

Leadership of Chinese Communist Party Is the Fundamental Guarantee for Comprehensively Promoting Ruling the Country by Law

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Abstract

Adhering to the leadership of Communist Party of China is the basic experience of China's legal construction. Adhering to the leadership and governance of Chinese Communist Party is China's fundamental political condition and basic legal condition. Leadership of Chinese Communist Party ensures the correct direction, correct organizational mechanism and solid financial security for comprehensively promoting ruling the country by law. Adhering to the Party's leadership is able to ensure good laws to be established and properly implemented.

Key words: Communist Party of China; Ruling the country by law; Guarantee

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INTRODUCTION

The 4th Plenary Session of the 18th CPC Central Committee is an important landmark meeting on the history of Communist Party of China. It is a plenary session that Chinese Communist Party firstly studied how to comprehensively promote ruling the country by law, and firstly approved the decision to comprehensively promote ruling by law. *The Decision of the CPC Central Committee on Major Issues Concerning Comprehensively Promoting Ruling the Country by Law* approved by the

meeting (hereinafter referred to as *The Decision*) brought new contents, deployed new missions and depicted new prospects for China's legal construction. The meeting advocated more than 180 new measures. Among them, the fundamental and most important measure is the necessity to strengthen and improve the Party's leadership to comprehensively promote ruling by law.

1. ADHERING TO THE PARTY'S LEADERSHIP IS THE BASIC EXPERIENCE OF CHINA'S LEGAL CONSTRUCTION

China is an ancient country with a history of five thousand years of civilizations. The Chinese legal system is unique in the world, and has made important contributions to human legal civilization. After the Opium War of 1840, in order to change the suffering destiny of the country and the nation, some of the people with lofty ideals tried to transplant modern Western countries' legal ruling mode into China, in order to achieve the dream of political reforms. However, due to various historical reasons, their efforts failed ultimately. Under the leadership of Communist Party of China, Chinese people experienced the revolution, construction, reform and development, and gradually came to the road of building a socialist country ruled by law.

In the beginning of foundation of the Party, the Party paid attention to call and inspiring the people with the spirit of ruling by law. In 1922, the declaration of the 2nd CPC Congress proposed to establish "a real democratic republic", "legislate for workers, peasants as well as women", and then developed the *Outline of Labor Law*. During the Agrarian Revolution, the Party promulgated *Law of Jinggangshan Land*, *Land Law*, *Marriage Ordinance* and *Outline of Constitution of Chinese Soviet Republic* successively to consolidate the base of revolutionary regime. During the period of Shanganning border region's governance, the Party has

formulated *Shanganning Border Region Administrative Program* which has the nature of fundamental law, *Interim Measures for Succession*, *Provisional Regulations on Punishment of Corruption*, *Provisional Regulations on Civil-Military Actions*, *Land Law of China* and other laws and regulations, established a relatively more complete legal system. In particular, the Party included the term “communist who committed an offence against law shall be severely punished” into *Shanganning Border Region Administrative Program*, which made the anti-Japanese base areas led by the Party known as the “advanced region to truly guarantee people’s democracy and rigorously enforce laws”.

1949 to the mid-1950s is the period when China’s socialist legal system has been initially established. During this period, China has formulated the provisional constitution *Common Program of the Chinese People’s Political Consultative Conference* and other series of laws, decrees, which played an important role in consolidating the nascent republic regime, maintaining social order and reviving the national economy. In 1954, the first session of the National People’s Congress developed *Constitution of People’s Republic of China* and relevant laws and regulations to specify China’s political system, economic system, rights and freedoms of the citizens, which regulated the state organs’ organizations and powers, established the basic principles of the national legal system, and initially laid the foundation for ruling China by law.

In the late 1970s, Chinese Communist Party summed up the historical experience, in particular the painful lessons of “kicking out the Party to take revolution” and “lawlessness” in the Cultural Revolution, made the major decision to shift the national focus to building socialist modernization, implement the reform and opening policy, and clarify the principle to govern the country by law. It established the idea of “in order to protect people’s democracy, we must strengthen legislation”, and put forward the basic principles of there must be laws to go by, the laws must be observed and strictly enforced, and lawbreakers must be prosecuted. The current Constitution and the *Criminal Law*, *Criminal Procedure Law*, *Civil Procedure Law*, *General Provisions of the Civil Law*, *Administrative Procedure Law* and a number of basic laws have been issued successively. Ruling by law in China has entered a new stage of development.

The 15th CPC Congress in 1997 established “ruling by law” as the basic strategy of governing the country, and in 1999 the Party included “rule by law and build a socialist country ruled by law” into the Constitution officially. The 16th CPC Congress in 2002 proposed that, in order to develop the socialist democratic politics, the fundamental thing is to unify upholding the Party’s leadership, treating people as the masters and ruling the country by law. The 17th CPC Congress in 2007 clearly proposed to fully implement the basic strategy of ruling by law, accelerate

the construction of the socialist country ruled by law, and make a full deployment to strengthen socialist legal construction. The 18th CPC Congress put forward that, ruling by law is the basic way of governance, we should pay more attention to play the role of ruling by law in governance and social management. The 3rd Plenary Session of the 18th CPC Central Committee further suggested that, in order to boost ruling China by law, we must promote governing the country by law, ruling according to law and administrating according to law jointly, and adhere to the joint construction of law-based country, law-based government and law-based society. The 4th Plenary Session of the 18th CPC Central Committee took special studies on the issue of ruling the country by law and passed *The Decision of the CPC Central Committee on Major Issues Concerning Comprehensively Promoting Ruling the Country by Law*. On February 23, 2013, Xi Jinping stressed on the 4th collective study of the Political Bureau of CPC Central Committee that the vitality of the law lied at implementation. He also led and organized the document drafting of the 4th Plenary Session of the 18th CPC Central Committee.

During the developmental process that Chinese Communist Party led the people to promote the ruling by law, the Party’s leadership has become a strong guarantee for carrying out all aspects of work on the road of ruling by law. Under the leadership of CPC, in the great practice of building the socialism with Chinese characteristics, we have basically established the socialist legal system with Chinese characteristics centered on the Constitution, which provides a reliable legal system to protect human rights, promotes economic development and social harmony to continue to improve, continues to improve administration according to law and judicial justice, strengthens the constrain and supervision to powers, enhances the legal awareness of the whole society, and forms the social atmosphere of consciously studying law, abiding by law and applying law. Adhering to the Party’s leadership is the basic experience of China’s legal construction, is a fundamental requirement of socialist ruling by law, is the essence of the Party and the state, is the interests and happiness of people of all the nationalities, and is the requirement of comprehensively promoting ruling the country by law. If we blindly copy the Western political system and give up CPC’s leadership, the construction of socialist ruling by law will only be a road leading to nowhere.

2. “WHICH IS MORE IMPORTANT BETWEEN THE PARTY AND LAW” IS A FALSE PROPOSITION

Referring to the relationship between the leadership of CPC and ruling the country by law, a lot of people asked the question “which is more important between the Party

and law". This question was mentioned at the beginning of China's reform and opening up. The reason why this question was raised is because it reflected the reality that some of the party members and cadres, especially some leading cadres didn't have strong legal awareness, didn't make decisions according to procedure, didn't act according to law, or even suppressed law with power, bent law for personal gains and so on. These phenomena seriously affected the people's confidence in the ruling by law, and made them have feelings that "right is more important than law, and the Party is more important than law". In fact, the Party is a political organization, law is a set of rules of conduct, both of which cannot be compared.

Xi Jinping pointed out at the opening ceremony of "symposium of provincial-level leading cadres study and implement the spirit of comprehensively promoting ruling the country by law advocated by the 4th Plenary Session of the 18th CPC Central Committee" that,

Chinese Communist Party is the core of leadership for the socialist cause with Chinese characteristics, is the center to direct overall situation and coordinating all parties. Socialist ruling by law must uphold the Party's leadership, and the Party's leadership must rely on socialist ruling by law. Law is the combination of the Party's goal and people's will. The Party has led the people to formulate the Constitution and laws, and led them to implement the Constitution and laws. The Party itself must act within the scope of the Constitution and laws, which can reflect the strength of the Party's leadership. The Party and law, the Party's leadership and ruling by law are highly unified. We are governing the country in strict accordance with the Constitution. What we are based on is the Constitution of People's Republic of China. (Xi, 2015)

In China, Chinese Communist Party is the core of leadership, which is the choice by the history and people, and clearly defined by the Constitution. However, as the organizer and leader of socialist ruling by law, the Party also must act within the scope of the Constitution and laws, and govern the country in strict accordance with the Constitution and the laws; Each Party organization, each leading cadre must abide by the Constitution and the laws. The reason that we say the question

which is more important between the Party and law" cannot stand is because we regard the Party as a unity in terms of ruling status and leadership. To be specific for each party organization and each leading cadre, they must abide by the Constitution and laws, must not take the Party's leadership as the shield to suppress law with power or twist law to suit one's own purpose. (CPC Central Committee Literature Research Center, 2015, p.37)

In a circumstance without a condition or premise, the direct inquiry of "which is more important between the Party and law" cannot be established. Such questioners are either ignorant or irresponsible. They measured our system with the Western political system standard, which is a manifestation of the discourse of Western modern governance system. Some uninformed people who do not understand history simply repeated this voice. If follow the idea of these people, no matter how we answer it we

will fall into the trap. If the answer is that the Party is more important, they will naturally come to a conclusion that China is still subject to the one-party autocracy of CPC, then ruling by law is false, and law does not exist. If the answer is that law is more important, they will take this as a breakthrough to deny CPC's leadership and the socialist system, require to open multi-party ruling, open public voice and nationalize the military to confuse the people, negate CPC's leadership and the socialist system. Such thinking can easily lead to ideological confusion in some of the cadres and masses, resulting in serious consequences of social unrest.

From the perspective of nature, the historical mission of Chinese Communist Party is to lead the Chinese people of all nationalities to build socialism, and ultimately achieve communism. As a form of governance in a country, ruling by law is linked to a particular social system. This determines that the nature of China's ruling by law is socialism. From the perspective of purpose, serving the people wholeheartedly is the fundamental purpose of Chinese Communist Party. Law is the tool for class rule. Always adhering to the dominant position of the people, ensuring that people are the masters of the country, and safeguarding the legitimate rights and interests of the people are also the fundamental purposes of the socialist ruling by law. From the perspective of task, the first of the three major historical tasks of Chinese Communist Party is to promote modernization, including the modernization of governance system and governance ability. Socialist ruling by law is the important content and important symbol to realize the modernization of governance system and governance ability. Therefore, the two are fundamentally consistent and intrinsically unified.

3. CPC'S LEADERSHIP IS THE FUNDAMENTAL GUARANTEE TO COMPREHENSIVELY PROMOTE RULING THE COUNTRY BY LAW.

Li Lin, director of the CASS Institute of Law, said,

Upholding the leadership and governance of Chinese Communist Party is China's fundamental political condition and basic legal condition. These basic national conditions determine that China's democracy can not engage in Western multi-party system and separation of powers, but must uphold the organic unity of the Party's leadership, treating the people as the masters, and ruling the country by law. Adhere to the unity of politics and ruling by law, unity of democracy and centralization, and unity of democracy and ruling by law. (CPC Central Committee Literature Research Center, 2015, p.36)

In order to comprehensively promote ruling by law, we need to have a right direction and a strong political guarantee. The leadership of Chinese Communist Party is the fundamental guarantee to comprehensively promote ruling the country by law.

Firstly, the leadership of Chinese Communist Party ensures the correct direction for comprehensively promoting ruling the country by law. In order to build a country ruled by law and establish legal awareness in the whole society, we must clarify the premise that correct ideological theory, legal theory and legal spirit are the guidance to take the road of building socialism with Chinese characteristics. Whether they are based on Marxism and its achievements in China—the theory of socialism with Chinese characteristics, or based on Western bourgeois legal theory and legal spirit determine the direction of our road of promoting ruling by law, determine China's legal construction and the future and destiny of the nation. Xi Jinping pointed out at the symposium of provincial-level leading cadres study and implement the spirit of comprehensively promoting ruling the country by law advocated by the 4th Plenary Session of the 18th CPC Central Committee that, “every form of ruling by law has a political theory behind, every mode of ruling by law has a political logic, and every road of ruling by law has a political stand beneath.” (CPC Central Committee Literature Research Center, 2015, p.34) Historical logic and reality determine that the construction of ruling China by law, just as China's modernization as a whole, must be based on the guidance of Marxism and its achievements in China. Only in this way can we ensure the correct direction and ensure a better future for the country and the nation.

Secondly, the leadership of Chinese Communist Party ensures the correct organizational mechanism for comprehensively promoting ruling the country by law. As an overall and systematic project, comprehensively promoting ruling by law requires to simultaneously promote governing the country by law, ruling according to law and administration according to law, put state and social affairs, management of economic and cultural undertakings into the way of ruling by law; It also requires to jointly construct law-based country, law-based government and law-based society, make all citizens, social organizations and state organs exercise their rights or powers, perform their duties or responsibilities in accordance with the Constitution and laws. These can only be led by the ruling party. In China, Chinese Communist Party is at the center to direct the overall situation and coordinate with all parties. Only by adhering to the leadership of Chinese Communist Party, bringing the fighting force and exemplary role of the Party organizations at all levels into full play, and gathering the strength of various parties, organizations and the masses of the whole society, we can fully integrate socialist legal spirit into economic, political, cultural, social and ecological civilization constructions, promote and ensure that national organs of power, administrative organs, judicial organs and procuratorial organs act independently, responsibly and coordinately in accordance with the Constitution and laws, and lead all members of the society conduct within the scope of the Constitution and laws.

Additionally, the leadership of Chinese Communist Party ensures a solid financial guarantee for comprehensively promoting ruling the country by law. As a superstructure, law's emergence and development is subject to the constraints of economic foundation and social development, so ruling by law cannot be isolated and promoted statically, but is impacted by economy, politics, society, culture, technology and other factors. Since China's reform and opening up, with the rapid development of the economy and society, the construction of socialist ruling by law has made historic achievements. But it should also be noted that the basic national condition that China is still and will remain at the primary stage of socialism does not change, and development will always be the top priority in the Party's governance and rejuvenation of the country. Promoting economic construction, political construction, cultural construction, social construction, ecological civilization construction and Party building will be a dynamic and long-term process. Especially with the comprehensive deepening of the reforms advocated by the 3rd Plenary Session of the 18th CPC Central Committee, it determines that comprehensively promoting ruling by law must uphold the Party's leadership, play the Party's central role in building a comprehensive well-off society, comprehensively deepening reforms, and comprehensively promoting ruling by law, so as to constantly move forward towards the goal of building a country ruled by law.

Finally, only by adhering to the leadership of Chinese Communist Party can we ensure good laws to be established and properly implemented. Communist Party of China is the vanguard of working class and the vanguard of all nationalities in China. It has not its own interests, and is able to represent the fundamental interests of the vast majority of Chinese people. Adhering to the Party's leadership on legislation and promoting the Party's claim to be the national will and law can make the Constitution and legal system better unify the Party's claim and people's will. We should effectively consolidate the Party's ruling status, fully protect the people's rights as the masters, adhere to the people-oriented idea of legislation for people, and get rid of department arbitrariness tendency in legislation, so that each law can be in line with the spirit of the Constitution, reflect people's will and get people's support. Under the leadership of the Party, we should also effectively promote administration according to law, play the role of Party organizations at all levels in leading, protecting, supporting and supervising so as to ensure fairness, standardization and protection of human rights.

SUMMARY

Comprehensively promoting ruling the country by law is the inherent requirement of socialism with Chinese characteristics, and is the correct road to achieve the great

rejuvenation of Chinese dream. Leadership of Chinese Communist Party is the essential feature of socialism with Chinese characteristics, and is the fundamental guarantee of socialist ruling by law. Our Constitution has established the leadership position of Chinese Communist Party which has been chosen by the history and people. It can be said that adhering to Chinese Communist Party's leadership is the key of socialist ruling by law, and is the lifeline of the Party and the state. History has proven that the Party's leadership is the fundamental guarantee of the success of Chinese revolution and construction; History will also prove that the Party's leadership is the fundamental guarantee to comprehensively promote ruling by law and accelerate the development of the socialist country ruled by law.

REFERENCES

- CPC Central Committee Literature Research Center. (2015). *Excerpts of Xi Jinping's discussions on comprehensively ruling China by law*. Beijing: Central Literature Publishing House.
- CPC Central Committee Propaganda Bureau. (2015). *Ruling by law hotspot* (p.36). Beijing: Learning Press, People's Publishing House.
- Xi, J. P. (2015, February 2). Speech at the opening ceremony of symposium of provincial-level leading cadres to study and implement the spirit of comprehensively promoting ruling the country by law advocated by the 4th Plenary Session of the 18th CPC Central Committee. *People's Daily*, p.1.