

# The Relationship between Governing the Country According to the Constitution and Governing the Party According to Its Rules

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## ABSTRACT

Governance in accordance with the Constitution, as the core of the rule of law in the state, and governance of the Party in accordance with its statutes, as the core of exercising full and rigorous Party self-governance, have each attracted a wealth of research; however, academic works specifically examining the relationship between the two are relatively scarce. A systematic analysis reveals that governance in accordance with the Constitution and governance of the Party in accordance with its statutes are highly consistent in terms of content, values, objectives, internal norms and historical continuity: in terms of content, they are mutually supportive, with the Constitution affirming the Party's leading role and the Party Constitution stipulating the requirement to abide by the Constitution and laws; in terms of values, they share a common pursuit of fairness, justice and the rule of law; in terms of objectives, they are unified by the modernisation of national governance; in terms of norms, they respectively constitute the foundations of the national and intra-Party regulatory systems; and in terms of historical continuity, both stem from the Party's long-standing practice of leading the development of the rule of law. Clarifying the relationship between the two will help to build a legal system with Chinese characteristics and advance the realisation of the grand goal of modernising the national governance system and governance capacity.

## KEYWORDS

Governing the Country in Accordance with the Constitution; Governing the Party in Accordance with the Party Constitution; Governance.

## 1. INTRODUCTION

In his speech at the gathering held in the capital to commemorate the 30th anniversary of the promulgation and implementation of the current Constitution, Comrade Xi Jinping stated: "Under the new circumstances, if our Party is to fulfil its major responsibilities of governing and revitalising the country, it must exercise strict self-discipline in accordance with the Party Constitution and govern the country and administer state affairs in accordance with the law.[1]" The 'Decision of the Central Committee of the Communist Party of China on Several Major Issues Concerning the Comprehensive Advancement of Governance According to Law', adopted at the Fourth Plenary Session of the 18th Central Committee, states: 'Upholding governance according to law must first and foremost entail upholding governance according to the Constitution; upholding governance according to law must first and foremost entail upholding governance according to the Constitution.' 'Governance according to law requires not only that the Party govern the country and administer state affairs in accordance with the Constitution and laws, but also that the Party manage and govern itself in accordance with intra-Party regulations.' This assertion organically links governance according to law with Party governance according to regulations. Governing the country in accordance with the Constitution is

the paramount priority of governing the country according to law. As the fundamental law of our country, the Constitution of the People's Republic of China holds the highest legal status and legal force; it takes precedence over all other laws, and no law may contravene the Constitution. The Constitution is the fundamental code of conduct for all organisations and individuals. Governing the Party in accordance with regulations means, first and foremost, governing the Party in accordance with the Party Constitution. The Constitution of the Communist Party of China, as the Party's "fundamental law", serves as the supreme guideline for the Party's internal regulations and the highest standard for the conduct of Party members, governing the Party's political life and development. At the national level, the Party must govern the country according to law and exercise state power in accordance with the Constitution; in terms of organisational development, the Party must govern itself in accordance with the Party Constitution and its internal regulations. Clarifying the intrinsic logical relationship between governing the country according to law and governing the Party according to the Party Constitution is of great significance.

## **2. BASIC CONCEPTS OF GOVERNING THE COUNTRY IN ACCORDANCE WITH THE CONSTITUTION AND GOVERNING THE PARTY IN ACCORDANCE WITH THE PARTY CONSTITUTION**

### **(1) Analysis of the Basic Concept and Significance of Governing the Country in Accordance with the Constitution**

A literal interpretation of the concept of 'governing the country in accordance with the Constitution' implies governing the country in accordance with the Constitution of the People's Republic of China. In China, as the ruling party, the Communist Party of China is the principal entity responsible for governing the country in accordance with the Constitution, meaning that it administers state affairs in accordance with the Constitution. The 'Constitution' in 'governance in accordance with the Constitution' refers to the constitutional text and the principles it contains; the 'governance' refers to the actions of those in power, primarily reflected in the chapters on the 'General Provisions' and 'State Organs'; and the 'state' refers to the administration of affairs at the national level. Jiang Ming'an (2019) summarises the meaning of governance in accordance with the Constitution as comprising four aspects: the restraint of power, the protection of human rights, the advancement of the rule of law, and comprehensive development. Guan Baoying (2021) argues that the concept of governing the country according to law within Xi Jinping's Thought on the Rule of Law encompasses the following: in the construction of the rule of law system, the Constitution serves as the overarching framework; in the governance process, the Constitution plays a leading role; in the development of a rule-of-law state, a rule-of-law government and a rule-of-law society across these three dimensions, the Constitution runs through the entire process; and at the macro level, the legal system is designed by the Constitution.

According to scholars, governance in accordance with the Constitution has both dynamic and static dimensions. Static governance in accordance with the Constitution can be understood as centring the Constitution in the construction of the legal system. The Constitution is the core of the socialist legal system with Chinese characteristics; Article 5 stipulates that no law, administrative regulation or local regulation may conflict with the Constitution. Every aspect of the construction of the legal system is refined under the guidance of the Constitution, and the state is governed in accordance with the legal system established on the basis of the Constitution. Dynamic governance under the rule of law signifies that the legal system established in accordance with the Constitution permeates the act of governing the state, driving the construction of a state, a government and a society governed by the rule of law.

In the process of building a China governed by the rule of law, governing the country in accordance with the Constitution is the prerequisite and foundation for realising this goal, as well as the very core

of the rule of law[2]. As the overarching document, the Constitution establishes macro-level systems in the form of fundamental law; refining the finer details under the guidance of this overarching direction plays a positive role in promoting the modernisation of the national governance system and governance capacity. The Constitution imposes constraints on public power, placing particular emphasis on its people-centred nature. Governing the country in accordance with the Constitution facilitates the rational exercise of public power, ensuring that the legislative, judicial and administrative processes remain consistently people-centred and uphold the principle of serving the people. Adhering to governance in accordance with the Constitution is a prerequisite for upholding the Party's leadership. The Constitution stipulates that "the leadership of the Communist Party of China is the most essential characteristic of socialism with Chinese characteristics". Under the Party's leadership, the people of all ethnic groups have achieved one great accomplishment after another, leading the Chinese nation to make the great leap from standing up, to growing prosperous, to becoming strong. The Party has blazed the path of socialism with Chinese characteristics, established the "Five-in-One" overall layout, built a socialist legal system with Chinese characteristics, and ensured the smooth operation of all undertakings. Upholding the leadership of the Communist Party of China is an inherent requirement of upholding governance according to the Constitution. Under the Party's leadership, over the past 70-odd years, the Party has, in accordance with the Constitution and the law, carried out all undertakings in a unified and effective manner and ensured their smooth operation. It has successfully addressed a series of major risks and challenges, prevented and defused various risks, and overcome one 'bottleneck' problem after another, always ensuring the smooth operation of the cause of socialism with Chinese characteristics. The Party has consistently safeguarded the people's role as masters of the country. The Constitution emphasises the people-centred nature of the state; the Party has incorporated the principle of putting the people first into every aspect of institutional development, closely integrating the will of the people with their rights and interests, and has never forgotten its fundamental purpose of serving the people.

## (2) Basic Concepts and Significance of Governing the Party in Accordance with the Rules

Sang Yucheng (2001) defined the concept of 'governing the Party in accordance with its constitution' as follows: this primarily refers to the ruling party conducting its activities and party affairs within the scope of the Constitution and laws, in accordance with the established Party Constitution and relevant internal normative documents. Research on 'governing the Party in accordance with its constitution' is relatively scarce compared to that on 'governing the Party in accordance with regulations'. The resolution adopted by the Fourth Plenary Session of the 18th Central Committee of the Communist Party of China on 23 October 2014 stated that "governing in accordance with the law requires the Party not only to govern the country and administer state affairs in accordance with the Constitution and laws, but also to manage and govern the Party in accordance with intra-Party regulations"[3]. This indicates that intra-Party regulations are an important basis for the Party's self-governance. As the Party's 'fundamental law', the Constitution of the Communist Party of China holds the highest authority within the system of intra-Party regulations." Zhou Weidong (2023) analyses the meaning of 'governing the Party in accordance with regulations' from a structural perspective, defining the concept as follows: 'Governing the Party in accordance with regulations' is the process by which Party organisations at all levels and Party members, under the centralised and unified leadership of the Party Central Committee, govern the Party itself, as well as its leadership and Party-building activities, in accordance with intra-Party regulations[4]. Zhang Hongsong (2023) analyses the meaning of governing the Party in accordance with regulations from three perspectives: "what to govern by", "what to govern", and "what constitutes governance". The scientific essence of governing the Party in accordance with regulations lies in utilising and adhering to intra-Party regulations to effectively implement the Party's self-governance and strict governance. Governing the Party in accordance with the Party Constitution is an extension and refinement of the concept of governing the Party in accordance with regulations. Just as the state has a constitution, the Party has its Party Constitution. Governing the country in accordance with the constitution must first and foremost adhere to the constitution; similarly, governing the Party in accordance with regulations

must first and foremost adhere to the Party Constitution. Governing the Party in accordance with regulations has been enshrined in the Party Constitution, thereby clarifying its status as the Party's 'fundamental law'. Governing the Party in accordance with regulations requires the scientific formulation of rules, and the establishment of a system of intra-Party regulations that is unique to China, characterised by coordinated content, rigorous procedures, comprehensive supporting measures, and effective implementation[5]. To achieve the scientific formulation of rules, the system of intra-Party regulations must be constructed under the guidance of the Party Constitution. Comrade Xi Jinping has pointed out that "the Party Constitution is the Party's fundamental law and the overarching rule that the entire Party must follow." Therefore, governing the Party in accordance with regulations must first involve governing the Party in accordance with the Party Constitution, using the Party Constitution as the foundation for constructing the system of intra-Party regulations. Consequently, we may define 'governing the Party in accordance with the Party Constitution' as the process whereby Party organisations at all levels formulate intra-Party norms under the guidance of the Party Constitution, strictly managing Party organisations and members on the basis of intra-Party regulations to ensure that the Party always operates smoothly and remains on the correct track.

'Governing the Party in accordance with the Party Constitution' is an important principle proposed and implemented by the Party, reflecting its strict requirements for its own governance and for the development of the system of intra-Party regulations. As the most fundamental basis for intra-Party regulations, the Party Constitution serves as the guiding principle for the formulation of such regulations, ensuring that the conduct of Party organisations at all levels and all Party members is subject to clear normative guidance, thereby guaranteeing that Party organisations at all levels and all Party members remain on the correct path. Adhering to the principle of governing the Party in accordance with the Party Constitution is a key manifestation of exercising full and rigorous governance over the Party. "To govern the country, one must first govern the Party; to govern the Party, one must do so with rigour." The Preamble to the Party Constitution stipulates that "the Party must manage itself and exercise strict governance over itself." Rigorous governance of the Party requires a comprehensive system of intra-Party regulations and law enforcement mechanisms. As the fundamental law within the Party, the Party Constitution holds the highest authority within the system of intra-Party regulations and serves as the most fundamental basis for exercising strict governance over the Party.

### **3. THE THEORETICAL LINK BETWEEN THE ORGANIC UNITY OF GOVERNING THE COUNTRY IN ACCORDANCE WITH THE CONSTITUTION AND GOVERNING THE PARTY IN ACCORDANCE WITH ITS RULES**

#### **(1) The Relationship between Governing the Country in Accordance with the Constitution and Governing the Party in Accordance with the Party Constitution**

Governing the country according to the Constitution and governing the Party according to its rules are two core tenets within the socialist rule of law system with Chinese characteristics and the great project of Party building. Although they belong to different legal systems, it was proposed at the Fourth Plenary Session of the 18th Central Committee of the Communist Party of China that, under the leadership of the Communist Party of China, we should uphold the socialist system with Chinese characteristics, implement the theory of socialist rule of law with Chinese characteristics, and establish a comprehensive system of legal norms, an efficient system for the implementation of the rule of law, a rigorous system for the supervision of the rule of law, and a robust system for safeguarding the rule of law, whilst also forming a sound system of intra-Party regulations[6]. However, unified within the legal system of socialism with Chinese characteristics, the two share profound intrinsic links in terms of their value objectives, institutional foundations and practical

pathways, embodying the organic unity of the Party's leadership, the people's role as masters of the country, and governance according to law.

### 1) Legal Systems in the Constitution

As the fundamental law of the state, the Constitution serves as the overarching charter for governing the country and maintaining social stability, and enjoys the highest legal status, authority and force. As the supreme law, the Constitution establishes the following core legal systems:

The system of Party leadership. The Preamble to the Constitution clearly sets out the leading role of the Communist Party of China, establishing Party leadership as the most essential characteristic of socialism with Chinese characteristics through the country's fundamental law, thereby providing a fundamental guarantee and legal basis at the national level for the Party to govern itself in accordance with its own rules.

The principle of popular sovereignty. Article 2 of the Constitution stipulates that "all power in the People's Republic of China belongs to the people". It establishes the system of people's congresses as the fundamental political system, with the National People's Congress and local people's congresses at all levels serving as the organs through which the people exercise state power. It guarantees that the people participate in state governance through various channels, thereby realising the people's role as masters of the country.

The principle of the rule of law. Article 5 of the Constitution stipulates that "the country shall be governed in accordance with the law, and a socialist state governed by law shall be built", thereby making it clear that state governance must be conducted in accordance with the law, and that no organisation or individual may enjoy privileges that supersede the Constitution and the law.

The system for safeguarding citizens' fundamental rights. Articles 33 to 50 of the Constitution systematically set out citizens' political, personal, and economic and social rights, thereby safeguarding citizens' rights through the Constitution as the fundamental law of the land, reflecting the Constitution's people-centred spirit of the rule of law.

These systems constitute the institutional framework for governing the country in accordance with the Constitution; they establish a legal foundation for people-centred governance and serve as the cornerstone of the rule of law in the modernisation of state governance.

### 2) The legal system in the Party Constitution

The Constitution of the Communist Party of China is the Party's fundamental law and the overarching set of rules that the entire Party must follow; it holds the highest legal authority within the Party. The Party Constitution translates legal provisions into a series of normative and binding institutional arrangements:

The Party's Guiding Ideology. In its Preamble, the Party Constitution establishes Marxism-Leninism, Mao Zedong Thought, Deng Xiaoping Theory, the Important Thought of the Three Represents, the Scientific Outlook on Development, and Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era as the Party's guiding principles. The entire Party thoroughly studies these guiding ideologies, thereby providing the ideological foundation for governing the Party in accordance with the Constitution.

The principle of democratic centralism. The Party Constitution clearly stipulates that democratic centralism is the Party's fundamental organisational principle, emphasising both democracy and centralised unity; it organically unites centralisation within democracy and democracy within centralisation, thereby safeguarding the Party's unity and combat effectiveness.

The Party's disciplinary framework. Chapter VII of the Party Constitution systematically sets out the Party's various disciplinary rules, including political discipline, organisational discipline, integrity discipline, mass discipline, work discipline and lifestyle discipline. These are further elaborated in

the Regulations of the Communist Party of China on Disciplinary Actions, thereby establishing a rigorous mechanism for intra-Party supervision and the restraint of power.

Rights and obligations of Party members. Articles 3 and 4 of the Party Constitution set out the eight obligations and eight rights of Party members respectively, reflecting a governance logic that unites rights and obligations. This is fully consistent with the Constitution.

The Party's organisational structure and leadership system. This includes the system of the Party's National Congress, the Central Committee, and the system of local and grassroots organisations, ensuring that the Party's leadership is upheld at every level. The Party's National Congress and the Central Committee it elects serve as the Party's highest leadership bodies, exercising unified leadership over all the Party's work.

These systems constitute the institutional framework for governing the Party in accordance with its rules and regulations, and serve as the fundamental guidelines for exercising full and rigorous governance over the Party and for the Party to exercise self-governance.

### 3) The similarities between the two

Although the Constitution and the Party Constitution belong to two distinct systems-namely, national law and internal Party regulations-they share a high degree of consistency in terms of their essential nature, values and institutional foundations:

The two share a common foundation of values. Both embody a people-centred stance. The Constitution is the 'concentrated expression of the will of the Party and the people', whilst the Party Constitution is the 'expression of the will of the entire Party'; their fundamental starting point and ultimate aim are both to safeguard the fundamental interests of the broadest sections of the people.

The two share a common objective. They both serve the great practice of socialism with Chinese characteristics and contribute to the modernisation of the national governance system and governance capacity. The aim of governing the country in accordance with the Constitution is to safeguard the country's long-term stability and security, whilst governing the Party in accordance with its rules ensures that the Party remains the strong core leadership of the cause of socialism with Chinese characteristics. As the supreme leading force, the Party, in accordance with the Constitution and under the guidance of both the Constitution and the Party Constitution, works to achieve the country's long-term stability and security.

The two are consistent with one another. The Party Constitution explicitly stipulates that 'the Party must operate within the bounds of the Constitution and the law', reflecting the alignment and coordination between intra-Party regulations and national law. Many of the principles enshrined in the Party Constitution-such as the democratic centralist system and the unity of Party members' rights and obligations-are highly consistent with the spirit embodied in the Constitution.

Both possess a historical legacy. The Constitution and the Party Constitution are rooted in the great practice of China's revolution, construction and reform, and are both grounded in the great practice of socialism with Chinese characteristics. They represent significant institutional achievements in the Sinicisation and adaptation of Marxism to the times, and are institutional systems formed under the guidance of the ideology of the Sinicisation of Marxism, sharing a common ideological and theoretical foundation.

### (2) The organic unity of governing the country in accordance with the Constitution and governing the Party in accordance with the Party Constitution

Governing the country in accordance with the Constitution and governing the Party in accordance with its rules are not two separate processes; under the leadership of the Communist Party, they form an organic whole within the great practice of socialism with Chinese characteristics for a new era. This organic unity is manifested at the following three levels:

### 1) The two are united in the new great project of Party building

The great new project of Party building in the new era emphasises ‘comprehensive and strict governance of the Party’, with governance in accordance with the Party Constitution serving as its core programme, and governance in accordance with the Constitution providing its external safeguard. The two are organically unified within the Party’s self-revolution and social revolution. Governing the Party in accordance with its statutes enhances the Party’s advanced nature and purity by strictly enforcing Party discipline and regulating the exercise of power; governing the country in accordance with the Constitution regulates state power through the rule of law, prevents the abuse of power, and provides a legal and institutional environment for the great project of Party building; the Party’s leadership must be exercised through the rule of law, namely by “leading the legislative process, ensuring law enforcement, supporting the judiciary, and taking the lead in observing the law”, thereby realising the Party’s rule-of-law-based leadership over state governance.

Consequently, Party building requires both the self-discipline provided by internal Party regulations, guided by the Party Constitution, and the external regulation provided by national laws, centred on the Constitution, thereby forming a framework for governing the Party and the country characterised by ‘internal and external coordination and mutual reinforcement’.

### 2) The two are unified within the rule of law system with Chinese characteristics

The system of the rule of law with Chinese characteristics is an organic whole comprising the system of legal norms, the system for implementing the rule of law, the system for supervising the rule of law, the system for safeguarding the rule of law, and the system of intra-Party regulations. Governing the country in accordance with the Constitution constitutes the ‘state dimension’ of this system, whilst governing the Party in accordance with its rules constitutes the ‘Party dimension’.

Governing the country in accordance with the Constitution constitutes the ‘top-level design’ of the rule of law system; with the Constitution as its foundation, it oversees all aspects of law-making, law enforcement, the administration of justice and compliance with the law. Governing the Party in accordance with its rules constitutes the ‘leadership pillar’ of the rule of law system; with the Party Constitution as its foundation, it establishes a system of intra-Party regulations to achieve ‘governing the Party in accordance with its rules’; The two achieve synergy through the “integration of disciplinary and legal procedures”. For example, the reform of the supervision system has realised the organic unity of intra-Party supervision and state supervision, with the two operating under a single office, sharing one set of working bodies but bearing two distinct institutional titles, thereby promoting the effective integration of disciplinary supervision and legal investigation procedures. This unity ensures that the Party’s leadership operates within the framework of the rule of law, realising the “organic unity of the Party’s leadership, the people’s democratic rule, and governance according to law”.

### 3) The unification of the two within the theory of socialism with Chinese characteristics

The organic unity of governing the country according to the Constitution and governing the Party according to its rules is rooted in the theoretical system of socialism with Chinese characteristics, particularly Xi Jinping’s Thought on the Rule of Law and the theory of Party building in the new era. Xi Jinping’s Thought on the Rule of Law emphasises ‘upholding governance of the country and governance of the Party in accordance with the Constitution’, whilst also stressing ‘upholding the Party’s leadership over the comprehensive advancement of the rule of law’, thereby providing theoretical guidance for governing the country according to the Constitution and governing the Party according to its rules; The theory of Party building in the new era emphasises “governing the Party through institutions and in accordance with regulations”, proposing that “institutional development should be integrated into all aspects of Party building”, thereby promoting the coordinated development of the Party’s internal regulatory system and the national legal system; both are unified by the “people-centred” development philosophy: the Constitution safeguards the rights of the people,

whilst the Party Constitution emphasises “serving the people wholeheartedly”, jointly embodying the essential attributes of socialist rule of law.

Consequently, the unity of governing the country in accordance with the Constitution and governing the Party in accordance with its rules is not merely a unity of institutional arrangements, but also a unity of ideology, values and practical approaches.

Governing the country in accordance with the Constitution and governing the Party in accordance with its Constitution are not mutually exclusive; rather, they constitute a complementary and organically unified governance mechanism. The Constitution provides the fundamental legal basis for the Party to lead the people in governing the country, whilst the Party Constitution provides the fundamental guidelines for the Party’s own development. The organic unity of the two embodies the governance wisdom of the Communist Party of China, as the ruling party, in achieving long-term, scientific, democratic and law-based governance within the framework of the rule of law. It is a key manifestation of the institutional strengths of socialism with Chinese characteristics, and also serves as a fundamental guarantee for advancing the modernisation of the national governance system and governance capacity.

This unity is not only a distinctive feature of the path of the rule of law with Chinese characteristics, but also an inevitable requirement for the coordinated advancement of comprehensive and rigorous Party self-governance and the comprehensive rule of law in the new era.

#### **4. CONCLUSION**

Governing the country in accordance with the Constitution and governing the Party in accordance with its rules are not mutually exclusive; rather, they constitute a governance mechanism that is mutually reinforcing and organically unified. The key to understanding this intrinsic logic lies in recognising their distinct roles and synergistic functions within the national governance system.

The Constitution is the fundamental law of the state and the overarching charter by which the Communist Party of China leads the people in governing the country; it provides the supreme legal basis for the operation of all state institutions. Governing the country in accordance with the Constitution requires all state organs, social organisations and individual citizens to operate within the framework of the Constitution and the law, ensuring that national governance progresses steadily along the path of the rule of law. The Party Constitution, meanwhile, is the fundamental law of the Party and the overarching set of rules for governing the Party. Governing the Party in accordance with the Party Constitution aims to regulate the conduct of Party organisations and Party members through a rigorous system of intra-Party regulations, ensuring that the Party consistently maintains its advanced nature and purity. Although the two operate at different levels, they share the same objective and complement one another in function.

The Constitution and the Party Constitution are not mutually exclusive; rather, they are highly aligned in terms of their values, fundamental principles and governance logic. The Constitution affirms the Party’s leading role and provides fundamental legal support for the Party to govern in accordance with the law; the Party Constitution, meanwhile, establishes compliance with and enforcement of state laws as a basic requirement within the Party, thereby ensuring, at the organisational and disciplinary levels, that the Party operates within the bounds of the Constitution and the law. Consequently, governing the country in accordance with the Constitution provides a legal basis for the Party’s leadership of national governance, whilst governing the Party in accordance with its own rules enhances the Party’s capacity to govern from the perspective of internal Party building; the two mutually support and reinforce one another.

This organic unity embodies the Chinese Communist Party’s wisdom in achieving long-term, scientific, democratic and law-based governance within the framework of the rule of law; it is a key manifestation of the institutional strengths of socialism with Chinese characteristics, and serves as a

fundamental guarantee for advancing the modernisation of the national governance system and governance capacity. Upholding the unity of governing the country in accordance with the Constitution and governing the Party in accordance with its rules is not only a distinctive feature of the path of the rule of law under socialism with Chinese characteristics, but also an inevitable requirement for the coordinated advancement of comprehensive and strict Party self-governance and the comprehensive rule of law in the new era.

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