

Historical Review of the Establishment of the Rule of Law in China and Lessons Learned

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Abstract: *After the restoration of the rule of law at the Third Plenary Session of the Eleventh Central Committee of the Communist Party of China (CPC), there was a great deal of disagreement about what the rule of law was and whether or not it should be applied, which was hotly debated in China's legal academia. The fifteenth congress of the Communist Party of China put forward the "rule of law, building a socialist country under the rule of law", marking the formal establishment of the rule of law in China. Looking back at the historical process of the establishment of the rule of law in China, we have four insights: the rule of law in China is in line with the realities of China's social development; it is an important guarantee of the country's long-term peace and stability; it is in line with the objective laws of the historical development of mankind and the historical laws of the Communist Party's rule; and it is in line with the people's aspirations for, and quest for, a good legal system.*

Keywords: Communist Party of China; Rule of Law; Rule by Law.

1. INTRODUCTION

Since its establishment, the Communist Party of China has tried to find a way out for this wounded country and a nation that has gone through suffering, and it has begun to lead its people in exploring the rule of law. And what is the rule of law? Should the rule of law be applied? How to implement the rule of law? The CPC's understanding of this series of questions has gone through a process of development, as reflected in the use of the relevant concepts. After the founding of the People's Republic of China, the CPC was committed to the construction of a legal system of a socialist nature, but soon deviated from the rule of law. It was not until the Third Plenary Session of the Eleventh Central Committee of the Communist Party of China restored the rule of law that the CPC's understanding of the rule of law returned to the right track. From the Third Plenary Session of the Eleventh Central Committee of the Communist Party of China to restore the rule of law, to the Fifteenth Congress of the Communist Party of China put forward the "rule of law and build a socialist country based on the rule of law", thus establishing the rule of law, the development of the period of another two decades. It is of great significance for the CPC to review the development of the rule of law from the legal system to the rule of law, and to summarise the lessons learned, in order to ensure that the CPC adheres to the path of the rule of law.

2. REVIEW OF THE PROCESS OF ESTABLISHING THE RULE OF LAW IN CHINA

After the Third Plenary Session of the Eleventh Central Committee, the most frequently discussed topic was the "construction of the rule of law" and the need to build a "State governed by the rule of law", with emphasis on the "rule of law". To the fifteenth congress of the Communist Party of China put forward the "rule of law, building a socialist country based on the rule of law", formally clarified the "rule of law", the Communist Party of China on the rule of law from the "rule of law" to the "rule of law" to achieve the understanding of the rule of law. The CPC's understanding of the rule of law made a historic leap from the "rule of law" to the "rule of law", during which nearly two decades elapsed.

2.1 Dispute between the "rule of law" and the "rule of man"

After the Third Plenary Session of the Eleventh Central Committee of the Communist Party of China (CPC), the Chinese legal profession began to call for the "rule of law" and the "rule of the country according to law", and at this time, the CPC began to mix the two concepts of the "rule of law" and "rule of law" in its internal documents and the speeches of its leaders. At this time, the Communist Party of China internal documents and speeches of the leaders began to "rule of law" and "rule of law" of the two concepts mixed, but what is the rule of law, the rule of law should be implemented or not there is a big difference of opinion. At that time, there were three main points

of view: "opposing the rule of law", "advocating the rule of law" and "the rule of law and the rule of man should be combined".

There are different viewpoints within the viewpoint of "opposing the rule of law": there is the view that there is no difference between the "rule of law" and the "rule of law", and that since we already have the "rule of law", there is no need to mention the "rule of law" again. "rule of law", there is no need to mention the "rule of law", such a viewpoint only sees the "rule of law" and the "rule of law" of the connection between the two, and does not see the difference between the two. Such a viewpoint only sees the connection between the "rule of law" and the "rule of law" and does not see the difference between the two. There is a view that recognises the difference between the two, but believes that the rule of law is a bourgeois ideology and theory, and that we cannot adopt the concept and theory of the "rule of law" but can only talk about the "rule of law", because the rule of law is capitalist, while the rule of law is socialist. This view wrongly places the "rule of law" in the capitalist camp, failing to recognise that the rule of law is the fruit of human political civilisation and is still applicable to socialist countries. There is also the view that the law is not omnipotent, and that the reference to the "rule of law" is one-sided, and that since the term "rule by law" is mentioned, it is not possible to have the term "rule by the Party" as well, Can there not also be references to "relying on the Party to rule the country", "relying on science to rule the country", "relying on the military to rule the country", and so on, given the reference to "ruling the country by law"? There are also views that incorrectly believe that the "rule of law" contradicts the "four basic principles" and will result in the denial of the leadership of the CPC, and that the "rule of law" may be in conflict with the leadership of the CPC and the leadership of the State. The "rule of law" may be antagonistic to the leadership of the CPC and the role of state leaders, leading to the weakening of the CPC's ruling position and leadership. Such a viewpoint does not correctly understand the relationship between the CPC and the law, and we should realise that the rule of law is the basic way in which the CPC leads the people to govern the country, and that "the rule of law" and "the law according to law" are the basic means of governing the country. There is no conflict between "the rule of law", "the rule of the country according to law" and "the leadership of the CPC";

The view that "the rule of law and the rule of man should be combined" argues for a combination of the "rule of law" and the "rule of man" for the following reasons: any country is governed by people, not by law, and the laws that are enacted need to be implemented by people. The reason is that any country is governed by people, not by law, and the laws that are made need to be implemented by people. Moreover, leaders play an important role in the governance process of a country, and it is not possible to refer to the "rule of law" without mentioning the "rule of man"; the two should be combined. Such a point of view does not recognise that the "rule of law" is a theory of governance that is opposed to the "rule of man", and that the two cannot coexist or be compatible, and that the "rule of man" is unilaterally linked to the "role of man". It unilaterally equates the "rule of man" with the "role of man";

The idea of "promoting the rule of law" is that we should promote the "rule of law", not just the "rule of law", and not the "rule of man". The "rule of law" view holds that we must promote the "rule of law" and not just the "rule of law", let alone the "rule of man". The "rule of law" view further argues that the key to a country's long-lasting peace and stability lies in the existence of an authoritative and sound legal system, rather than in the wisdom of its leaders. Such a viewpoint should be advocated because it correctly recognises the objective law of the CPC's rule, and recognises that the "rule of law" is a progressive leap from the "rule of law", and that the "rule of man" should be abandoned. "The rule of man should be discarded.

Of the three points of view mentioned above, the Communist Party of China has adopted the main view of "promoting the rule of law". The reason why the "rule of law" should be promoted and the "rule of man" rejected is that the former is historically more progressive than the latter. The rule of law and the rule of man represent two opposing modes of governance. The rule of man emphasises the role of the leader, who has the highest authority, and whose power is greater than that of the law, while the law is only a tool used by the chief to rule the nation, and can be used or not used, and can be changed at the will of the chief. The rule of law emphasises that the law has the highest authority and that any power is limited by the law, i.e. the law is greater than power. Moreover, the law embodies the will of the people, and the enactment and modification of the law must go through the procedures stipulated in the law, and has stability. The criterion for distinguishing between the rule of law and the rule of man lies in whether the law is subordinate to the power of the governor or the power of the governor is subordinate to the law when the governor's will and the law are in conflict. Historical experience has shown that we must abandon the erroneous views of "the rule of man but not the rule of law" and "legal futility", adhere to the rule of law and resolutely oppose the rule of man.

2.2 The "rule of law" was established at the Fifteenth Congress of the Communist Party of China

The Fifteenth Congress of the Communist Party of China put forward the idea of "ruling the country according to law and building a socialist country based on the rule of law", marking a historic leap in the understanding of the rule of law by the Communist Party of China from the "legal system" to the "rule of law". This marked a historic leap in the CPC's understanding of the rule of law from "the rule of law" to "the rule of law". After the Third Plenary Session of the Eleventh Central Committee of the Communist Party of China, it is popular to refer to "the rule of law", "building the rule of law", "a country governed by the rule of law" and "the socialist rule of law". After the Fifteenth Congress of the Communist Party of China, these concepts developed into "rule of law", "rule of law construction", "rule of law state", "socialist rule of law", "socialist rule of law", "socialist rule of law", "socialist rule of law", "socialist rule of law", and "rule of law". After the Fifteenth Congress of the Communist Party of China, these concepts developed into "rule of law", "rule of law construction", "rule of law State" and "socialist rule of law". From 1978, when the Third Plenary Session of the Eleventh Central Committee of the Communist Party of China (CPC) summarised the lessons of the Cultural Revolution and restored the rule of law, to 1997, when the Fifteenth Congress of the CPC put forward the idea of "ruling the country according to the law and building a socialist country under the rule of law", which was based on China's national conditions. Establishment of the rule of law, the CPC's understanding of the rule of law has made a historic leap from the "rule of law" to the "rule of law". The reason why it is considered a historic leap from the "rule of law" to the "rule of law" is that the latter is a progressive, quantum leap from its predecessor, mainly reflected in the following aspects:

First, there is an essential difference between the "rule of law" and the "rule of law". The Communist Party of China's leap in understanding the rule of law is first reflected in the use of the concept, the two concepts are only one word apart, but there is an essential difference. The "rule of law" is an abbreviation for the legal system, a neutral concept, any form of human power must be built on its corresponding legal system. The "rule of law" is the "rule of man" as opposed to a concept or mode of governance, so the "rule of law" and "rule of law". Therefore, "rule of law" and "rule of law" are two different concepts. The "rule of law" requires not only that there be well-established and universally followed laws and a legal system constructed in accordance with such laws, i.e., the rule of law, but also that the laws that are universally followed be good laws. In this sense, the "rule of law" not only includes the "rule of law", but also requires that the laws enacted are good laws, and that the "supremacy of law", that is, the law becomes the guide for the actions of society as a whole, and that there is no power over the law. There is no power above the law.

Secondly, the "rule of law" requires that power be subject to the law, and that any power be subject to the law and not be above the law, whereas the "rule of law" does not require this and is often reduced to a tool of power. Throughout Chinese history, every feudal dynasty had its own legal system, and it can be said that there was a certain "rule of law", but it cannot be said that there was a "rule of law", because the power of the emperor was greater than the law, and the law was only a tool for the emperor, and the emperor himself did not have to abide by it. "During the Cultural Revolution, some leading cadres did not correctly understand the correct relationship between power and the law, and behaved in such a way as to use their power to suppress the law, seriously infringing on the fundamental interests of the people and seriously jeopardising the Party's cause, so we must sound the alarm.

Again, the "rule of law" presupposes democracy and is closely linked to values such as human rights and freedoms, whereas the "rule of law" is not necessarily linked to values such as democracy, human rights and freedoms, and can either serve a system that favours or opposes these values. The rule of law is not necessarily linked to the values of democracy, human rights and freedoms. The defence of democracy, human rights and freedoms is a hallmark of modern political civilization, and China is a faithful practitioner and innovator of these values. has achieved remarkable results, while the rule of law embodies these values, and the reference to the "rule of law" is even more conducive to the development and improvement of these values.

3. REVELATIONS

Through the review of the process of the establishment of the rule of law in China, the author has gained the following four insights: the rule of law in our country is not a matter of whim or expediency, but is a realistic requirement for the development of Chinese society, an important guarantee of the long-term stability of the country, and is in line with the objective laws of the historical development of mankind as well as the historical laws of the rule of the Communist Party, and with the people's aspirations and pursuits for a good legal system.

3.1 The rule of law as a practical requirement for China's social development

The stable, high-quality development of Chinese society requires the rule of law, which is reflected in the construction of three areas: economic, political and social. With regard to economic construction, a market economy objectively requires the rule of law. This is because the qualification status of market players needs to be confirmed by law, the behaviour of market players and their rights and freedoms need to be regulated and safeguarded by law, and the market order needs to be maintained and improved by law, but also because the market economy is an economic model based on the concepts of freedom, equality, fairness, and other values, which do not necessarily relate to the rule of law, but are closely related to the rule of law. This is reflected in the following: the status of market players can be equal, the market players want to deal with each other, and with what people, which is free. Market transactions respect the law of value and emphasise price and compensation, which is fair. According to the above distinction between the rule of law and the rule of law, the rule of law is not necessarily linked to these values; therefore, it is not enough to say that the market economy is an economy based on the rule of law, but rather that the market economy is an economy based on the rule of law. In terms of political construction, the rule of law is an important symbol of political civilisation. The rule of law is the product of human reason, the fruit of political civilisation, an attitude and way of political life, and a political order related to democracy, human rights, rights and freedoms. Civilised politics must be democratic, with the people deciding their own affairs as masters. Although ancient authoritarian societies also talked about politics, they were authoritarian rather than democratic and could not be called politically civilised. Only the rule of law can guarantee the fulfilment of citizens' democratic rights through legal procedures and ensure that democracy operates on the track of the rule of law, thus guaranteeing that the people are the masters of their own house. With regard to social construction, the rule of law is an important symbol of the civilisation of human society. Judging from the historical process of the development of human society, from slave to feudal to capitalist and socialist societies, the rule of law has been an important force in promoting social stability and development; therefore, the implementation of the rule of law is both an important manifestation of the progress of civilisation in a society and an inevitable choice for the historical development of human society. Historical experience has shown that a country that upholds the rule of law prospers, while a country that abandons the rule of law is in turmoil. Whenever the rule of law is emphasised in the process of socialist construction under the leadership of the Party, the State and society will develop in an orderly manner and the cause of the Party and the people will flourish. Whenever the rule of law is not emphasised, the construction of socialism will suffer setbacks, and the cause of the Chinese Communist Party and the people will struggle.

3.2 The rule of law as an important guarantee for the long-term stability of the State

Looking back at the past and present, the controversy between the "rule of law" and the "rule of man" has been going on for thousands of years, and the core of the controversy lies in the question of whether a country's long-term stability should be placed in the hands of a wise and authoritative leader, or in the hands of a well-developed and authoritative legal system. The ancient Greek philosopher Plato believed that the key to a country's long-term stability and good governance lies in the existence of a "philosopher king", while his disciple Aristotle believed that "the rule of law is better than the rule of one man". Confucianism in ancient China advocated the politics of the wise man, put forward the "politics in the people", "the people died and the government rest" and other ideas of the rule of man, for example, Xunzi believes that "there is a good law and chaotic, there is; there is a gentleman and the chaotic, since ancient times and now, have not heard of it!" For example, Xunzi believed that "there is a good law but chaos is not far away; there is a gentleman but chaos, since ancient times and nowadays, I have never heard of it. In the history of the Communist Party of China (CPC), the CPC has attached importance to the construction of the rule of law since the day it was founded, and the country has been developing steadily on the track of the rule of law. "During the Cultural Revolution, some of the leading cadres deviated from the construction of the State due to the ideology of the rule of man, until the Third Plenary Session of the Eleventh Central Committee of the Communist Party of China made timely reflections and corrections, and the State returned to the right track. During this period, Deng Xiaoping, the leader of the CPC, criticised on many occasions the "concept of the rule of man", which placed the future and destiny of the country on the authority of one or two persons, and considered it "very unhealthy and dangerous". believes that placing the stability of the Party and the country on the authority of one or two persons is not healthy. The stability of the Party and the country is entrusted to the authority of one or two people, which is "unreliable and prone to problems", so we need the rule of law, not the rule of man. After the 15th Congress of the Communist Party of China made the rule of law clear, the Party and the country's endeavours have taken a new step forward, and the country has continued to move towards stability and prosperity, thanks to the role of the rule of law as a safeguard for the country's long-term stability. The rule of

law is therefore the most fundamental and reliable way and the key to achieving long-term peace and stability in the country.

3.3 The rule of law is consistent with the objective laws of human historical development and the historical laws of Communist Party rule

When the Communist Party comes to power, the first thing it has to consider is what kind of philosophy and way of governing the country. The CPC, as a Marxist party, must surely seek answers from the basic theories and views of Marxism. Marx and Engels realised that socialism had evolved from imagination to science, but due to the constraints of historical conditions, they were unable to answer the question of how the CPC would lead the people to govern the country. Therefore, after the CPC has led the people to establish a socialist country, the question of what concepts and ways to govern the country remains before the CPC and the Chinese people. After the victory of the October Revolution and the consolidation of power in Russia, Lenin carried out a series of explorations of the socialist legal system at the same time as he carried out the construction of the socialist economy and culture. Regrettably, however, the rule of law was not explicitly mentioned in the Russia led by Lenin and the Bolsheviks and was not implemented, and the relationship between the personal authority of the leaders and the authority of the law was not even dealt with properly, resulting in the disorganisation of the people, the corruption of the bureaucrats, and the destruction of the democratic system of law, which eventually lost the people. The rule of law was undermined and eventually lost the support and backing of the people. As early as during the democratic revolution, the CPC began to explore the rule of law in the course of combining Marxism with Chinese reality. Combining the lessons of the international communist movement, the CPC clarified the rule of law, answering the question of how the people could hold power and become the masters of the country, and how a socialist country could establish and maintain social order and deal with social contradictions in order to ensure the country's long-term peace and stability, as well as answering the questions of the relationship between the leadership of the CPC and the rule of the country according to law, and the relationship between the personal authority of the leaders and the authority of the law, which are The scientific generalisation of the CPC and the Chinese people after arduous exploration is undoubtedly a refinement and major innovation of the theory of scientific socialism, which is in line with the historical law of the rule of the Communist Party. The rule of law is determined by the Party's purposes. To serve the people wholeheartedly is the purpose of the Party, and in order to achieve this purpose, the rule of law must be applied to ensure that the Party serves the people better on a civilised, legal and rational track. At the same time, the rule of law represents the demands of the advanced classes and the aspirations of enlightened politicians, and in the long history of human development, the rule of law emerged only after the bourgeois revolution. The rule of law exists not only in capitalist societies but also in socialist societies; it is an important symbol of political civilisation and meets the urgent need of all mankind for good laws and good governance, and is therefore in line with the laws of development of all mankind and is historically progressive.

3.4 The rule of law is in line with the people's aspirations and pursuit of a good legal system

The people aspire to a legal system that is stable and in the interests of the people. China has a history of feudalism spanning several thousand years, and the legal system under feudal rule, or the rule of law, has appeared in every period. However, frequent regime changes have led to "one day's rule, one day's ministers" and "the death of the people", and even if there is no change of dynasty, the legal system may be changed at any time due to the monarch's favour or disfavour, and it lacks stability. Moreover, the people could not participate in the making of laws, and the laws enacted reflected the interests of the ruling class rather than the interests of the people. The country did not have a stable legal system that reflected public opinion, and the instability of the legal system made the people's lives unstable and miserable, and the law became a tool for the ruling class to exploit the people. Therefore, the people long for a stable legal system that reflects public opinion. The establishment of the rule of law is a response to this demand of the people: firstly, the rule of law requires that the law becomes the supreme code of conduct for the whole society, all citizens, legal persons and unincorporated organisations must abide by the law, and the ruling party must carry out its activities within the framework of the law and on the track of the rule of law, and there is no power that is above the law. Secondly, the rule of law requires that the law be stable and not change because of a change in leadership or a change in the attention and views of leaders. The enactment, amendment and repeal of laws must be carried out by legal subjects in accordance with legal procedures, which makes the law extremely stable and effectively prevents the demise of the government. Once again, the rule of law requires democratic legislation, stresses the institutionalisation and legalisation of democracy, and requires that the realisation of democracy be guaranteed by law, and that the laws enacted must go through democratic procedures, emphasising democratic participation and expression in the legislative process, so that the laws enacted reflect the will of the people and realise the people's right to be masters of their own affairs.

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