CHAPTER - IV

THE STAGE OF POLICY APPROVAL:
THE NPC REVIEW & ROLE OF THE PARTY LEADERSHIP
As the policy proposals pass through the stages of agenda-setting and inter-agency bargaining they acquire a definite shape and content, but their final adoption requires the approval of the National People's Congress (NPC) and Central leadership of the Chinese Communist Party (CCP). This requirement paves the way for these two crucial actors – the NPC and the Central apparatus of the CCP, to play their respective roles in the process of public policy formulation. With the separation of the Party from the Government under the 1982 constitution of the People's Republic of China the Party is no longer a formal organ of the Government and thereby Party leadership has no formal role to play in the process of policy legislation except agreeing to the draft policy measures in principle. During the Maoist Period, the Party leadership and the central decision-making organs of the CCP such as the Politburo, the Secretariat, etc. had a dominant role in the process of policy formulation. By virtue of its overwhelming presence in Chinese political life, the mechanisms of its organizational inter-linkages with other formal state organs and the personal clout of its central leadership the CCP had control over the policy-making processes as well as policy-making institutions. However, since 1978, after the Post-Mao Chinese leadership took over there has been an erosion as well as decentralization of the Party's control over the policy-making process. The unity of the Party control over policy-making has been dissipated to a great extent, as more and more important policy
issues have been resolved outside the arena of the Party's Central
decision making organs. However, this decentralization of the Party
control has been matched by a corresponding increase in the
institutional power, autonomy and assertiveness of the other more
open policy-making arenas, most significantly the National People's
Congress. Hence, any evaluation of the role of the NPC in policy
approval can not be separated from the corresponding role of the
Party Leadership.

**NPC REVIEW, DEBATE AND PASSAGE**

Legislative development or decay is a component of political
change. In every modern political society, the legislature performs
the role of an agent of change by legislating suitable policy
measures for the overall progress of that political society. In
socialist or communist systems, the health of a legislature reveals
much about the state of mass-elite relations and the division of
tasks among government organs. When a socialist legislature is
weak or ignored, the legislative activities, such as law making,
supervision, representation and regime support are carried out by
other formal and non-formal organs of the system. On the other
hand, an active socialist legislature assumes a large range of
responsibilities and serves as a testing ground for legal-political
development. In China, the ups and downs of the National People's Congress have coincided with changes in the policy-making environment. These ups and down have further reflected changes in the way the ruling elite interact with the common masses and with each other. Throughout its history, the NPC has been a forum of evolving party-society and party-state relations, which further depicts the broad characteristics of the Chinese polity.

The most significant change in the policy-making process since 1979 is unquestionably that the stage of NPC debate and review is no longer a simple public show of socialist democracy. Due to the activism of the top leaders of the NPC, most of the policy proposals have had their contents significantly altered when they pass through the NPC review stage. The promulgation of a new State constitution of the PRC in December 1982 further strengthened the legislative power of the NPC and its Standing Committee. Under the constitution of 1982 the legislative power of the NPC was broadened to include the authority to amend the constitution, formulate and revise criminal law, civil law, organic laws of the state institution and other basic laws. The NPC Standing Committee was empowered to formulate and revise the rest of the

laws as well. The 1982 constitution clearly stipulates that both the NPC and its Standing Committee are the organs of the state legislative power and both can formulate laws and decrees.³ It also provides for ‘Six Specialized Committees’ – on nationalities, law, finance and economic, foreign affairs, overseas Chinese, education, science, and culture and public health – to examine and discuss and draw up relevant bills, and draft resolutions. Delegates have also been given the right to initiate legislation themselves.

This formal endorsement and recognition of the legislative powers of the NPC has resulted in expanding the legislative activities of the NPC and its Standing Committee. From June 1983 to March 1988 alone, 37 new laws were enacted, 10 existing laws were revised and several legal decisions were made including laws of civil and criminal procedure, the electoral law of the NPC and local People’s Congress and various organic laws.⁴ Since 1982, the NPC has amended the constitution thrice and has made considerable progress in legislation particularly economic legislation. However from 1979 to 1997, the NPC and its standing committee have examined and adopted 328 laws and law related

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decisions covering a wide range of political, economic and social activities. The Eighth NPC during its tenure from 1993 to 1998 examined and approved largest number of laws and law related decisions. Out of total 85 laws that had been approved during this period 61 laws were new laws related to various aspects of the Chinese society. All these developments have contributed in evolution of the NPC from a mere rubber stamp to a contender of power in the arena of public policy formulation. However, by any comparative standard the NPC is a weak legislature with tremendous limits placed upon those who would like to use it as a forum to influence policy decisions.

The NPC review stage begins when the Committee Chairman’s Group refers the policy draft to one or more of the NPC Standing Committee’s eight special committees. Established in 1983 and greatly expanded after 1987, these issue based committees are staffed primarily with former high ranking party and state officials who have previous experience in the key ministries, departments, mass organs and localities concerned with the issues under each particular committee’s jurisdiction. Thus they provide the NPC with a good deal of policy expertise and bureaucratic connections essential for meaningful review and amendment of draft policy

measures. These special committee members use their past experiences and special knowledge of ministry interests in revising policy drafts prepared by the corresponding ministry of the State Council and, thereby, block whatever they consider as excessive power grabs. The special committee recommendations to revise or amend draft policy proposals are seen as setbacks to ministerial and bureaucratic interests or missions on that particular policy issue. The Ministry of Communication faced such an opposition from NPC Financial and Economic Committee when it presented draft legislation on China's seaports, which would have effectively curtailed seaport access by several other ministries. The Financial and Economic Committee led by a former Minister of Communication opposed the policy draft, which resulted in withdrawal of the policy draft.7

Upon recommendation of the appropriate special committees, the Standing Committee determines when to list the policy draft for debate either by the Standing Committee or by the full NPC. However, it is a common practice for the Standing Committee to discuss and revise a policy twice or more before it votes on final passage. When a policy draft encounters serious opposition in the NPC, when major articles of a draft are controversial and many

Standing Committee members hold different opinions about the issue in question, the NPC leaders rarely try to force the bill through.8 The strong preference of the NPC leaders is to spare the drafting department or ministry from the embarrassment of a significant public display of ‘no’ votes. Usually the NPC withholds the draft bill from voting while insisting on significant revisions. The NPC Standing Committee accordingly has on several occasions, sent draft bills back to the State Council for rewriting and revisions.

In 1986, most of the members of the Standing Committee spoke on national television against a draft of the Bankruptcy Law and remanded it to the Law Committee for further revision.9 The State Owned Enterprise Law also went through multiple drafts over three years. It was debated four times by the NPC Standing Committee before it was released for public discussion and finally passed by the full NPC in April 1988.10 An Organic Law of Villager’s Committees was also tabled in 1987 after a heated debate and the expression of sharply differing opinions was reported in both the NPC and in its Standing Committee.11 In 1985, the Legislative


9 "TV Special Covers NPC Committee Session", FBIS-China, 191, 20 October 1986, p. K1; Also see FBIS-China 7 October 1986, K1-3.


Affairs Work Committee of the NPC rejected the State Council's request to place the draft Labor Law on the agenda of the next NPC and returned it to the Ministry for extensive revision as it lacked the necessary reform measures in China's labor system.¹²

The draft bill on Enterprise Bankruptcy Law was first presented to the Sixteenth Session of the sixth NPC Standing Committee for preliminary deliberation and was slated to be voted on at the Seventeenth Session to be held in last August 1986. But the draft bill aroused stiff opposition during the preliminary deliberation. The questions that were raised in this session were—"what differences should there be between a socialist bankruptcy law and a capitalist bankruptcy law?" and "what characteristics should China's bankruptcy law have that reflect China's actual circumstances?" During the preliminary deliberation thirty five out of forty-four members of the NPC Standing Committee disapproved the bill. This was the first time in the history of the 'rubber stamp' that a bill proposed by the State Council faced stiff opposition in the floor of the NPC. However, the bill managed to stay afloat in the legislative agenda of the Seventeenth Session of the NPC because of

¹² Murray S. Tanner "How a Bill Becomes Law in China", p. 58.
the intervention of the CCP Central Committee and Politburo member Chen Pixian.\textsuperscript{13}

The historic Seventeenth Session of the NPC Standing Committee, held in August 1986, was unique in two respects. First, for the first time segments of the debate were aired live on national television. Second, the session broke with the officially scheduled passage of the law. The unexpected depth of disagreement and debate over the law played itself out in an unprecedented scene in the legislative history of the NPC. The Enterprise Bankruptcy law was the first draft law that triggered open divergence of opinion and failed to be ratified as scheduled. The NPC Standing Committee had been able to debate such differing views openly for the first time. Thus, the Seventeenth Session of the NPC Standing Committees turned out to be an inconclusive one where the bankruptcy bill was not put to vote as scheduled. However, the number of people who spoke in favour of it increased from an absolute minority to a weak majority.\textsuperscript{14}

The debates and discussions in the NPC’s Standing Committee sessions centered on three crucial issues: the legality of the law; competitiveness in socialist enterprises; and the timing of


\textsuperscript{14} Ibid.
the reform measures and the necessity of "complementary conditions" for the bankruptcy law.

Two broad issues of legality were raised during the course of debating the law. The first had to do with the state's legal concerns over property rights, legal responsibility for losses incurred by the factory, and the rights of debtors and creditors. Proponents of the law argued that enacting the law would help clarify the issue of property rights, by clarifying the lines, scope and parameters of factory-level responsibility as well as the extent of the state's responsibility.\(^\text{15}\) By crafting a bankruptcy law, it was further argued, the legal rights and responsibilities of debtors and creditors would ensure rationality in lending decisions, encourage collection of debts, and promote rational business behavior, which had not been achieved by giving greater financial decision-making powers to managers.\(^\text{16}\) In contrast, opponents of the law led by Rong Yiren, vice chairman of the NPC-SC, argued that to enact the law without granting legal autonomy to the factory manager was simply unfair. In short, because enterprises were not considered independent legal entities, it made no sense to hold them legally accountable for bankruptcy. This was a consistent position held by several


\(^{16}\) Xiao Zhuji, "It is Imperative to Formulate the Enterprise Bankruptcy Law", *Guangming ribao*, 2 August 1986, in *FBIS-China*, 15 August 1986, p. k 1.
members of the NPC-SC who opposed passing the bankruptcy law before enacting other reform measures.17

The second legal issue was concerned specifically with the right to work protected by Article 42 of the Chinese constitution. Proponents argued that the right to work was not undermined in a bankruptcy law. Because workers of the bankrupt enterprises “have lost the assets which the state entrusts to their care... there is no reason to say that their right to work is infringed on.”18 Opponents, on the other hand, argued that considering the socialistic nature of China, the first priority should be to protect jobs and the workers' living conditions. As the opponents believed that at the time the system could not do that adequately, the bankruptcy law was deemed unfair to workers. The worker issue became one of the most hotly debated issues during the course of the debates. It was major point for each side in bringing to bear reports of the investigations and results of the pilot projects in order to make a case for or against the law. Indeed, the lingering concern over relief to displaced workers, guaranteed basic living standards, and re-employment proved such a sensitive issue that the final draft of the law was amended further to include a clause that the

state would arrange for reemployment and would guarantee the basic living needs of displaced workers.  

The entire impetus for the bankruptcy law was to raise productivity, and thus the competitiveness of Chinese industry. Proponents of the law turned the workers' rights argument around by stating that the threat of bankruptcy would provide workers with a powerful incentive to work, thus minimising the necessity of bankruptcy. Again, the pilot projects were utilised as a positive force for enterprises, demonstrating that those enterprises that adopted bankruptcy proposals on an experimental basis had began to make profits. Xu Dixin, a well-known economist and member of the NPC Standing Committee, (NPC-SC) vehemently argued that the law would help prevent bankruptcy, not encourage them. But the opponents insisted that without an enterprises law, factories would be unable to compete because of bureaucratic interference, irrational prices, and a lack of management control over decisions concerning the factory. Worker and factory managers, in effect, would be asked to be competitive in a noncompetitive environment. This line of argument raises the third issue running through the debates: the timing of the law.  

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The basic argument against enacting the bankruptcy law, reiterated at all the sessions, was that the timing was not right. The appropriate conditions did not exist, in part because the responsibilities of a socialist government had not yet been decided. It was further argued that there were many other external factors affecting the operation of enterprises, such as government policies, administrative policies, the cadre system, prices, and the financial system. These issues needed to be resolved before a bankruptcy law was feasible. But the supporters of the law suggested that the concept of bankruptcy was more fundamental to enterprises than was the organizational form of the enterprise. Moreover, the supporters argued that the bankruptcy law would prove to be a catalyst for getting other decisions made especially price reform. However, the opponent’s logic was solid enough to spur a flurry of legislative activity in the summer of 1986 particularly with regard to State Enterprise Law that sought to address the issue of the relationship between workers and the factory. 21

In late October 1986 Peng Zhen, chairman of the NPC-SC, held a seven day intense session to discuss the law. Between the Seventeenth and Eighteenth sessions the leadership came to

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recognize the necessity of the law to promote other reform measures. The State Council even decided to promulgate the law as a provisional measure under its special power if its passage by the NPC was delayed further. The Eighteenth Session of the NPC-SC saw two weeks of intense debate that resulted in a compromise that allowed the committee to vote on the law. The version of the law that was finally passed stipulated that: (a) it would not be implemented for three months (later amended for one year) after the passage and implementation of a state enterprise law; (b) greater consideration would be given to the rights of workers; and (c) the little of the Law would be changed to "Bankruptcy Law Governing Publicly Owned Enterprises," in order to disassociate the state from a possible bankruptcy issue.22

The experiences of Seventeenth Session of the Sixth NPC Standing Committee further suggested that the 'rubber stamp' was endeavoring to become stronger and had undergone its first toughening. It was the first law to break away from the planned economy legislative system. It was again the first law the birth of which was hastened by means of lobbying and which was widely discussed by news media before its promulgation. In the process of the passage of the law various methods and strategies such as

lobbying, debates, non-government studies, television coverage, expert consultation, investigation by legislative bodies, mediation by the Party, appeals by the administrative organs were adopted which were unique in the history of policy making in China. The experiences of Seventeenth Session of the Sixth NPC Standing Committee further suggested that the 'rubber stamp' was endeavoring to become stronger and had undergone its first toughening. It was the first law to break away from the planned economy legislative system. It was again the first law the birth of which was hastened by means of lobbying and which was widely discussed by news media before its promulgation. In the process of the passage of the law various methods and strategies such as lobbying, debates, non-government studies, television coverage, expert consultation, investigation by legislative bodies, mediation by the Party, appeals by the administrative organs were adopted which were unique in the history of policy making in China.

With the rise of the policy legislation activities of the NPC, the role of the People's Congress deputies in the NPC has also undergone tremendous change. In the past, the loyalty most Chinese People's Congress deputies felt toward the State completely overwhelmed their sense of responsibility to their constituents. Deputies in the Maoist era were expected to perform the role of regime agents and thereby to represent the regime to the people.
They had very limited opportunities to define their own role as well as to expand their constituency focus. Serving as regime agents their responsibilities centered on diffusing societal pressure by providing a rationale for policy decisions, reminding citizens of the predominant control function of the Chinese State, and ensuring its domination by diminishing resistance in the name of stability and economic development.23

However, in post-Mao era, rapid social change and institutional reforms have transformed the role of the People’s representatives and have helped the deputies in creating an identity of their own. This has further given a chance to deputies to begin rethinking their old attitudes on what constitutes their true ‘constituency’. Many National and Local People’s Congress deputies are now abandoning there past roles as agents of the regime. They are more comfortable in representing lower level interests and, thereby, casting themselves in the traditional Confucian role of ‘remonstrators’ to the government.24 Under this new role, they are charged with reflecting mass opinion and bringing regional and group demands to the attention of policy-makers. They receive constituent letters, write proposals, attend meetings with local and

national leaders that highlight injustices and mistakes, and convey requests to improve government performance. Deputies who are women, workers, peasants, cadres, intellectuals, soldiers and ethnic minorities are now explicitly concerned with looking after the interests of the group they represent. This has resulted in the emergence of several potential new constituencies of representation such as bureaucratic units, leadership factions, families, fellow workers, local districts, local or sectional party elite and generally the Chinese masses at large. The legislative empowerment of some of these constituencies is a step toward a more open and consultative policy-making system.

With the change in the role, attitude and constituency of the deputies, along with the empowerment of the legislature, deputies have shown greater involvement in the policy legislation process. Instead of supporting anything imposed from the top leadership, they now go into the details of draft proposals and thus show active participation in policy debates. Sometimes, efforts by NPC delegates or leaders to debate a draft proposal simply represents an effort at a public referendum over a controversial policy proposal which otherwise might not get any kind of public hearing. Since the 1980s, the NPC delegates have developed various impressive

legislative skills in forcing open policy debates over certain controversial issues on which the NPC members have some reservations. The various tactics or strategies used by the NPC deputies include delaying tactics, manipulating the process of tabling a draft, manipulating a draft law's place on the NPC agenda, and sometimes media manipulation in order to create an image of widespread support or opposition to the draft proposal.

The NPC deputies in most cases obstruct the passage of a policy by deliberate use of 'legislative perfectionism' as a delaying tactic. They insist on delaying controversial policy proposals by using vague expressions like 'all social conditions are not ripe' or 'the policy draft is not relatively perfect'. A variant of this tactic is to insist that the policy proposal is to be first implemented experimentally in a few areas in order to gain experience before it is implemented nation-wide. By slowing down the passage and implementation of policy measures by such delaying tactics, they defer the battle into the indefinite future in the hope that the political climate may become hostile to those policy measures. In the cyclical politics of China’s reform era, a delay in passage and implementation of a particular policy can often be tantamount to rejection of that policy.

Another strategy, which has been described as legislative hostage taking, was used in 1986-87 to force a reopening of debate
on the State Enterprise Law and the Factory Manager Responsibility System (FMRS). In this strategy prior passage of a particular controversial policy draft has been made essential for the implementation or passage of other crucial policy measures. After a bitter NPC debate in spring 1985, the State Council implemented the controversial FMRS on its own under its temporary legislation authority. But in November 1986, the NPC made the State Council ransom its Bankruptcy Law by making its implementation conditional upon prior NPC approval of the Enterprise Law. The Enterprise Law was thus subjected to NPC debate again four more times over the next sixteen months.26

NPC debates also provide some scope and opportunity for legislative entrepreneurship. Often when a major policy proposal reaches the final stages of NPC debate and its passage appears imminent, a variety of groups and interests try to use it as a vehicle to promote their pet policy proposals regardless of their linkage and relevance to the original proposal. In 1988, when the draft State Owned Enterprise Law had been submitted to the NPC for public discussion many groups including women associations, Tibetans and other ethnic minorities and local officials seized the opportunity

to propose numerous amendments to the law most of which were not even marginally related to its substance.\textsuperscript{27}

Thus, since 1978, NPC delegates and deputies have developed a range of sophisticated and effective legislative influence strategies which stop short of the bolder step of actually voting a law down or direct rejection of policy proposals initiated by the State Council or the Party Center. But over the years the NPC has been able to make significant alterations in various policy contents by means of amendments and revision. It has also voted down major government-sponsored amendments to certain policy measures.\textsuperscript{28} Under the active leadership of the some of Party leaders like Peng Zhen, Wan Li, Qiao Shi who have used the legislative process and the NPC forum as a conduit for power in their search for a role in the Chinese decision-making establishment, the NPC has started to play a more decisive role in approving policy measures. This increased NPC activism, on the other hand, has provoked an advance reaction by the State Council and its ministries. The NPC debates sometime have a strong feedback effect on the previous stage of inter-agency review by revitalizing and stiffening the resistance of some groups to the inter-ministerial negotiations. This


\textsuperscript{28} "The light boat has swiftly passed through the Mountains – Looking Back at the Seventh National People's Congress", \textit{FBIS-CHINA}, 9 March 1993, pp. 14-17, from \textit{Beijing Xinhua Domestic Service}, 8 March 1993.
has resulted in a counter-attack from the State Council by taking the issue out of the Legislative System. Under Hu Yaobang, Zhao Ziyang and Li Peng the State Council has tried to take policy issues out of the purview of the NPC by drafting them as State Council administrative regulations or as CCP policy documents. This reaction to NPC activism highlights both the NPC's increased potential for influencing policy-making processes and the political obstacles involved in trying to establish a stronger role for it. As a policy-making organ the NPC not only provides a forum for intermingling of societal interests with the priorities of government, but also coordinates the policy-making process amongst various individuals and groups scattered across Chinese society. Thus, the NPC has expanded the bounds of the policy-making process by including new groups and by representing new constituencies in the post-Mao era.

**ROLE OF THE PARTY LEADERSHIP**

The politics and processes of policy approval in contemporary China are not confined only to the processes of the NPC review and passage. The Chinese Communist Party and particularly its central decision-making body, (the politburo) do play a significant role in this complex process of policy approval. Being the vanguard of the Chinese masses the Chinese Communist Party was the prime architect of all the major policy decisions taken during the Maoist
regime. In Mao's China, the Party had used the formal organs of
government (the NPC, the State Council and even People's Courts)
as mere rubber stamps for imposing its own policy decisions on
Chinese society. The Party even bypassed these formal bodies in
taking policy decisions. In the post-Mao era the authority of the
Party in decision-making has been somewhat eroded with the
empowerment and rationalization of governmental organs of power.
But the Party having entrusted to itself the task of leading the
Chinese people in their efforts to build socialism with Chinese
characteristics still influences the policy formulation process.

In the post-Mao era the direct involvement of the Party,
usually through its Political Legal Committee, occurs primarily in
the earliest stages of policy initiation and near the end—that is,
during the policy approval stage. Party leaders, through their
speeches and published editorials initiate the process of agenda
setting and thereby determine what issue is ripe for legislation.
During the policy approval stage Party leaders use their personal
clout, charisma, and connection to influence the NPC and its
committees for a favorable approval of the policy in question. Apart
from these, there are various organizational mechanisms and
conventional practices through which the Party leadership has
dominated the law-making as well as policy-making arena. But
since 1978, these mechanisms of the Party leadership's dominance
have been eroded considerably with the changing organizational structures as well as their functions.

The Politburo of the CCP, its Standing Committee, and the various 'leading groups' directly under it are the most crucial CCP organs involved in the processes of making policy-decisions. These 'leading groups' divided up by issue area, are usually headed by the Politburo member holding the appropriate policy portfolio and bring together leading policy specialists in that arena. These 'leading groups' serve as a link between the top leaders of the Party and its wide stretched bureaucratic network. These 'leading groups' prepare materials for the consideration of top leaders, initiate policy researches and coordinate activities among the various bureaucracies in each bureaucratic cluster. The decisions of top leaders in the Politburo are usually heavily influenced by information and recommendations provided by these leading groups.29 The Party’s Central Secretariat and the various departments under it such as the Organization, Propaganda and United Front Work Departments are also responsible for policy planning work. But it is the Central Political Legal leading group (CPLG) of the CCP, which traditionally performs the task of organizational oversight of legal drafting, that has been attributed a

unified leading role in law making. The organizational connection between the NPC and the Political-Legal leading group of the Party makes it a chief source of legislative proposals in the system and further ensures a top-down image of policy-making in China.30

The CPLG of the CCP has long been led by the CCP's top ranking leaders such as Peng Zhen, Chen Pexian, Qiao Shi who also have considerable influence over the working of the NPC and its Standing Committee. However, the expanding role of the NPC Standing Committee and the State Council Legislation Bureau has diminished the utility for direct CPLG involvement in policy-making. By the late 1980s, the CPLG was primarily concerned with resolving bureaucratic and personnel disputes between the major ministries and committee within its purview. Former premier Zhao Ziyang, in order to weaken the influence of political conservatives on policy-making, further diminished the role of the CPLG by establishing a Legislative Coordinating Group with the task of developing long-term legislative plans and resolving major bureaucratic disagreement. During the thirteenth Party Congress in October 1987 Zhao tried to abolish the CPLG altogether. But Zhao's effort failed in the face of resistance from several Party elders and in the end the CPLG was merely downgraded to a leading group with

diminished staff and responsibilities. At present, individual laws are reported to the leading groups or commissions charged with overseeing the appropriate issue-area. The CPLG apparently plays no role as a central reviewer of policy legislation, except legislation narrowly related to criminal law and social control.

The organizational penetration of the NPC leadership and control over key NPC appointments through the NPC Party Group System and the Party's nomenklatura system is another traditional mechanism of Party control over law-making. The Party center's nomenclature list for NPC appointments includes all members of the NPC Standing Committee Party Group, all 156 NPC Standing Committee members as well as all leaders of the special committees under the Standing Committee. The CCP politburo must pre-approve the final list of all candidates for the Standing Committee. Central Party Control over the NPC Standing Committee is the bedrock for preventing legislators from questioning the Party directives.

However, in times of rapid political change or crisis this nomenklatura system is not a foolproof way of preventing potential political opponents from entering the Standing Committee. Again,

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the system certainly cannot prevent delegates from becoming radicalized after they have been elected to the Standing Committee. Even in non-crisis situations, Party approval of Standing Committee members by no means guarantees that legislators hold uniform opinions on substantive policy issue or that they will always comply with Party directives. Control via the nomenklatura system was further watered down in 1980 when the delegate selection norms favoured the selection of delegates representing a broad spectrum of bureaucratic, geographical, social and factional interests. Certain constituencies and mass organizations such as women, national minorities, trade unions, industrial and commercial interests, each ministry of the State Council, every provincial level unit – are guaranteed at least one member on the Standing Committee. They find even more institutionalized representation in the eight special committees of the NPC where the current norm is to choose at least one committee member from nearly every State Council ministry and mass organization which regularly deals with that policy issue-area.33

The NPC Party Group System is the principal reporting channel connecting the NPC leadership to the Party Center. Whenever laws and motions under consideration by the NPC

Standing Committee require Party approval, the NPC committee chairmen’s Group reports them through the Standing Committee Party Group to the Party secretariat. Although in theory these Party Groups are supposed to centralize the Party’s organizational leadership within the NPC, in reality, they have compounded organizational overlap within the legislative bureaucracy. During the constitution of the seventh NPC in April 1988 the new NPC leadership centralized and streamlined the Party Group structure and strengthened the control of NPC leadership over it.

In addition to their organizational mechanisms there are certain practices through which the Party leadership tries to maintain their sway over the working procedures of the NPC and its Standing Committees. The CCP leadership convenes meetings of CCP-member NPC delegates before each annual plenary session, and apparently before some Standing Committee sessions. Since 1983, a full Central Committee Plenum, which approves the NPC agenda and personnel arrangements, has preceded the first session of a new NPC. At these meetings, the senior Party leaders discuss the forthcoming session’s agenda, conveying the Party Center’s suggestions as well as expectations for the session. Sometimes the Party leadership suggests about how open the debate should be, how much press coverage is planned and so on. In March 1989, Zhao Zhiyang indicated to the NPC Party member group that the
Party Centre wanted the second session of the seventh NPC to adopt a more restrained tone than the wide-open 1988 first session.\textsuperscript{34} Jiang Zemin also made similar pleas for unity and respect for Party leadership before the 1990 and 1993 NPC meeting.\textsuperscript{35}

However, since the mid-1980s with the dramatic erosion of party discipline among the legislators and substantial lowering of the penalties for disobeying Party directives, the number of ‘no’ votes and abstentions have been rising constantly. The willingness of delegates to oppose a law reached unprecedented heights in 1990 when the NPC Standing Committee actually voted down a Party sponsored draft amendment to the law on Organizing Village Committee.\textsuperscript{36} The NPC has never actually voted down any bill approved by the party Center yet. Instead, it has developed a practice of withholding a bill from a vote if there is a strong opposition to it by the delegates and then negotiating revisions with the principal drafting agency.\textsuperscript{37} However, all these norms are still evolving away from tight Party control and the willingness of Party

\textsuperscript{34} "Speak no evil, the Party puts a lid on criticism", \textit{The Far Eastern Economic Review}, 30 March 1989, p. 11.
\textsuperscript{36} Looking Back on the Seventh National People’s Congress”, \textit{FBIS-China}, 9 March 1993, pp. 11-17 from \textit{Beijing Xinhua Domestic Service}, 8 March 1993.
member NPC delegates to obey suggestion from the Party Center has declined greatly since 1979.

In the actual process of drafting and passage of a policy proposal the most important method of maintaining the domination of the Party leadership is the power of veto. All draft laws to be passed by the NPC or its Standing Committee have to receive prior approval 'in principle' by the Party Center. In practice, this usually means that the policy draft has to be approved by the Politburo, the Central Secretariat and other relevant senior Party leaders. Until 1991, there were no documented procedures for this review and such Party approval of policy proposals tended not to be very detailed and was only confined to examining the law's guiding principles, justification and basic content. Senior Party leaders tend to concern themselves only with whether or not the draft proposals basic thrust fits in with the general direction of current Party policy.\(^{38}\)

However, the top leadership in practice often abdicates much of its power to influence the content of policy legislation by allowing the NPC to delay or amend significantly a policy draft after it has been approved 'in principle' by the Party Center. Sometime the Party leadership fails to signal any clear and unified preference

\(^{38}\) Tanner, "Erosion of Communist Party Control Over Law-making in China, p. 396.
concerning the content or passage of a draft policy proposal, because of its inability to achieve a consensus about the issue within the Politburo due to splits and factional struggle among the top leaders. In certain cases, the leadership simply lacks the expertise to understand the true meaning of the draft legislation they are considering. Since late 1980s, there has been a dramatic change in the norms concerning the degree of insistence and level of detail the Party Center exercised in reviewing draft legislation. At present, leadership suggestions to the NPC have often been much less specific or insistent than in the past. Recent studies reveal that the current level of involvement of most of the Party’s Central leaders in the policy-formulation process is heavily staff-assisted and general in nature.39

All the evidence suggests that since 1979, there has been constant erosion as well as decentralization of Party control over law making as well as the policy-making process. The institutionalization of decentralized Party control over policy-making reached a milestone in early 1991 with the promulgation of a major Party document entitled “Several Opinions of the Central Committee on Strengthening Leadership over Law-making Work”. In this

document the Party for the first time attempted to define in writing
the respective law making roles of China's three major national-level
law making organizations: the Party Center, the National People's
Congress and the State Council. The document delimits the powers
of the Party's law making authority by prescribing a relatively non-
interventionist set of procedures for Central Party review of law
making. It also grants the NPC leadership greater operational
autonomy over law making than it has ever enjoyed before.40

Contrary to its title, the preamble and key operative
provisions of the document clearly indicate that Party leadership
over the NPC procedures henceforth be rather general and not
involve micro-management. According to the Document, Party
leadership over law making should generally be limited to
leadership over the political line, direction and policies", and may
include "reviewing and confirming" NPC-drafted legislative plans.
The preamble of the document enumerates five basic dimension of
the Party's leadership over law-making work. All these five
dimensions describe a picture of Party leadership, which is less
interventionist with a willingness to support NPC's efforts to
exercise its powers.41

40 "Several Opinions of the Central Committee on Strengthening Leadership
over Law-making Work”. CCP Central Committee Document Number 8. 1991,
also see Tanner, “Erosion of Communist Party Control over Law making in
China”, pp. 397-400.
41 Ibid.
The document explicitly grants unprecedented autonomy to the NPC to carry out organization, drafting and review of all other laws without prior approval of the Party Center except for constitutional revisions, political laws and important economic and administrative laws. Again as for those few laws which requires the prior approval of the Party Center, if the Party Center has already expressed clear views or regulations about them, then these also need not be reported to it again. The Party Center's (the Politburo) review of the referred draft laws is to be conducted at a general level without micro-management and with a very little review of individual legal clauses. The formal procedures of Party Center review have also been prescribed. The document commits the Party Center to "support and guarantee" the power of legislative organs to carry out legislative plans and not to usurp their authorities. It further grants the discretion to the NPC Standing Committee, not the Party Center, to decide whether or not to ask the Party Center to discuss or resolve other policy questions, which affect law making.42

Reaction to the contents of the document has been quite favorable, particularly from the advocates of a stronger legislature. But these written regulations do not indicate fully the extent of change that has occurred in the realm of the Party's control over

42 Ibid.
policy-making. The gap between real policy-making and the one ordained by the document may be considerable. The continuance of the Party’s Core Group System in the People’s Congresses, the dependence of the People’s Congress on the Party’s organization department for obtaining background information about nominees for government positions, organizational and personnel inter-linkages between the Party and the People’s Congress, and the mass base of the Party representing all the sections of Chinese society are still potential instruments for maintaining party control over policy legislation.

Fifty years after the birth of the People’s Republic of China, its constitution continues to legitimize a monist political system formally recognizing the hegemony of the CCP. Moreover the Party continues to repress all attempts to organize challenges to its authority. The organization of the Party’s bureaucratic network through which the Party influence the functioning of the various state organs has also remained fundamentally unchanged for more than fifty years. First, the system that centralizes power in the politburo and in provincial Party secretaries and their committees continues unchanged. Secondly, the central committee and local provincial committees continue to set up general offices and organization, propaganda and united front work departments. The function of the departments has also remained remarkable
constant, although the scope of their authority has varied with periodic decentralization and re-centralization. Even the structure of provincial Party committees still resembles committees set up in the mid-1950s. Although the state has been through many rounds of streamlining from 1952 to 1996, the impact on the character of the Party institutions has been relatively modest.\(^{43}\) Since 1949, the CCP has maintained itself in power through its control over leadership selection in all crucial decision-making forums, including the military. The fundamental principle of personnel administration laid down in the 1920s, "the Party manages cadre", has continued to guide organization work since 1949. The 1990 Central Committee nomenklatura lists reveal that the Party continues to rule through its control of leadership selection not only of government agencies but of the legislature, the judiciary, the military, strategic economic enterprises, the media and the mass organizations such as the All-China Federation of Trade Unions.\(^{44}\) Similarly, its control of the People's Liberation Army is exercised through institutions and forums such as Party Committees in the PLA, the General Political Department, the discipline inspection

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system and the Central Military Commission headed by Party Secretary-General Jiang Zemin.\textsuperscript{45}

In February 1996, the 15th Central Committee Plenum of the CCP adopted a report on government leadership and institutional restructuring for examination at the first session of the 9\textsuperscript{th} NPC. The Plenum also adopted a list of candidates for various positions in Government and other high power consultative bodies. It further emphasized strengthening the role of Party leadership over legislation in order to promote the management of the country in accordance with law.\textsuperscript{46} The dependency of the NPC on the Party was further evident in the removal of Qiao Shi as NPC chairman in the wake of disagreement with Jiang Zemin over the issue of Party Leadership in law making and law enforcement.\textsuperscript{47}

However, the Party’s method of rule has changed since the 1950s. No longer able to rely on the charisma of Mao and ideological campaigns as both of which severely discredited during the Cultural Revolution, the current leadership has relied on a mixture of remunerative and coercive incentives on the one hand, and patriotism on the other. More rational bureaucratic rule has


\textsuperscript{46} \textit{Beijing Review}, vol. 41, No. 11, March 16-22, 1998, p.5.

\textsuperscript{47} "15\textsuperscript{th} CCP National Congress Losed, Qiao Shi is Out," \textit{China News Digest},19 September, 1997.
replaced ideological campaigns. The extent and level of the Party’s control over policy formulation have been decentralized considerably as compared to the Maoist regime. This development has helped in making the way for a transition to more open and consultative policy formulation process and their more rational policy solutions for the societal problems. The absence of consensus or widespread agreement among the top Party leaders both on the key problems in Chinese society and on the basic policy solutions to these problems, and most importantly, the absence of a clearly acknowledged Party leader who can bring about a consensus among the various factions of the Party during the post-Deng era, further contribute towards the declining role of the Party and its leaders in the policy-making process.