of the chapter, the reader can learn some theories around the relationship between the CPC's leadership and state constitution's principles. The first topic in this part is the theory Rule of Law, most discussions about this theory are actually relating to the ideal of "Rule the party by law." An ideal that not officially recognized in the Constitution, but later became an interest topic that shows the scholars view on whether the party should ruled by law, by which law and who will rule the party by law. next to the discussion of Rule the party by law is the discussion of "Three representatives." In this section, you will find out how the scholars reacted to the "three representatives" when it was first proposed. In relation with the previous section, I hope it will help the reader have some ideal about the relationship between the CPC leadership and the Constitution.

- 1) Rule of Law and Rule the Party by Law
 - a. Rule the party by law is WRONG

The issue of Ruling the Party by the law was raised in the 15th of CPC national congress. There are three opinions regarding the definition of this concept. 1) Ruling the party by the party's constitution, regulation and discipline;2) Ruling the party by the party's law and state law;3) Ruling the party by the state law.^{xvii} Apparently some authors did not agree with the ideal of Rule the party by law.

Some scholars provided that there are several issues if we adopt such theory. The first issue is the definition of the "Law" in such theory. Whether we rule the party by the Party regulation or the State law? Second, it is unnecessarily to have the party rule by the state law because the party regulations have higher standard than the law. Third, the purpose of Rule of law is the notion that it is the party to rule itself not someone lease rule the party.

Some people believed that the Party must conduct its activities within the framework of the Constitution and laws of the country equals to rule the party by law. Actually, this is a misunderstanding. The party's conduct has to follow the party's law and party's regulation. The state authority or the law has no power over the party's reasonable activity. The party constitution and other party regulations have higher standard than the state law, it is unnecessary to require the party rule by law.

Second, "Rule the party by law" raised the question who rules the party and whether it is the outside authority of the party itself to rule the party. The author maintained that we cannot improve the party's leadership by substituting the party's regulation with the state law, otherwise, the nature of the party will change and the party will lose its position as a leader.

He further elaborated his points by analyzing the relationship between the theory of the "Rule by Law." he provided that we cannot infer "Rule the party by law" from the theory of "Rule of Law" because the logic behind "Rule of Law" is Rule of Law under the leadership of the Party. It the Party led the state to conform with the ideology of "Rule of Law" not the state led the party to conform with the state law. The purpose of "Rule of Law" is to ensure people will follow the party's line and leadership under the legal force of state law. The Rule the party by law wish to confine the party's activity by law, such theory ignore and misunderstand the Marxism's theory on the Essence of the Law.

Last, the consequence of Rule the party by law is to dampen the party's leadership. It is opposite to the ideal of party maintaining the control over itself.

Other scholars even came to the conclusion that Law is one of the methods that achieve CPC's leadership, CPC has to ensure the enforcement of the law and the state constitution and state law should ensure CPC's position as the leader. He reasoned that the Four Cardinal Principles is the foundation of the state law. The party's principles and lines determine the content of the state law, and it instructs the direction of the development of state law. State Law is one of the methods to legalize or enforce the will of the party. Moreover, The CPC 15th National congress report provided that "Rule of Law" means that we safeguarding the party's line and principle through the implementation of law and to ensure the party's core leadership.

b. Rule the party by law is RIGHT

Unlike people against the ideal of Rule the party by law, some scholars reasoned that from a practical point, CPC maintains all the power over the country it would be disaster if CPC not rule the state by law. Also, they provided solutions for the issue of which law to be adopted under the ideal of Rule the party by law.

First, Because the is the CPC is the core of leadership for the cause of socialism with Chinese characteristics and CPC has control over politics, economics, culture and military, CPC's officials are generally the state power holder. Thus it is reasonable to requiring Rule the party by law before the Rule the state by law.^{xviii}

Second, after the open up policy, we start the market economy, which relies on the free competition and protection of law. Thus this new change render the party can no longer implement its leadership through the order. The party needs to relying on the law and regulation.

Third, though some scholar provided that we shall not adopt the rule of law to the party directly because this will create unnecessary confusion. Instead we can create a new concept based on the ideal of "Rule of Law." For the party, we can adopt the principle "Rule the party by Law" or "Rule the party by regulation" in accordance with different circumstances. The scholar further elaborated that:

"Rule of Law^{xix}" is a higher standard for the CPC's leadership. On the one hand, for the external relationship, CPC shall adopt the rule the party by law to regulate its relationship with the state. To ensure the party's leader and ruling is follow the "Rule of Law." On the other hand, for internal relationship, CPC shall adjust its internal relationship by the party regulation. This can ensure the party's internal democracy and improve the political power structure. in summary, CPC lead the state but subject to the state law. If this is not the case, that is equal to give party the right to go beyond the state law. the scholar even predict that if Administrative Law is used for regulate the government, one day we shall have an Political Party Act to regulate the party.

2) Three Representatives and CPC's leadership

This section of the article will give reader an general ideal on why some people dislike the ideal to put the “Three Representatives” into the Constitution. Basically, there are two types of arguments. First one is that the Three Representatives’ content is not essential as the Deng Xiaoping Theory and Maxims Theory. Put CPC leader’s theory into the Constitution indicates personality cult. Other type of the arguments focusing on the fact that Three Representatives Theory is fine but it may conflicts with the Four Cardinal Principles and People’s dictatorship. Moreover, there are many unsolved confusion about the ideal of this theory.

Professor Jiang Ping had made a speech on the meeting of CPC constitutional revision group and argued that it is abnormal and unnecessary to put Three Representatives Theory into the Constitution. He reasoned that:

Revise the constitution is a serious event. It is unreasonable and abnormal to keep the tradition of revise the Constitution every time when the Party Constituent had revised after the Party’s national congress. Second, the three representative’s theory may conflict with the constitution principles. The constitution say we will continue to adhere to the people’s democratic dictatorship. Dictatorship is not complying with the theory of three representatives. Three representatives can apply to everyone of the society but the dictatorship is not. The ideal of dictatorship was created under special historical circumstances, now we lived in a new generation with 20 years development. It is time for us to reconsidering some ideals in the Constitution.

One famous economist Wu jinglian also provided a similar argument: Three Representatives is the requirement for the CPC member, it is inappropriate to transmit such theory into the constitution as the principle that applies to everyone. Furthermore, if we incorporated the three representatives, that means we have to accept non-public sectors of the economy. This new change may conflict with the People’s democracy dictatorship. Although the Three Representatives finally incorporated into the Constitution, the concern about the expansion of the interest that it represented had solved by the revision. In the main body of the Constitution, the article 11 add new sentence that states: The state encourages, supports and guides the development of the non-public sectors of the economy, and exercises supervision and control over the non-public sectors according to law.

Other scholars provides that^{xx}, if the first, second and third generation’s leader put their theories in the Constitution, shall we keep this tradition to incorporate the fourth, fifth? Third, three representatives has no equal depth and width compared to the Marxism, Maoism and Deng Xiaoping Theory. Most of all, this theory never been tested by the real practice. Moreover, it is abnormal to incorporate personal belief into the Constitution. Such practice is unnormal and indirectly support personality cult. Furthermore, it is impractical to enforce three representatives in the real life. For example, it is failed to clarify the standard for advanced social productive forces? Or what is China’s advanced culture? And how to define “fundamental interests of the majority”, who is the majority. The author even cites several examples to support his argument: Could homeless people’s interest can constitute fundamental interest? Could the right of the suspect who may subject to extortion by torture be categorized as fundamental interest of the majority? Last, who make the representation, how to

determine such representation and who are the leader? All of these questions are unclear in the theory. Thus, it is not reasonable to put this theory into the Constitution.

Chapter III

CPC's leadership, the relationship between CPC and the Legislature, the NPC

INTRODUCTION

Currently there is no document that explicitly states that CPC has a superior authority over NPC, also it took a long time before the CPC began to realize it is against the rule of law if the party directly take the control over NPC. Since 80s the centralized party leadership had been criticized for many times and the notion of transmitting party's will though the legal process had been widely accepted as a political principle by the party itself. Thus, how CPC transmits its will through the legal process? Obviously, this can be done by the connection with the NPC or in some people's eyes, the control over the NPC. In a word, in some people's view, the NPC is the ghost of CPC and CPC is in charge of everything behind and before the veil.

SUMMARY

This chapter of the article is mainly focusing on the CPC's leadership and its connection with the NPC. To illustrate this topic, this chapter will first introduce the NPC's role as the highest organ of state power since 80s and the changes of the NPC's political role as an evidence of showing NPC's independency. Then the discussion of the chapter will turn into the debates on the confusion of the different authority "CPC's decision making power" and "NPC's decision approval power". This part of the argument is the best illustration of the dilemma of Party's leadership; it touches some practical issue, whether the party has power over the NPC. Followed the argument, the reader may find some clue for that question in the part 3. In part 3, there are some further detailed discussions on how CPC utilize party organ and CDI to exercise its influence over the NPC and how such influence accomplish CPC leadership of politics, ideology and organization.

1. the role of NPC as the highest organ of the State power

Since 1980s, the durability of the NPC has greatly improved, by utilizing the Constitutional power that granted to the NPC, Peng zhen provided that the NPC has constitutional power to supervise the government. Also, since the 7th NPC, the overlapping of personnel between NPCSS leadership and the CCP's Central political -legal Commission has been disconnected. Nevertheless, the high turnover rate of the NPCSC leadership and its members suggests that the legislature is still not well bounded. Furthermore, during the 80s the legislative committees have gained strength both in size and in power. For example NPC has expanded its power by setting up more professional committees as its consultants. Most of the laws that passed by the NPCSC are being drafted by the committees instead of the CPC committee or Politburo and the Standing Committee of Politburo. The introduction of the hearing system is Also a significant step towards increasing the quality of legislation.^{xxi} About the relationship between CPC and the law, Peng zhen once said “Law is enacted by the CPC officials; all the local CPC standing committee shall obey the law. Thus, law is superior to the local CPC standing committee. CPC’s leadership is not order, CPC’s ruling should relying on the law”^{xxii}

2. Debates on the confusion of two authority: CPC’s decision making power and NPC’s decision approval power

In a word, the CCP has refused to relinquish power to the people's congress in 2 areas: decision making and supervision. One of the main build in defects of the representative system of Leninist regimes has been the contradiction between the authority of the people and that of the party. If people's congresses are to be the ultimate source of power as is stipulated in the Constitution, how then is the party able to exercise leadership without compromising that privilege? At issue then is the controversy covering their respective rights of decision making, the party's policy making power and PC's determination rights.^{xxiii}(note: the original words is *rights* not power)

Some scholars have no problem in recognizing the authority between the CPC and NPC over the state issue. For example, Taiwanese scholar Zhao jianmin believe that NPC possess determination rights, which is obviously inferior to decision making power. However, for most scholars in Mainland China, they have disputes in separation the CPC’s policy making power from NPC’s decision approval power. They argued that both authorities have power over the issues relating to essential and fundamental policy of the country and both authorities ultimately reflect the will of the people.

For example, one scholar discusses the connection between the NPC’s approval power and CPC’s Decision making power:

Decision making represents research and analysis. Because CPC is the leader of socialism thus it possesses the decision making power (or policy making power)... However, the Decision Approval means the determination on the policy and demand for future implementation. Both CPCs decision making power and NPC's decision approval power reflects the will of the people.

^{xxiv}

Thus, in summary most scholars although see the confusion of different authority, they ignore the conclusion on which authority is superior. Instead most scholars are trying to find reasonableness of having different authorities. They suggested that because the party constitution provides that CPC represents the overwhelming majority of the Chinese people , and NPC also represents the majority interest of the Chinese people it is impossible to have any contradictions. Furthermore, some explained that since the CPC can transmit its will into the state will through the process of law, the two authorities will not conflict with each other. As we will see in the following discussion, how CPC will transmits its party will into the state will.

3. the connection between CPC and NPC

a. Taiwanese Scholars view:

Theoretically after the open market policy, NPC had backed on its position as the highest organ of the state power^{xxv}. Moreover, CPC may have to obey and Constitution and law under the theory Rule of Law, their conduct is confined in the regime of the law. Furthermore, the government also subject to the supervision of the Law and NPC. Since the 80s when these ideals had been first proposed by Deng Xiaoping, peng zhen and repeated in various events. For most it had been recognized both in Party constitution and state constitution. However, in practice, under the national political system NPC may subject to the influence of the CPC. And CPC had expressly stated in its party constitution and various events that CPC will transmit party will into state will through the process of law.

Thus, like the Taiwanese scholar 趙建民(Chien-Min Chao) 賴榮偉(Rong-Wei Lai) mentioned in their paper "How the Principle of "leadership by party" function in the system of NPC" NPC may counterbalance the control of the CPC on some certain limited issue, such as the passage of certain laws or proposals or the appointment of certain state officials. However, CPC still hold the tight control over the election of the people's congress at all the levels.^{xxvi} To illustrate CPC's control over NPC, people referred the NPC as "rubber stamps" in China meaning that they have little real influence over the operation of the government. For example: By comparing relevant officials' ranks in the party hierarchy, we can see that the executive (State Council and local governments) is the most powerful arm of the state, while the legislature and judiciary have minor representation in the power structure, acting as tools of the party and government. That is why the Chinese political vocabulary usually refers to the state apparatus as "party-government organs" without mentioning the legislature and judiciary.^{xxvii}

b. Mainland Scholars view:

Most mainland scholars views on this topic are mainly focusing on the legitimacy of CPC's leadership in connection with the NPC and how to improve such leadership in a way not in conflict with the Rule of Law. In summary, they analysis the current practice of CPC's leadership and conclude that CPC achieved its leadership through its ideology, organization and Politics. This practice not violate law and not technically equal to the "control" of the NPC.

To illustrate their analysis, I provided their discussion on CPC's leadership here. Basically there are 3 ways to exercise this leadership, political, ideology and organization. All these ways had been recognized by state Constitution and party Constitution.

c. Political leadership

CPC maintains policy instruction to the NPC, such instruction including both principle and order. Generally, CPC is more care about the process of the laws that involves the ideology or national policies. Prior to the initial of legislation, the party organization in the standing committee of the NPC will report the guiding ideology and guiding principles of the draft to the Central committee of the CPC for approval. Laws, acts or bills that related to the important economic or administration issues shall also submit to CPC central committee for approval before proposal to the standing committee of the NPC. Other laws or bills' submission can determine in the discretion of the party organ in the NPC standing committee.^{xxviii}

d. Organization leadership: Appointment and remove an official

Another rout for CPC take control over the NPC is the power of appointing officials. Such power is highly centralized in the hands of CPC. This power is preserved by CPC though the system of "party rule the officials" For example, all chief and deputy secretaries of the NPC's standing committee at each level will subject to the supervision of the upper level standing committee or other functional department and Organization Department of the Central Committee of the CPC at each level. For example, Politics and Law Committee of CPC and party organ in the Organization Department has the power to manage the official in the department of public security and judiciary. Thus, ultimately, CPC party committee has the factual decision making power over the government and that is why people called NPC as rubber stamp.

To be specific, the exercise of "party rule the officials" and all the other CPC's power are all depends on the Organization, party organ and party headquarter, and organization's supervision.

1) The party organ and party headquarter

You can find the definition of the party organ and its main responsibility from the party constitution article 46 A leading Party members' group may be formed in the leading body of a central or local state organ, people's organization, economic or cultural institution or other non-Party unit. The group plays the role of the core of leadership. Its main tasks are: to see to it that the Party's line, principles and policies are implemented, to discuss and decide on matters of major importance in its unit, to do well in cadre management, to rally the non-Party cadres and the masses in fulfilling the tasks

assigned by the Party and the state and to guide the work of the Party organization of the unit and those directly under it. Also, article 47 provides that

The composition of a leading Party members' group is decided by the Party organization that approves its establishment. The group shall have a secretary and, if necessary, deputy secretaries.

Thus in summary, you will understand that the party organs and party headquarters are like cell phone signal station; it settled in everywhere and transmits CPC's order to the area it covered. When it comes to the NPC's legislation, CPC exercise its influence through these organs and headquarters. For example: The amendment of state constitution has to follow this process: Proposal for the act; Review and discuss the act; Pass the act; Announce the act. However, during the amendment of 1999 state constitution, the proposal of the constitution amendment was submitted to the NPC after The CPC inside discussion.

The logic behind this phenomenon is CPC member subject to the party organ and party organ subject to the party headquarter. CPC has created a big spider web that covered NPC. Prior to each meeting of the NPC in each year, CPC will reorganize this web by creating temporary CPC party group among the NPC representatives. During the process of the legislation, it is hard to have an Act that against the will of the CPC because people who has the right to bring an proposal are generally CPC member, who is subject to the control of party organ. Furthermore, CPC can make one act be passed by manipulating the schedule of the discussion group or people who participate the discussion group. CPC achieved this because its temporary party group can control its CPC members who are also the NPC representatives.

Thus, someone may say that most NPC representatives are ghost of CPC and CPC is in control of everything before and behind the veil.

2) Supervision

Party organ and Party headquarter is very handy for the control of CPC, however except for the policy instruction, CPC supervise the state organs' exercise of party's policy through the system of party committee, party organs at all levels and the system of the commission of Discipline and inspection (CDI).

In this system, the party organ is the key. It is a organization represent the senior (upper) level of the party headquarters. The members of the party organ are determined by the party committee to ensure the party organ will follow the order of the party committee. The party organ shall response for achieving party's line, principle, policy and accomplishing the task that given by the party.

There are several ways that CPC utilizes party organ to control the NPC or other state organ. First, party organ can serve the function of forwarding the party's policy and ideology, meanwhile, party organ can supervise the entity that they settled in. They will check whether that entity follow the lines of the CPC. For another part of supervision or the control is CDI. The main task of CDI is to safeguard the

dignity of the party constitution and other party regulations and inspect entity's progress in following the principle of the party. Local and grass root CDI is under dual leadership of local party committee and upper level CDI.

Thus, in summary CPC take the control over the state agency by its dual safeguarding system. CPC utilize the party organ and party headquarters to spread and forward party's policy and ensure people are following party's line. CDI doing the inspection to guarantee the party policy will not be violate by its member. Also, CPC utilizing its party organ and party headquarter to influence the NPC and NPC's legislation discussion in a way to control the process of law making. And that is how CPC interact with the NPC.

ⁱ Tong zhiwei .2011. 05. Political reform shall initialed by the CPC Party Constitution. Retrieved from <http://www.chinaelections.org/newsinfo.asp?newsid=207510>

童之伟 政治体制改革首先应从党章开始

ⁱⁱ Chen zicai. Discussion on the Party Constitution's significant importance and functions. *Journal of Southwest University (Social Science Edition)* Nov. 2007 Vol.33 No. 6

陈自才论党章的特殊地位和作用

ⁱⁱⁱ People.com . 2011,05 History behind the process of drafting 82Constitutio—intereview with Wang binghan. Retrieved from <http://cpc.people.com.cn/GB/218984/219004/219031/222847/14778322.html>
人民网. 2011. 05. 关于 1982 年宪法的起草过程——王汉斌访谈录.

^{iv} Guo dao hui. 2011. The ruling party's ruling shall in accordance with the law. *Yan huang chun qiu*. 2011.07

郭道晖, 2011, 执政党必须依宪执政. 炎黄春秋杂志 2011 年第 7 期

^v.People.com . 2011,05 History behind the process of drafting 82Constitutio—intereview with Wang binghan. Retrieved from <http://cpc.people.com.cn/GB/218984/219004/219031/222847/14778322.html>
人民网. 2011. 05. 关于 1982 年宪法的起草过程——王汉斌访谈录.

^{vi} People.com . 2011,05 History behind the process of drafting 82Constitutio—intereview with Wang binghan. Retrieved from <http://cpc.people.com.cn/GB/218984/219004/219031/222847/14778322.html>
人民网. 2011. 05. 关于 1982 年宪法的起草过程——王汉斌访谈录.

^{vii}Shen xingwang. 2011. 1982 Constitution, the door to the Constitutionalism. *China Newsweek*. 2011. vol 24
申兴旺, 2011, 82 宪法: 推开宪政之门. *中国新闻周刊* 2011 年第 24 期

^{viii}Gao kai. 2011. Why did not put the CPC's leadership in the main body of 1982 Constitution. *Yan huang chun qiu*. 2011. 08

高锴. 2011. 1982 年宪法为何不在正文中规定中国共产党领导 《炎黄春秋》 年第 8 期

^{ix} Chen kuide. 2002, 11. Constitution and Constitutionalism Retrieved from
<http://www.chinaelections.org/newsinfo.asp?newsid=17414>

陈奎德. 中国的宪法与宪政

^xChen mingming. 2008. The structure of the China's political system: the contradiction and adjustment. *Social Science Research*. 08. Vol2 陈明明. 2008. 中国政治制度的价值结构: 冲突与调适, *社会科学研究* 2008 年第 2 期

^{xi}Liu hongbiao, Li weihua. 2000. Be caution about "legalize the party leadership". *Research on Party Construction*. 2001. 01

刘红凇,李卫华.2000. 不宜简单提“党的领导法制化” *党建研究* 2000.1 期

^{xii}Chen mingming. 2008. The structure of the China's political system: the contradiction and adjustment. *Social Science Research*. 08. Vol2 陈明明. 2008. 中国政治制度的价值结构: 冲突与调适, *社会科学研究* 2008 年第 2 期

^{xiii} Chen mingming. 2008. The structure of the China's political system: the contradiction and adjustment. *Social Science Research*. 08. Vol2 陈明明. 2008. 中国政治制度的价值结构: 冲突与调适, *社会科学研究* 2008 年第 2 期

^{xiv}Zhang xingwei. Discussion on the relationship of the goals of maintaining CPC's leadership, people's position as the master of the country and rule of law. *Theory and Reform*. 06, vol 1

张星炜. 2006 论实现党的领导、人民当家作主和依法治国有机统一的根本点及其制度载体. 《理论与改革》 2006 年第 01 期

^{xv}id

^{xvi} Guo dao hui 2011. 07. The ruling party's ruling shall in accordance with the law. *Yan huang chun qiu*. 11. 07 郭道晖: 执政党必须依宪执政炎黄春秋杂志 2011 年第 7 期

^{xvii} Liu hongbiao. 2002. Debate on ruling over the party by the law. Truth and Facts. 2002. 1

刘红凇. 依法治党” 辨析. 唯实. 2002 .1.

^{xviii} Yu keeping. 2010. 03. Rule the party by law is the foundation of Rule the state by law. *Xinhua net*. Retrieved from http://news.xinhuanet.com/politics/2010-03/17/content_13186694.htm

^{xix} Wang guixiu. 2007. Thought on the reform of CPC. *China party cadre's Forum*. 07.07

党的一元化领导”探析王贵秀 中国党政干部论 2007 年第 7 期

^{xx} Meng lingwei, Being prudence for writing Three Representatives into the Constitution

<http://www.epochtimes.com/b5/4/3/8/n481512p.htm> 孟令伟: 关于慎重对待“三个代表”入宪的建议

^{xxi} 趙建民 Chien-min Chao. 2002. The Institutionalization of the NPC under Party state system

Retrieved from: <http://nccuir.lib.nccu.edu.tw/bitstream/140.119/2986/1>

中国共产党党国体制下立法机关的制度化

^{xxii} Id

^{xxiii} Id

^{xxiv} Wang shizhi. 2009. discussion on the difference between the NPC's Decision Approval Power and CPC committee's Decision Making Power Retrieved from <http://www.chinaelections.org/newsinfo.asp?newsid=158505>

王世智 2009. 当议人大决定权与党委决策权的联系和区别

^{xxv} 趙建民(Chien-Min Chao) 賴榮偉(Rong-Wei Lai). 2000. Party Leadership and the National People's Congress. Retrieved from: <http://nccur.lib.nccu.edu.tw/handle/140.119/29417>

中共“党的领导”原则在全国人大的运作

^{xxvi} Id

^{xxvii} Zhining Ma. 2009. The Structure and Roles of China's Party-state System in Industrial Relations: An Updated Review. *China: An International Journal*, Volume 7, Number 2, September, pp. 370-384.

^{xxviii} 張執中(Zhang zhizhong). 2009. The relationship between CPC and NPC under the Party-state system

Retrieved from: <http://nccur.lib.nccu.edu.tw/handle/140.119/33712>

党国体制下当与立法机构关系的若干思考