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# The Practice of Rule of Law in China's Systematic Reform

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## ABSTRACT

After more than 40 years of reform and opening up, China has always insisted on promoting reform on the track of rule of law, following the path of socialist rule of law with Chinese characteristics and realizing the modernization of state governance. The experience of China's systematic reform in building the rule of law is mainly reflected in three "combinations": first, it insists on combining external "people's supervision" and internal "self-reform"; second, it insists on combining rule by law and running the Party with regulations; third, it insists on combining top-level system design and "crossing the river by feeling the stones".

**Keywords:** Chinese path to modernization, running the Party with regulations, self-reform, socialist rule of law system with Chinese characteristics

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## Обеспечение верховенства закона в системных реформах Китая

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## РЕФЕРАТ

На протяжении более 40 лет реформ и открытости Китай всегда придерживался проведения реформ в соответствии с верховенством закона, следуя по пути социалистического верховенства закона с китайской спецификой и осуществляя модернизацию государственного управления. В основном, опыт системных реформ Китая в построении верховенства закона основан на трех составляющих: во-первых, на сочетании внешнего «народного контроля» и внутреннего «самореформирования»; во-вторых, на сочетании верховенства закона и управления партией посредством регламентов; в-третьих, на сочетании конструирования системных основ и совершенствования путем проб и ошибок.

**Ключевые слова:** китайский путь к модернизации, управление партией посредством регламентов, самореформирование, социалистическое верховенство закона с китайской спецификой

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Reform and rule of law are universal social phenomena at a certain stage of development of human society, reform is the driving force of modernization, rule of law is the foundation of modernization. Both of them are unified in the construction of modernization. China has been implementing reform and opening up for more than 40 years, experiencing an extraordinary course and achieving remarkable achievements in the world. The report of the 20th National Congress of the Communist Party of China held on October 16, 2022 clearly states: "From this day forward, the central task of the CPC will be to lead the Chinese people of all ethnic groups in a concerted effort to realize

the Second Centenary Goal of building China into a great modern socialist country in all respects and to advance the rejuvenation of the Chinese nation on all fronts through a Chinese path to modernization" [1, p. 21]. This signifies that "Chinese path to modernization" will become an important path and feature for China to further deepen reform and improve the socialist system with Chinese characteristics.

President Xi Jinping emphasized that "reform and opening up is the key move that determines the fate of contemporary China, and the key move that determines the achievement of the 'Two Centenary Goal' and the great rejuvenation of the Chinese nation". This profoundly reveals the fundamental significance of reform and opening-up for the development of socialism with Chinese characteristics and for China's development and progress, whether in the past, present or future. The effective protection of the rule of law is indispensable for the successful implementation of "Chinese path to modernization". Law-based governance on all fronts is a profound revolution in national governance, which is close related to the party's rule and prosperity, the happiness and well-being of the people, and the long-term stability of the party and the state. In the process of reform, we must give better play to the role of the rule of law in consolidating foundations, ensuring stable expectations, and delivering long-term benefits, and we must strive to build a modern socialist country in all respects under the rule of law.

## **1. China's reform and opening up and efforts to advance the rule of law**

In the course of China's reform and opening up for more than 40 years, there were two Central Plenary Sessions of epoch-making significance. The Third Plenary Session of the Eleventh Central Committee of the Party initiated a new period of reform and opening up and socialist modernization; the Third Plenary Session of the Eighteenth Central Committee of the Party introduced a new era of comprehensively deepening reform.

At the beginning of the reform and opening up in 1978, China's GDP accounted for 1.7% of the global total and its GDP per capita was only 156 USD. Its economic and social development faced great difficulties. The Third Plenary Session of the Eleventh Central Committee in that year re-established the ideological line of freeing the mind and seeking truth from facts, shifted the focus of work of the Party and the State to economic construction, and implemented the policy of reform and opening up; and resumed the active exploration of the road of socialist legal system. This marked the significance of the legal system in the history of China's reform and opening up: first, it established the policy of "promoting socialist democracy and strengthening the socialist legal system"; second, it clarified the importance of the legal system and the supremacy of the rule of law over the rule of man; third, it clarified the significance of the legal system to the reform and opening up [2, p. 7–8]. In 1992, China decided to establish a socialist market economy system and confirmed that "market economy is a legal economy". After China's accession to the WTO in December 2001, it has continuously revised and improved its domestic legal system in accordance with its WTO accession commitments, and has implemented an all-round and multi-level opening to the outside world, further promoting China's reform and the development of the socialist market economy, accelerating its convergence with the international market, and promoting the rapid development of China's economy. In October 2011, the State Council issued a white paper entitled "Socialist Legal System with Chinese Characteristics", officially announcing that a socialist legal system with Chinese characteristics has been formed.

After 35 years of practice, China's reform and opening-up has made great achievements, while high-speed development has also accumulated some problems. Faced with

the decreasing demographic dividend and cost advantage, the transformation of labor-intensive industries is imperative. Faced with the shrinking international market and the changing layout of industrial chain division of labor brought about by the financial crisis, China's economic development needs to seek new impetus. Faced with the abuse of power and corruption of officials in the process of economic development, the Chinese Communist Party needs to continuously purify the leadership and political ecology. In 2013, the Third Plenary Session of the Eighteenth Central Committee of the Communist Party of China officially established the general goal of "comprehensively deepening reform" and called for comprehensive and systematic reform in five areas: economy, politics, culture, society and ecological civilization, involving 60 aspects and 336 specific reform measures. In order to implement these reform measures in accordance with the law and effectively, in 2014, the Fourth Plenary Session of the 18th Central Committee of the Communist Party of China (CPC) put forward the requirement of "law-based governance on all fronts". Reform and the rule of law are two wings of one body, with reform providing the direction for the innovation of the rule of law and the rule of law providing the guarantee for the implementation of reform. Both serve the goal of China's modernization together. In this systemic reform, China has successfully implemented many reform practices such as promoting economic transformation and upgrading, developing green ecological civilization, cracking down on corruption, and smoothly advancing the "Belt and Road" initiative, and effectively controlling the stable economic and social development after the COVID-19 crisis in 2020. China has made a significant contribution to the development of the world economy and the maintenance of a stable international order.

China's systemic reforms have not only achieved great economic success, but have also garnered widespread popular support. In July 2020, the Ashe Center for Democratic Governance and Innovation at Harvard University's Kennedy School of Government released a report, "Understanding CCP Resilience: Surveying Chinese Public Opinion Through Time" [3, p. 1–14]. The report was written by three experts from the Kennedy School who conducted eight surveys in China between 2003 and 2016 and conducted face-to-face interviews with more than 31,000 Chinese urban and rural residents to track Chinese citizens' satisfaction with China's government at all levels over time. The survey report shows that from 2003 to 2016, Chinese people's satisfaction with all four levels of government: central, provincial (municipalities directly under the central government), city and county, and township, has increased. In 2016, the Chinese people were 93.1% satisfied with the central government and over 70% satisfied with the other three levels of government, with a greater increase in satisfaction especially among people in the inland and poor areas. On average, the Chinese government provides health care, social welfare and other basic public services much better and more equitably than when the survey began in 2003. In addition, with regard to corruption, the decline in satisfaction from 2009 to 2011 has been completely reversed, with the public generally supporting the anti-corruption campaign. Satisfaction with environmental protection has also improved significantly. By 2016, the Chinese government was more popular than at any time in the past 20 years. The resilience of the Chinese Communist Party's strong governing base stems from broad public support.

## **2. Insights from China's reform and opening-up and advancing the rule of law**

More than 40 years of reform and opening up have not only made great achievements in China's modernization, but also explored the useful experience of developing a Chinese system of socialist rule of law. Correctly handling the role of reform and innovation and rule of law guarantee is an important issue in the modernization of national governance. The relationship between reform and the rule of law is centrally reflected in "pro-

moting reform under the rule of law and improving the rule of law in reform". In the whole reform process, we should attach great importance to the use of rule of law thinking and rule of law, play the leading and promoting role of the rule of law, and strengthen the coordination of the relevant legislative work to ensure that the reform is promoted on the track of the rule of law. The results, methods and experiences of reform should be established through the rule of law to ensure the direction, stability and effectiveness of reform. In terms of the rule of law practice of China's reform and opening up, it is crucial to deal with the relationship between three aspects.

### *2.1. Combination of external "people's supervision" and internal "self-reform"*

As a country with one party in power for a long time, the question the CPC must face and answer is: How can it always keep up with the times, maintain creativity and vitality? More than 70 years ago in front of the kiln in Yan'an, when Chinese leader Mao Zedong was asked how the Chinese Communist Party could break the cyclical law of history that "the rise and fall of dynasties are both sudden and unexpected", he gave the answer "the people supervise the government". More than 70 years later, President Xi Jinping concluded the century-long experience of the CPC, especially the practice since the 18th CPC National Congress, and gave the second answer "self-reform". The courage to self-reform is the distinctive mark of the CPC that distinguishes it from other political parties. The spirit of self-reform is the strong support for the Party's eternal youthfulness and vitality. Advanced Marxist parties are not born, but are refined through continuous self-revolution. The secret of the Chinese Communist Party, which has become more vibrant after a century of vicissitudes, lies in the fact that it has never shied away from illnesses and has always dared to face problems head-on, insist on the truth, correct mistakes and be brave in self-revolution. Only by being brave in self-reform will the CPC always maintain its advancement and purity, and will continue to enhance its creativity, cohesion and combativeness. These two answers are both intrinsic attributes of a Marxist Party and a high summary of the Chinese Communist Party's own experience [4, p. 33].

From the perspective of the relationship between the two, "people's supervision" is the external constraint, and "self-reform" is the internal motivation. Both positions are "people first" and serve the people, and the goal is to achieve people's happiness and national rejuvenation. The effectiveness of both is also tested by whether the people support and are satisfied. The century-long history of the Communist Party of China shows that only by developing people's democracy and accepting people's supervision externally, by ruling the Party strictly and promoting self-revolution internally, and by adhering to the truth and correcting mistakes, and by turning the blade inward and scraping the bones to heal the poison, can the Party ensure its longevity and continuous development and growth.

### *2.2. Combining rule of law and running the Party with regulations*

The history of China's reform and opening up for more than 40 years shows that from gradual legal system construction to following the rule of law to advance systematic reform, the rule of law is an important guarantee for China to achieve reform, development and stability. As the ruling party, CPC has more than 96 million members and 4.9 million grassroots organizations. The strict organizational discipline and a sound system of Party rules and regulations clearly define the duties and behavioral norms of CPC organizations and members, and set higher moral and behavioral requirements for Party members than those of ordinary citizens. At the same time, for the "key minority" of leading cadres, the Party regulations guarantee their legitimate use of power and avoid corruption through more stringent supervision. Running the Party with regulations

guarantees the advanced and representative nature of the CPC and effectively serves the goal of the rule of law. This combination broadens the new path of strict governance over the Party, forms a new understanding of the relationship between the Party and government with Chinese characteristics, points out the direction of the path of the socialist rule of law with Chinese characteristics, and conforms to the development trend of the modernization of China's system and capacity for governance [5, p. 164].

In essence, the rule of law and the running the Party with regulations are unified in the following aspects. First, from the basis, national laws and Party regulations are inherently unified and belong to the socialist rule of law system with Chinese characteristics; Party regulations are not only an important basis for governing the party, but also a powerful guarantee for advancing a socialist rule of law state. Second, in terms of objectives, both aim to build a socialist rule of law state and promote the modernization of the national governance system and governance capacity. Although running the Party with regulations includes the internal goals of ruling the Party strictly and maintaining the Party's own integrity, from the external goals, it aims to improve the level of governance according to law and build a socialist rule of law state in order to maintain the Party's long-term ruling status. Third, from the essence, both are "rule by institutions" and "rule by rules", highlighting the stability, predictability and strong binding force of rules. Fourth, from the viewpoint of the object, both focus on leading cadres, President Xi Jinping pointed out that "Leading cadres specifically exercise the Party's ruling power and national legislative, executive, supervisory and judicial power. They are the key to the comprehensive rule of law" [6, p. 231]. Fifth, in terms of the main body, the leading force of both is the CPC, the Party's Central Committee and local committees at all levels, which is the fundamental guarantee for following the road of socialism with Chinese characteristics in the rule of law. The unification of the rule of law and running the Party with regulations not only reflects the fundamental requirement of the CPC to "rule the Party strictly" and "self-reform", but also is an important guarantee for the CPC to maintain its vitality and lead the Chinese people in modernization.

### *2.3. Combination of top-level system design and "crossing the river by feeling the stones"*

One of the fundamental principles of China's reform and opening up for more than 40 years is to adhere to and develop the road of socialism with Chinese characteristics. How to walk the road of socialism with Chinese characteristics is inseparable from the path and method of reform. President Xi Jinping stressed, "If the path goes the wrong way and goes south, it is meaningless to mention any more requirements and initiatives, and we must resolutely prevent making subversive mistakes". Adhering to the road of socialism with Chinese characteristics is the direction and premise of reform. However, reform is an unprecedented exploration, and there is no ready-made experience that can be copied, so the process of reform is necessarily a process of exploration. Therefore, the early stage of reform is characterized by "trial and error", that is, "crossing the river by feeling the stones". It means that in the reform, we should boldly experiment, be brave to innovate, break through the original legal system and rules within the predetermined scope, try out the new rules, and if the experiment is successful, the new rules will be upgraded to a legal system and pushed out on a large scale to meet the needs of reform and economic and social development. This approach helped us deepen our knowledge and understanding of the laws of reform in the early stage of reform and continuously promote the process of reform and opening up. When the reform enters the hardening stage, it is necessary to unify "crossing the river by feeling the stones" and "top-level design". The "top-level design" should be based on the experience gained from "crossing the river by feeling the stones", and the "crossing the river by feeling the stones" should be

oriented to the systematic top-level system design, so that “major reforms are based on the law” and cannot deviate from the general direction and principles.

The combination of “crossing the river by feeling the stones” and top-level design is a scientific method that China has developed in the process of reform when figuring out the way forward. The organic unity of the two shows that reform must be based on China’s reality and the practice of China’s development. Only in this way can we keep abiding by the general direction of national development, keep advancing with the times, keep self-reform, and successfully achieve the goal of reform and development.

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