

Chapter 4

National People's Congress

1 Composition, Powers and Position of NPC

The Constitution describes the National People's Congress (NPC) as the "highest organ of state power". Its composition and powers are described below.

Composition

The National People's Congress is a large representative unicameral legislature. The different nationalities and national minorities of China have their representatives in the NPC. It is composed of deputies elected by the people's congresses of the provinces, autonomous regions and municipalities directly under the Central Government and by the People's Liberation Army.

Election. The deputies are not elected directly by the people. They are indirectly elected. The deputies of the lower organs of power elect the deputies of NPC. The deputies of the NPC are elected by secret ballot after democratic consultation.

Qualifications of Members. The Constitution does not prescribe any qualification for a deputy. Any voter of 18 years age can stand for election.

Term of Office. The National People's Congress is elected for a term of 5 years. Under special circumstances, its term of office may be extended by decision of majority vote of more than two-thirds of members of the Standing Committee.

Session. The NPC meets once every year. It is convened by its Standing Committee. A session of the NPC may be convened at any time by its Standing Committee or by a proposal of more than one-fifth of deputies to the NPC.

Powers and Functions

The National People's Congress (NPC) has extensive powers and performs many functions. These are :

1 **Legislative powers.** As the highest law-making body in the country, the NPC legislates on all the principal economic, political, social and cultural matters in the country. It can also amend basic statutes when necessary. Every act of the Government must be supported by a law of the NPC.

2 **Amendment power.** The NPC supervises the enforcement of the Constitution. It can amend the Constitution by a majority vote of more than two-thirds of its deputies.

3 **Power of appointment and removal.** The NPC elects (a) the President

and Vice-President of China; (b) the Prime Minister of the State Council on the nomination of the President; (c) Vice-Premiers and other members of the State Council, Auditor-General and Secretary-General of the State Council upon Premier's nomination; (d) Chairman of the Central Military Commission and other members of the Commission upon the Chairman's recommendation; (e) the members of the Standing Committee of the NPC; (f) President of Supreme People's Court and Procurator-General of the Supreme People's Procuratorate.

The NPC has the power to remove or recall all State officials elected by it.

4 *Control of the administration.* The NPC exercises control over the higher organs of State power through its power of recall or removal. The State Council, that is, the Central Government of China is responsible and accountable to it. It has the power to appoint committees of enquiry into specific questions. All organs of State and public organisations must supply the necessary information to these Committees when they conduct investigation. Besides, the Government or a Minister to whom a Deputy of the NPC addresses a question must give a reply "in a responsible manner".

5 *Financial powers and functions.* The NPC has the sole prerogative to determine the financial policy of the nation. It examines and approves the national economic plan, the state budget and final state accounts.

6 *Foreign powers.* The NPC determines the foreign policy of the nation. It decides on questions of war and peace. The Standing Committee of the NPC makes treaties with foreign nations and sends ambassadors abroad but these can be annulled by the NPC.

7 *Educative function.* Since the NPC is the highest policymaking organ of the country, it performs an educative function. The people's representatives utilise this national forum to make known to the government the wishes and views of the people. It also helps the government to make its policies and action clearer to the people.

8 *Miscellaneous powers.* The NPC creates provinces, autonomous regions, and municipalities. It decides on the establishment of special Administrative Regions.

Role and Position : Critical Evaluation

It follows from above enumeration of powers and functions that the NPC has been designed to perform a very important role in the Chinese constitutional system. The Constitution describes it as "**the highest organ of state power**" in the country. **It combines legislative power with executive authority and overall supreme control.** It is the sovereign Parliament.

But there is a **wide gap between theory and practice.** According to critics, the National People's Congress does not, in fact, exercise any power.

The vital role played by the Communist Party and the Standing Committee of the NPC has reduced the National People's Congress to an ineffective legislative body. The Constitution recognises the leading role of the Communist Party in the governance of the country. Policy is decided by a few top leaders of the Party, many of whom occupy important posts of the Standing Committee and the State Council. All matters of fundamental importance to the people are decided upon, and acted upon, by the party leadership without any formal approval by the NPC.

The Standing Committee of the NPC exercises a large measure of legislative and executive power. It has not only the power to interpret the Constitution and the statutes, it can enact and amend statutes except those which should be enacted by the NPC. Furthermore, since the NPC meets only once a year and only for a few days, all its powers are exercised by its Standing Committee.

Hence, according to critics, **the role of the NPC is largely ornamental and decorative.** It does not carry out genuine legislative functions in a modern State. It does not deliberate. Its function is limited to approving the decisions of the top leaders of the Communist Party who are in the Standing Committee and in the State Council. Thus the **National People's Congress is a mere ornamental part of the Constitution.** To quote Negel Harris: "The NPC is the decorative facade of the State; indeed it is more an empty talking shop than those Parliaments in Western countries criticised by Lenin".

Against such criticism, it may be said that the **National People's Congress is not wholly an ineffective legislative body.** The Standing Committee and the State Council do not control the NPC, for they are responsible to it. The constitutional provisions that the NPC can remove the members of the Standing Committee and alter or annul decisions of the Standing Committee show that the NPC is a sovereign legislative body like the British Parliament.

Criticism of the NPC's role may also be levelled against the British Parliament and the French National Assembly. The proceedings of the legislatures of Western democracies are controlled not by the members themselves but by political parties behind the scenes. In Britain the decisions of the ruling party are ratified by the Parliament; opposition only puts up a show of protest. In the United States, the President has become the "Chief Legislator". The plain truth is that in all modern States it is the Government which is the dominant partner in the Executive-Legislative relationship. But the dominance of the executive is not so complete as it is found in China. And this makes the role of the National People's Congress in the constitutional system of China purely ornamental. In the Western sense, the NPC is not a deliberative body, not a forum of national criticism. But it should not be assumed that it does not exercise a reasonable amount of influence in the

public affairs of the People's Republic of China. However, such influence is limited by the non-existence of Opposition in the NPC and the non-recognition of the right to dissent. The NPC can be a truly democratic legislature, a tribune of the people, only when its deputies have the right to dissent and express their views freely. In the existing political system the NPC symbolizes the regime's popular base but in practice it is not the highest organ of state power. That power resides in the Communist Party which exercises leadership over the state and all other organisations.

4 Standing Committee 2015 (25)

According to the Chinese Constitution, the Standing Committee of National People's Congress "is **the permanent organ of the National People's Congress.**" It exercises functions of the NPC when the latter is not in session.

Composition

The Standing Committee is composed of a Chairman, several Vice-Chairmen, Secretary General, and other members. They are elected by the National People's Congress for 5 years and can be removed by it. The 7th NPC elected 19 Vice-Chairmen, one Secretary General and 136 other members. Minority nationalities are entitled to appropriate representation.

Powers and Functions

Like the Presidium of the erstwhile Soviet Union, the Standing Committee of the National People's Congress is a unique institution. It exercises considerable powers and functions, which are of great constitutional importance.

The powers and functions of the Standing Committee are partly legislative, partly executive, and partly judicial in nature. It : (1) conducts the election of

deputies to the NPC; (2) convenes the sessions of the NPC ; (3) interprets the laws and the Constitution and enacts decrees which are enforceable as laws; (4) supervises the work of the State Council, the Supreme People's Court and the Supreme People's Procuratorate; (5) changes and annuls inappropriate decisions adopted by the lower organs of power; (6) appoints and removes Vice-President and judges of Supreme People's Court and the Supreme People's Procuratorate; (7) decides when the NPC is not in session, on the appointment and removal of individual ministers or the Auditor General and the secretary general of the State Council on the Prime Minister's nomination; (8) decides, upon the nomination of the chairman of the Central Military Commission, on the appointment of other members on the Commission, when the NPC is not in session; (9) decides on appointment and removal of Chinese ambassadors abroad; (10) decides on the ratification and abrogation of treaties concluded with foreign countries; (11) decides, when the NPC is not in session, on the proclamation of a state of war in the event of an armed attack on the country; (12) institutes state medals and titles of honour and decides on their conferment; (13) decides on the granting of special pardons; and (14) exercises such other functions and powers as the National People's Congress may assign to it.

Role and Position

Thus the Standing Committee, like the erstwhile Soviet Presidium, performs a very important role and occupies a position of great importance in exercising the functions of the executive, legislative and judicial organs. Its main purpose is to operate between sessions of National People's Congress and ensure the continuity of state administration by setting urgent matters, controlling the activities of the bodies accountable to the National People's Congress, and carrying on other important functions.

It may be regarded as the "**continuous government**" of the **People's Republic of China**. Between sessions of the National People's Congress, the Central Government of China i.e. the State Council is accountable to the Standing Committee and reports to it on its work, when the NPC is not in session. It also supervises the work of the State Council and the Central Military Commission which commands the armed forces of the country. It not only supervises the day-to-day activities of the ministries, it can annul Government decisions or orders that contravene the Constitution or the laws. When the NPC is not in session, the President of China appoints or removes a minister or the Auditor General upon the decision of the Standing Committee. It issues instructions to Special Committees of the NPC to draw up a particular bill, and coordinates the work of these Committees. The State Council is also required to "submit proposals" to it. Thus it enjoys a kind of cabinet or policy-making, directing and co-ordinating position above the State Council but it does not have actual day-to-day departmental executive responsibilities.

From this it may appear that the Standing Committee, not the State Council, is the real government of China. But such a conclusion is wrong for the Prime Minister of the State Council and other ministers belong to the top leadership of the Party. Besides, the Standing Committee cannot remove the Prime Minister or the State Council. It can remove individual ministers only when advised by the Prime Minister to do so.

In legislative matters, the Standing Committee may be seen standing over and above the National People's Congress. It possesses not only the power to enact and amend laws except those which should be enacted by the NPC. It can, when the NPC is not in session, make additions and amendments to laws made by the NPC within the basic principles of such laws. It examines and approves, when the NPC is not in session, partial adjustments to the state economic plan and to the state budget, if necessary. Since the NPC holds session once each year for a few days, it vests many powers and functions in the Standing Committee. Thus **the Standing Committee may be regarded as an executive committee of the Chinese Parliament, as a small working legislature.** But it does not stand over and above the National People's Congress. The Standing Committee, under the Constitution, is responsible and accountable to the NPC. The latter can also remove members of the Standing Committee.

The Standing Committee possesses some judicial powers which are normally vested in the judiciary of Western democracies; the power to interpret the Constitution and laws of the country as well as the power to annul decisions and orders of the Central Government, whenever they contravene the Constitution and the laws.

All in all, the Standing Committee operates as a "small working legislature", having powers of supervision over administration and interpretation of the Constitution and laws. It thus marks a departure from the doctrine of separation of powers and hence may give rise to tyranny which this doctrine wants to guard against. But in view of the control of the Communist Party, which is a mass party, and of the National People's Congress, it is hardly possible for the Standing Committee to impose a tyrannical rule in the country.

5 Chairman of the Standing Committee

The Chairman of the Standing Committee of the National People's Congress does not occupy a distinctive position in the governmental system of China. He is elected, along with the other members of the Standing Committee by the National People's Congress.

The New Constitution has not vested any special powers in the hands of the Chairman. He presides over the work of the Standing Committee and convenes its meetings.

6 Vice-Chairmen

The Vice-Chairmen of the Standing Committee are elected by the National People's Congress. The Seventh National People's Congress elected 19 Vice-Chairmen. Their main function is to assist the Chairman of the Standing Committee in the discharge of his duties.

7 Relation between Standing Committee and National People's Congress

In theory, the relationship between the National People's Congress and its Standing Committee seems to be characterised by domination-subordination. In reality this is not so. The relationship is based on the principles of electivity, responsibility, inter-dependence and collective decisions.

The Standing Committee is a creature of the NPC and is accountable to it in all its work. The NPC elects its members and has power to recall them.

On the other hand, the Standing Committee's powers in relation to NPC are considerable. The Standing Committee convenes a session of the NPC and, under exceptional circumstances, it may extend the term of the current National People's Congress.

As an integral part of the NPC, it ensures the smooth and efficient running of the NPC and its special Committees. These special Committees, according to the Constitution, examine, discuss and draw up relevant bills and draft resolutions under the direction of the Standing Committee practically for the whole year.

When the NPC is not in session, the Standing Committee conducts the business of the NPC. It makes additions and amendments to laws enacted by the NPC. It examines and approves partial adjustments to the State economic plan and the State budget, if necessary. It decides on the appointment of ministers, or the Auditor General on the advice of the Prime Minister. It also decides, upon the advice of the Chairman of the Central Military Commission, on the appointment of other members of the Commission. All such decisions, however, are to be ratified by the NPC later on. It also declares a State of War in the event of an armed attack on the country or, when it is necessary, to fulfil internal treaty obligations concerning mutual defence against aggression. Finally, it exercises such other functions and powers as the NPC may assign to it.

Thus the Standing Committee may be called an executive committee of the National People's Congress, a small working legislature. But it does not stand over and above the NPC. In theory, the Standing Committee is accountable for its work to the NPC. **The relation between the two is based, not on conflict, but on close collaboration and mutual assistance and the principle of collective decision** which is one of the distinctive features of Chinese democratism. Such co-operation has been possible because of the directing and guiding role of the Communist Party of China, the sole governing party of the country.