

The Logical Relation of the Concept of Party Rules in Use

Zhao Rongwen^{1*}

¹*School of Information Engineering, Party School of Beijing Municipal Committee, Beijing, 100144, China*

**Corresponding author. Email: 984447177@qq.com*

ABSTRACT

After the fourth plenary session of the 18th CPC central committee incorporated the system of inner-party regulations into the system of socialist rule of law with Chinese characteristics, the rationality of the concept of "inner-party regulations" has aroused a new round of discussion. Academic circles still hold different opinions on the concept of party regulations. The article will be summarize from the definition, the use of concept and the extension of concept. Systematic analysis of the concept of internal legislation and give Suggestions.

Keywords: *Intra-party Legal Concept, Logical Relationship, Meaning*

1. INTRODUCTION

Since the fourth plenary session of the party's 18 clear the party laws and regulations system into the system of socialist rule of law with Chinese characteristics, to 《*opinion*》 issued in June 2017, clear according to the standard, specification of subject, standardize supervision phase as a whole the coordination principle, perfect the '1 + 4' as the basic framework of the inner-party laws and regulations system, academic circles about the laws and regulations system, the laws and regulations within the party system has the basic basis. Tong said that from the level of effectiveness and the subject of enactment, the inner-Party regulations system includes the central party regulations, ministerial regulations and local regulations. However, there are still some differences in the concept extension of inner-party legal system. In a narrow sense, inner-Party regulations refer only to the seven categories of Party constitution, guidelines, regulations, rules, regulations, methods and detailed rules specified in the Regulations on The Enactment of Inner-Party Regulations of the People's Republic of China. In a broad sense, normative documents such as resolutions, decisions, opinions and notices will also be included.

Concept is a necessary and indispensable tool to solve the problem of inner-party laws and regulations. Without a specific and strict definition, it is impossible to think clearly and rationally about inner-Party laws and regulations. Nor can we change our thoughts on party laws and regulations from ideas into words; They can't communicate these thoughts to others in an understandable way.

At present, the definition of inner-Party laws and regulations in academic circles is basically reflected in three ways of thinking:

First, specification description in the strict sense. Regulations of the Communist Party of China hereinafter referred to as "regulations of the Communist Party of China"

refers to the general term for the inner-Party rules and regulations formulated by the CPC Central Committee, the CPC Central Commission for Discipline Inspection, all central departments and party committees of provinces, autonomous regions and municipalities directly under the Central Government that regulate the work, activities and conduct of Party organizations and party members. [1] According to Cao, "The formulation of inner-party laws and regulations is well founded. It not only originates from the basic principles of Marxism, but also conforms to the CPC's feeling that it not only has the basic characteristics of the law, but also meets the semantic requirements." Wang Junhua, one of the scholars who questioned the term "inner-party regulations", said, "Since the term 'inner-party regulations' cannot accurately distinguish the party's rules and regulations from the state's laws and regulations, it is suggested to replace the term 'party discipline' with the term 'inner-Party regulations'." [2] For the "party regulations" definition of the approval and doubt, Pan Zelin put forward their own views. In his opinion, "The laws of the party and the laws of the state have not only something in common, but also different connotations and characteristics. What they have in common is that they both emphasize the role of the system, and emphasize the realization of the goals and concepts of institutional management, institutional power management and institutional human management." [3]

Second, focus on the origin and form of the definition. As Han Qiang put it, "Party regulations are a system composed of the Party constitution, guidelines, regulations, rules, regulations, methods and detailed rules. Among them, the Party Constitution is the most fundamental inner-Party regulations and the basis for formulating other inner-Party regulations." [4]

Third, focus on functional description. As Shi Xinzhou put it, "The rules and regulations of the CPC refer to all kinds of rules and regulations within the Party that regulate the work of party organizations, activities and behaviors of party members." [5]

2. LOGICAL RELATIONSHIP

In terms of etymology, academic circles generally think that the inner-party laws and regulations can be used as a formal concept reason mainly has the following three aspects: one is the marxist classical writers had a similar idea, Engels, Lenin and deng xiaoping are used such as the party's rules, and regulations, such as word, use "series" to call the some legal documents of the party is a feature of marxism and traditional. The second is the establishment of the leaders of the Communist Party. The concept of "inner-party laws and regulations" was first put forward by Comrade MAO Zedong. Successive party leaders followed suit. Official Party documents have used the concept since the 1970s. Up to now, this concept has been generated, developed and evolved for decades. Third, the party's literature has been used many times.

Scholars who are in favor of using the term inner-Party laws and regulations think that the formulation of inner-Party laws and regulations is scientific and grounded.

Jiang Mingan (2012) pointed out that the recognition of "inner-Party laws and regulations" surnamed "law" is to regulate the behavior and activities of Party organizations at all levels according to law, so as to avoid the phenomenon that "the Party is the law and the law is the Party". Secondly, the admission of "inner-party laws and regulations" is based on the premise that "inner-Party laws and regulations" are lower in legal rank than the constitution and laws. Nor will it lead the Party to be above the constitution and the law. [6] Wang zhenmin stressed that the term "inner-party laws and regulations" has been used for a long time, and there is no need to stir up the public to change a new name. In addition to many references in the Party constitution to inner-Party laws and regulations, the earliest one to be found is MAO Zedong. In the socialist construction period, on the basis of comprehensively summarizing the experience and lessons of party building, the party puts forward the thought of systematic inner-party legal construction in view of the need of strengthening its own construction after taking power. Since the 16th National Congress of the CPC, the CPC has adhered to scientific, democratic and law-based governance, improved intraparty laws and regulations, and institutionalized and standardized Party activities and intraparty political life., comrade hu jintao explicitly proposed "to adapt to the requirements of the new task of the new situation, to strengthen the party constitution as the core of the inner-party laws and regulations system construction, improve the level of the quality of the system construction and do right of tube charge with the system with the system, using system pipe, institutionalization and standardization" to promote the party's construction and the party life, order, and ask the comrades offenders will investigate, really makes the inner-party laws and regulations for the whole party to comply with the code of conduct, for the first time he also puts forward the concept of "the inner-party laws and regulations system". Since the 19th CPC National Congress, the CPC Central Committee with Comrade Xi Jinping at its core has emphasized the building of inner-Party laws and regulations. It is true that the regulations on self-management and self-restraint

formulated by the CPC are collectively referred to as "intra-party regulations".[7]

Cao Shenbin analyzed the justification of the term of inner-Party regulations in detail from the point of etymology. First, from the long history of the international Communist movement, marxist classical writers had a similar formulation. Among the classic Marxist writers, Engels was the first to apply the concept of "law" to the life of the Party, believing that the first international common statute and regulations were the most effective laws within the party. Marx agreed with Engels and used the word "supreme judgment". In his practice of leading the construction of the Russian Social Democratic Labor Party, Lenin not only followed Marx and Engels' Suggestions on the party's "laws" and "regulations", but also further enriched these ideas. The thought of marxist classical writers on the party's "laws" and "regulations" provides an important theoretical basis for Chinese Communists to explore this subject. [8]

Second, in the course of the construction of the Communist Party of China, "inner-party laws and regulations" is a conventional concept frequently used by party leaders. In the history of the Communist Party of China (CPC), MAO Zedong was the first to use the concept of "intra-party regulations". In his political report delivered at the sixth Plenary Session of the Sixth CPC Central Committee in October 1938, he proposed that "a more detailed intra-Party regulations should be formulated to unify the actions of leading organs at all levels". In May 1945, Liu Shaoqi used the term "Party regulations" again in his report on the amendment of the Party Constitution made at the Seventh National Congress of the Communist Party of China. After the founding of the People's Republic of China, Deng Xiaoping, according to the objective needs of strengthening his own construction after the party came into power, especially under the conditions of reform and opening up, made a profound summary of the experience and lessons of party building, and formed rich thoughts on the construction of inner-party laws and regulations. In his important speech "Emancipate the Mind, Seek truth from facts, Unite as one and Look forward" in December 1978, Deng Xiaoping clearly pointed out that "The country should have its laws and the Party should have its rules and regulations. The Party Constitution is the most fundamental party rule and law. Without party rules and party laws, it is difficult to guarantee the laws of the country. "In July 2001, in his speech celebrating the 80th anniversary of the founding of the Communist Party of China, Comrade Jiang Zemin once again pointed out that "Party organizations at all levels and every party member must act in strict accordance with the Party's constitution and party regulations and strictly observe Party discipline. "In January 2006, At the sixth plenary session of the CPC Central Commission for Discipline Inspection (CCDI), Hu Jintao stated for the first time the important task of strengthening the construction of inner-party regulations and systems with the Party Constitution at the core.

Third, from the text form, "inner-party regulations" is a concept with the "legal basis" within the party, has been used many times by the Party documents. In February 1980, the Fifth Plenary Session of the eleventh Central Committee

of the Communist Party of China adopted the Guidelines for Intraparty Political Life, which explicitly required all Party members to boost the revolutionary spirit and "do a good job in safeguarding party rules and laws and earnestly improving party conduct, which bears on the success or failure of the four modernizations and on the future and destiny of the Party and the country". On July 31, 1990, the CPC Central Committee issued the Interim Regulations on Procedures for The Formulation of Inner-Party Regulations (hereinafter referred to as the Interim Regulations), which made clear provisions on the name, scope of application, levels and principles of inner-Party regulations, as well as the subject and specific procedures for formulation and revision. Party 14 big change in 1992 by the communist party of China "in the regulation of the main task of the party's commission for discipline inspection at all levels, for the first time by using the concept of the" party regulations", namely "the maintenance of the party constitution and other laws and regulations, party to assist the committee to strengthen the party's style construction of the party and examine the party's line, principles, policies and resolutions of the implementation of". Since then, the 17th Party Congress, 18th Party Congress and 19th Party Congress have all followed the formulation of inner-Party laws and regulations.

Wu Xiaochuan summarized the different opinions on the use of the concept from the perspective of historical development in three periods, namely, he believed that the debate on the concept of "inner-Party laws and regulations" could be analyzed from the three stages of the late 1959's, the late 1980's and the early 21st century: [9]

The end of the 1959's: Debate on the effectiveness of "Party policy". In the early days of the Founding of the Party, the party leaders recognized the disadvantages of party and government indiscriminating and replacing the government with the Party, and emphasized the differences between the party's policies and state laws. However, in the actual legislation, "due to the special status of the Party, the legislature is inconvenient to put forward opinions on the draft laws proposed by the Party, and generally passes them." By the late 1950s, the relationship between the Party's policies and the state laws began to change, and the academic circle paid more attention to the consistency between policies and laws, while ignoring their differences. The preference for policy over law did not change until after the third Plenary Session of the eleventh Central Committee of the Communist Party. The debate at this stage is not about the rationality of the concept of "inner-party regulations", but about whether the party's policies (including inner-party regulations) have the legal effect or even have the effect beyond the law.

Late 1980s: Debate over the concept of "party law". Zhu Qigao[10] demonstrated the rationality of the concept of "Party law". First, Engels, Lenin, Deng Xiaoping and others all used the party's laws and regulations, and it is a feature and tradition of Marxism to use "party laws" to refer to some of the Party's legal documents. Second, the Party's laws and regulations also include the rights of party members and other contents, so it is much more rigorous to refer to the party's legal documents in terms of party laws than in terms

of Party discipline. Third, the word "law" in "Party law" is a borrowing of the word, emphasizing the mandatory, normative and predictable nature of intra-Party legal documents rather than the original meaning of the word "law". It is unreasonable to explain the concept of "Party law" regardless of the original meaning of the word. Fourth, the "Party Law" and foreign "political Party law" is indeed easy to be confused, but China has not enacted the "Political Party Law", so this worry is unnecessary. Aime's five questions: First, law is a normative document formulated and promulgated by state organs with legislative authority according to law. Although the Communist Party of China is the ruling party, it does not have legislative authority, so it cannot make laws directly. Second, law is enforced by the state's coercive force, which is mandatory. The realization of party discipline emphasizes the consciousness of party members. Third, the most serious punishment against Party discipline is expulsion from the Party, which will not affect the personal and property rights enjoyed by party members. The sanctions for violation of the law include the restriction or deprivation of property rights and personal rights up to the deprivation of life. Fourth, party discipline, known as the Party law, is easily confused with the Political Party Law enacted by the state. Fifth, it is often associated with dictatorship. Calling Party discipline "party law" makes it easy for people to associate Party leadership with the dictatorship of the proletariat. It makes people think that the Party is using violence to rule the country and affects the party-masses and party-government relations.

Zhu Qigao[11] responded to aimei's five points one by one and proved the rationality of the concept of "Party law". First, Gus, Lenin, Deng Xiaoping and others all used the terms party laws and regulations. It is a feature and tradition of Marxism to use "Party laws" to refer to some of the Party's legal documents. Second, the party's laws and regulations also include party members' rights and other contents, so it is much more rigorous to use the Party law to refer to the party's legal documents than the Party discipline. Third, the word "law" in "Party law" is borrowed, emphasizing the mandatory, normative and predictable nature of the party's legal documents rather than the original meaning of the word "law". It is unreasonable to explain the concept of "Party law" regardless of the original meaning of the word. Fourth, the "Party Law" and foreign "political Party law" is indeed easy to confuse, but China has not enacted the "Political Party Law", so this worry is unnecessary. In addition, political parties in the Soviet Union, Hungary and other countries also used the term "party law", which was not stopped because of its ambiguity. Fifth, the law is not only mandatory, the realization of party discipline is not dependent on consciousness. "Iron discipline" shows that the main characteristic of party discipline is coerciveness rather than conscientiousness. Sixth, the degree of legal sanctions and party discipline sanctions can not be used as a reason. The law itself has different levels, and the scope and form of civil and criminal liability are different. Criminal law cannot be regarded as law, while other laws are not. Seventh, it is wrong to associate law with violence and dictatorship. The rule of law, the rule of law, does not conjure up images of violent

governance. Compared with the debate on the effectiveness of the party's policy in the first stage, the debate on the concept of "Party law" in this stage has got rid of the constraint of ideology and is more academic, which reflects the progress of China's legal system construction.

The early 21st century: Debate on the concept of "Inner-Party laws and regulations". The promulgation of the provisional Regulations in 1990 did not immediately arouse the discussion on the concept of "inner-Party regulations". It was more than a decade before the validity of the concept of "inner-party laws and regulations" was questioned again. Ceng Shi-nan wrote that the term "inner-Party regulations" was inappropriate. First, political parties do not have legislative powers. It is contrary to the Legislation Law to refer to the CPC Inner-Party Supervision Regulation for Trial Implementation and THE CPC Discipline Punishment Regulation as inner-Party regulations. Second, the inner-Party regulations do not have the characteristics of regulations. Third, the term "inner-party laws and regulations" cannot accurately reflect the relationship between the Party and the law.

3. MEANING AND SUGGESTION

There are three different understandings of concept extension in narrow sense, broad sense and the broadest sense.

In a narrow sense, inner-Party rules and regulations are formulated by organizations with a certain level within the Party, and are written inner-Party rules and regulations to regulate the work, activities and behaviors of party organizations and party members. Regulations formulated in accordance with inner-Party rules and regulations are formulated by the Party's central Organization, the CPC Central Commission for Discipline Inspection, the departments of the CPC Central Committee, the CPC Central Military Commission, and the Party committees of provinces, autonomous regions, and municipalities directly under the Central Government.

In a broad sense, inner-Party regulations are the general term for all kinds of inner-Party rules and regulations that regulate the work, activities and conduct of Party organizations and members, and are an important part of Party building. Jiang Mingan [12] believed that the CPC's inner-party laws and regulations are not those of general political parties. Compared with those of other general political parties, they have similarities but also have particularity or more particularity. The particularity of laws and regulations within the CPC is determined by the particularity of the CPC itself. However, due to the special status of CPC in China, the adjustment of inner-Party laws and regulations on party affairs will inevitably affect and involve the state. Therefore, inner-Party regulations refer to all the regulations and normative documents used by the Party organizations with the power to make inner-Party regulations to regulate the behaviors of the Party organizations and party members.

In the broadest sense, inner-Party regulations are the general name of all kinds of inner-Party rules and regulations. That

include the scope of the rules as the version rules and rules method of rules (rule of the party constitution, etc), normative documents (organization of the party's central committee and the central commission for discipline inspection of the central departments and provinces autonomous region, municipality directly under the central party committee make a decision on the resolution of opinion notice, etc.), unwritten rules (including the unwritten discipline) three categories.

To the above debate, Liu Changqiu[13] concluded that inner-party laws and regulations, in China, specifically refer to the inner-Party laws and regulations of the Communist Party of China, have narrow and broad meanings. In a narrow sense of the inner-party laws and regulations in the relevant party regulations have been made clear definition, namely, on the basis of the communist party of China party rules regulations in article 2, party rules and regulations is the party's central committee and the central commission for discipline inspection, the central departments and the governments of provinces, autonomous regions, and municipalities directly under the central party committee make the specification of the party organization work, activities, and the party member the floorboard of the behavior of party rules. The inner-Party laws and regulations in the broad sense refer to all the laws or normative documents within the Party used to regulate and guarantee the conduct of the Party. Obviously, the party in the broadest sense of the laws and regulations in addition to the inner-party laws and regulations in a narrow sense, includes party normative documents, namely the central commission for discipline inspection, the central departments and the governments of provinces, autonomous regions, and municipalities directly under the central party committee in the form with a general binding force in the process of their duties and may apply repeatedly resolutions, decisions and opinions, notification and other documents, including carrying out the central policy decisions, guiding to promote economic and social development, related to people's immediate interests, to strengthen and improve the party's construction of important documents. From the current situation of the party's use of inner-party laws and regulations, the Party actually USES inner-party laws and regulations in a broad sense, that is, the understanding and application of inner-Party laws and regulations is not limited to the provisions of Article 2 of the Regulations on The Formulation of Inner-Party Laws and Regulations of the CPC. For this purpose, the article, we adopted the inner-party laws and regulations in the broadest sense of the concept, the central commission for discipline inspection, the central departments and the governments of provinces, autonomous regions, and municipalities directly under the central party committee in the form with a general binding force in the process of their duties and may apply repeatedly resolutions, decisions and opinions, notification and other documents are also included in the scope of the inner-party laws and regulations.

4. CONCLUSIONS

To sum up, we should pay special attention to the construction of local inner-party laws and regulations to accelerate the construction of inner-party laws and regulations system. First of all, the effectiveness of the Party Constitution and the Party's basic laws and regulations depends mainly on the completeness and operability of the specific laws and regulations formulated by local Party committees. The more detailed, complete and operational the specific regulations and regulations are, the stronger their operability will be, and the more guaranteed their implementation will be. Secondly, we should adhere to the principle of governing the country by law and governing the Party by rules to promote the construction of inner-party laws and regulations, and the role of local governments should not be ignored. In China, the status and degree of intra-party rule of law directly determine the status and process of the rule of law in a country, and the construction of the rule of law in a modern country is, in a sense, the product of the combination of the general and macroscopic state rule of law and the specific and micro-subjective local rule of law. Although the construction of local inner-party laws and regulations is different from local legislation, its practical significance and theoretical value are consistent with local rule of law. The construction of inner-party laws and regulations has a short history, academic research is not in-depth, and practical exploration is also under way. Especially for the construction of inner-Party laws and regulations in local areas, academic circles pay limited attention and research. To speed up the construction of local Party building laws and regulations in the new era, it is to implement the eighteenth big since the party central committee about the new requirements for the new spirit of local party committees work, highlight the problem of local party committees guidance and the reform spirit, to give full play to the comprehensive governing party political responsibility and leadership role as the core, to further strengthen and improve the local party committee, the important measures to enhance the level of competence and leadership, is the important content of socialist rule of law with Chinese characteristics, and implement the central party rules work the second five-year plan (2018-2022) "(hereinafter referred to as the " program ").

REFERENCES

- [1]National School of Administration, political Department,(2016) Important laws and regulations of the CPC. People's Publishing House,Beijing:361.
- [2]HanQiang,(2016) Some basic questions about the party's laws and regulations, Journal of Hangzhou Municipal Party School,2.
- [3]ShiXingzhou,(2015) An Analysis on the connotation, Characteristics and Functions of the Inner-Party legal system of the Communist Party of China, Journal of party School of the CPC Central Committee,3.
- [4]CaoShenbin, (2008)The proof and Analysis of the concept of "Inner-Party regulations", Contemporary World and Socialism,3.
- [5]ZengShinan, (2004)The term "inner-Party laws and regulations" is not appropriate, China Youth Daily,1.
- [6]WuXiaochuan,(2016) The Power Restriction Theory of "Inner-Party Regulations" -- Also on the application limitation of "Inner-Party Regulations" soft law theory, Journal of the Party School of the CPC Central Committee,6.
- [7]FuZitang,(2015) An Analysis of inner-Party laws and regulations within the rule of law system, Journal of the Party School of the CPC Central Committee,5.
- [8]JiangMingan,(2012) On the nature and function of the Laws and regulations of the Communist Party of China, Journal of Peking University,3.
- [9]PanZelin,(2007) Research on the Inner-Party Regulations and System Construction of the CPC, Journal of Nanchang University,1 .
- [10]WeiZhixun,(2018) On the conceptual scope and effectiveness level of Party rules, Legal science,2.
- [11]LiuChangqiu,(2016) Several important theoretical issues concerning the inner-Party laws and regulations, The theory of journal,5.
- [12]ZhuQigao,(1989) How to understand the concept of "Party law" -- Discuss with Comrade Aimei, Theoretical Learning Monthly,2.
- [13]WuXiaochuan,(2016) The Power Restriction Theory of "Inner-Party Regulations" -- Also on the application limitation of "Inner-Party Regulations" soft law theory, Journal of the Party School of the CPC Central Committee,6.