

The theory and practice of Peng Zhen's democratic legislation thought

Chenhao Zhao

School of law, Shanxi University of Finance and Economics, Taiyuan 030000, China

707955383@qq.com

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Abstract: Based on the outstanding contribution of Peng Zhen's thought of socialist democracy and rule of law, especially his thought of democratic legislation to the legislative work of our country, this paper analyzes and studies the three dimensions of the formation process of his thought of democratic legislation, the content of his thought of democratic legislation and the application of his thought of democratic legislation in practice. The practice and application of the stability of law in specific legal activities should be fully considered. We should further understand the guiding role of Comrade Peng Zhen's democratic legislative thought in the construction of the socialist legal road with Chinese characteristics and the socialist legal society with Chinese characteristics.

1. Introduction

Comrade Peng Zhen is one of the main founders of China's socialist legal system, a leader of the party and the state who has made outstanding contributions to the construction of socialist democracy and the rule of law, and has achieved the progress of the Sinicization of Marxism in the legal process. Under his leadership, substantive law and procedural law: the 1982 constitution, civil law, criminal law, economic law, marriage law, civil procedure law, criminal procedure law, etc. came out one after another. His thought of democracy and legal system also runs through these basic legal departments. Understanding and studying Peng Zhen's thought of democracy and legal system still plays an important role in guiding the development of socialist democracy and legal system.

2. The forming conditions of Peng Zhen's democratic legislative thought

The formation of Peng Zhen's democratic legislative thought is closely related to his early work experience in the front line. During the Anti Japanese War, Peng Zhen, Nie Rongzhen and other comrades established the Jincha Hebei border area. Closely around the key point of the people, he presided over the formulation of the current administrative program of the northern branch of the Central Committee of the Communist Party of China on the Jincha Hebei border area, which is a vivid manifestation of Marxism in China and the embryonic time of Peng Zhen's democratic legislative thought.

After the founding of the people's Republic of China, Peng Zhen served as the chairman of the Consultative Committee of the people's congresses of all walks of life in Beijing, the chairman of the Beijing Federation of trade unions, the mayor of Beijing, the member of the Political Bureau of the Central Committee and other important leading positions of the party and the state. At the same time, he also paid attention to the legislative work of the people's Republic of China. In view of the fact that the waste of the people's Republic of China is waiting to be revived after the founding of the people's Republic Regulations, regulations on the punishment of corruption. [1] In the "Cultural Revolution", although Comrade Peng Zhen was criticized wrongly and restricted his personal freedom for a long time, he still persevered, firmly believed in Marxism and Mao Zedong thought, and unswervingly adhered to the cause of communism. After the end of the cultural revolution, he summed up historical experience and reexamined the relationship between law and the party and the state. Peng Zhen said

at a meeting that after such a catastrophe as the "Cultural Revolution", the development tide of Chinese history put forward the requirements for us to develop socialist democracy, improve the legal system of socialism and take the road of a strong country under the rule of law. From then on, Pengzhen's thought of socialist democracy and rule of law has been constantly improving and maturing.

Table1.Socialist legal system with Chinese characteristics

Constitution	
Branch of Law	Norm of Law
Law of relevant departments of the Constitution	1.Law 2.Administrative regulations 3.Local regulations,autonomous regulations, special regulations and rules and regulations
Civil and Commercial Law Department	
Administrative law department	
Economic Law Department	
Social law department	
Criminal law department	
Litigation and non procedural law department	

3. The main contents of Peng Zhen's democratic legislative thought

3.1 Legislation should be based on China's reality, with me as the main body and for my use

The party's ideological line is based on reality. China is a country with a vast territory and a large population. At the same time, it is also an ancient civilization with a history of more than 5000 years. All kinds of civilizations are intertwined, collided and integrated in China. The political, economic, cultural and social development levels of all regions and nations are different. As a kind of system and superstructure of the country, law plays an overall and guiding role in all the work of the country. Therefore, legislation should be analyzed from the current situation of China's economic foundation to make the combination of economic foundation and superstructure complement each other and build a legal system and legal road with Chinese characteristics and social principles. In April 1980, Comrade Peng Zhen talked with Zhang Youyu, Liu Fuzhi, Gu Ming, Wang Hanbin and other deputy directors of the Legal System Committee of the Standing Committee of the National People's Congress, saying that "legislation should be based on China's reality, especially the current reality." Foreign things serve China, and the past serves the present. " [2] The Third Plenary Session of the Eleventh Central Committee of the Communist Party of China decided to take economic construction as the center. Comrade Peng Zhen believed that at this stage, the legislative work should be based on the actual situation of increasing economic construction in the whole country and put the work of economic legislation in an important position to meet the needs of economic construction, reform and opening-up through systematic practical investigation and investigation. At the same time, from spring and autumn and Warring States period to Han Dynasty to the Ming and Qing Dynasties, there are many rich laws from ancient Rome law to Anglo American law system. Whether slavery or feudal society, whether capitalism or socialism, whether positive or negative, we can learn from it, take the essence, remove the dross and make foreign things serve China. Today, we will better promote and improve the socialist legal system with Chinese characteristics.

3.2 Adhere to democratic centralism and reflect the will of the people

The reality of our country is the primary stage of socialism, and the people are the masters of our country. In January 1982, Comrade Peng Zhen presided over a meeting of the political and Law Commission of the CPC Central Committee to discuss the revision of the draft civil procedure law. The speech on legislative issues pointed out that: legislation should be objective, and on the basis of a high degree of democracy, all the correct opinions should be concentrated as much as possible, so as to achieve a high degree of concentration. Legislation should take into account more than 800 million farmers and more than 100 million workers. The law should face and serve the people. [2] No matter

during the Anti Japanese war or the war of liberation, the formulation and implementation of the CPC's principles and policies have been extensively investigated to understand the will of the people. Everything comes from the people, and everything goes to the people. The purpose of law making is to better reflect the will of the people, embody the will of the people in the law, and make the state machine run better. Comrade Peng Zhen's understanding of the important role of the people began in the Revolutionary War era, and closely combined the legislative work with the people, making the socialist legal system with Chinese characteristics more democratic and complete. We must adhere to the four basic principles in order to build a strong, democratic, civilized and harmonious modern socialist country, while we must firmly grasp the people's grasp and constantly enrich the socialist legal system with Chinese characteristics in order to build a strong socialist country under the rule of law.

3.3 Legislation should pay attention to the stability of law

It is an important thought that Comrade Peng Zhen has always advocated to fix the party's and state's long-standing and practical policies in the form of law. Comrade Peng Zhen stressed that the law should be stable, the law's orders and prohibitions should be clear, all aspects should be taken into full consideration when making the law and extensive practice and research should be carried out, which proved to be feasible and necessary in practice, and should be promulgated and implemented in the form of laws. If we legislate in a more prudent way, we can guarantee the stability of the law to a certain extent, so as to promote the establishment of the prestige of the law. Comrade Peng Zhen pointed out that the legal system, as a kind of superstructure, will change correspondingly with the change of economic basis, which requires careful consideration not only in the formulation of laws, but also in the amendment and repeal of laws. First of all, we should always keep in awe of the law. Before the new law is promulgated, we should strictly abide by the provisions of the original law. No one can violate the law or violate the law. Secondly, the law is closely related to the interests of the state, individuals and society. The revision and repeal of the law should follow strict procedures. Comrade Peng Zhen stressed that "when the law has stability, it has dignity. Nature is developing and human society is developing. If the situation is not suitable, the law will be amended, but before it is amended, it must be obeyed and enforced. To amend it, it is necessary to refer to the deliberation and adoption of the Standing Committee of the National People's Congress or the deliberation and adoption of the National People's Congress in accordance with legal procedures. " [2]

4. The application of Peng Zhen's democratic legislative thought in practice

4.1 The constitution of the People's Republic of China in 1982

Comrade Peng Zhen is good at considering and analyzing problems from China's actual situation, and he is one of the important leaders of the country with characteristic democratic legislation thoughts. His democratic legislative thought is not only reflected in the department law and common law, but also in the constitution, the fundamental law of the country. The 1982 constitution is one of the important laws with milestone significance in the process of rule of law in the new era of our country, and Peng Zhen's democratic legislative thought is also vividly displayed in it.

4.2 Enactment of criminal law and other laws

Comrade Peng Zhen's thought of democracy and legal system, especially the thought of democracy and legislation, has made great contributions to criminal law, civil procedure law and other important laws. After the cultural revolution, the construction of democracy and legal system in China has been seriously trampled. In order to make the focus of our work shift faster to the reality of economic construction as the center, Comrade Peng Zhen guided the Standing Committee of the National People's Congress to put forward seven draft laws in the three months from March to June 1979, which were deliberated and passed at the National People's Congress. This is a new era of socialist construction. It is hoped that China's legal work will start well. When Comrade Deng

Xiaoping put forward the new strategy of opening up in 1979, our country was still under the highly centralized planned economic system. There was no experience of free trade in goods, and no experience of opening up to the outside world to learn. However, through in-depth study of foreign related practices and legislative activities, we summed up the concession system designated by comrade Lenin in the new economic policy period of the Soviet Union. In combination with the reality that China's commodity economy is still underdeveloped, it has created the first law related to opening up in China, namely the law on Sino foreign joint ventures, which guarantees the orderly implementation of China's reform and opening up.

5. Conclusion

Comrade Peng Zhen's democratic legislative thought has also profoundly influenced the legislative process in the past 40 years of reform and opening up. China has given full play to the people's subjective initiative, encouraged the people to participate in the legislative work of China, and made every citizen of the people's Republic of China a witness to the rule of law. China listens to the opinions of the people through hearings, democratic appraisal meetings, and the publication of draft laws to the public, so as to coordinate the interests of individuals, the state and society, promote the continuous improvement of the legal system of socialism with Chinese characteristics, and better realize the Chinese dream of the great rejuvenation of the Chinese nation.

References

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