Political Contestation and the Emergence of the Provincial People’s Congresses as Power Players in Chinese Politics: a network explanation

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In the process of institutionalizing themselves, the Chinese Provincial People’s Congresses (PPCs) have used their power in a more assertive manner and even contested decisions from other more powerful institutions, as shown by cases from the past two decades. By presenting a network mode of governance, this paper argues that institutional linkages and reciprocal strategy have, respectively, featured the institution building of the PPCs and their interaction with other power players, and thus the tension between institutional development and the expansion of power for the PPCs was solved. These two goals were pursued simultaneously in the Chinese legislative development. This was made possible by the way in which the PPCs conducted their activities. In their contestation with other institutions, the leaders within the PPCs conscientiously followed a ‘Mohe’ strategy, i.e. competition-cum-cooperation, and expanded the legislative power without turning other political players into their stumbling blocks. The paper attributes this unique development to the choice-set defined by the changing environment of the political economy under reform and Deng Xiaoping’s ideas, the institutional linkages within the system of the people’s congresses, and the astute leadership of the political entrepreneurs within the PPCs. This mixture of consultation and confrontation in the interactions between the PPCs and other major political institutions also indicated a change of political governance in China toward a network mode.

The system of Chinese people’s congresses, both at the national and sub-national levels, has increasingly attracted scholarly attention and the coverage of the mass media in the West mainly due to two reasons: some people have noticed that the people’s congresses (PCs) have used their power in a more assertive manner and have contested with the government, the judicial branch and the party; in contrast, some other people have been more impressed by their achievements in terms of institution building. Consequently, in order to measure how much power the PCs really have, the scholarly studies have clustered into either a power-centered or an

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institution-centered approach. The former approach attempts to assess the power of China’s PCs by examining their relations over time with other traditionally more powerful institutions—looking for changes, if any. According to Robert Dahl, by allowing for political contestation, competition, rivalry and opposition, a hegemonic regime can turn itself into a polyarchy. Contestation between China’s PCs and other power institutions within the society, namely the elite contestation within a power establishment, is significant for outsiders to grasp the changing nature of the Chinese political system, especially as this may impact on the issue of democratization. However, some studies have attempted to estimate the power of the PCs by assessing their institutional maturity, the extent of their institutionalization, their legislative activities, access to power resources and staff support, the qualifications of deputies and legislative leaders, their standing among ordinary citizens, etc. Tensions between these two approaches, which I here also summarized as ‘contestation-first’ vs ‘institutionalization-first’, seem to have already been developed among Chinese legislative studies.

According to the ‘contestation-first’ approach, the primary political resources for the PCs come from popular support, or the mandate from the people. Without contested elections and political oppositions, there will be no parliament, a real institution of representation commonly understood by the West. The independence of the PCs gives them more credibility in the eyes of the people and therefore they gain more respect from the party and other political institutions. The breakthrough for the empowerment and ‘parliamentarization’ of the Chinese PCs will most likely come from their courage, or ‘martyr’s spirit’, to seek autonomy from and contest the policies of the party and other political institutions (mainly the executive branch). But the ‘institutionalization-first’ approach would suggest that the legislative development mainly depends on both internal institution building and the external environment. Although popular support constitutes a part of this external environment for legislative development, it has long been suppressed and cannot be a sufficient, or even the most important part of the external environment. Instead, the long-established powerful institutions (the party, the executive, the army and

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many others) have constituted the most formidable constraint upon the institutional development of the PCs. Provided with this choice-set, Chinese legislatures may have to realistically accept the ‘trade-offs between autonomy and capacity’. In other words, a preferable strategy for the organizational development of Chinese PCs is first to foster rapport with and win attention from the party and the executive by exploiting the subordination to gain acceptance. Once the PCs become fully and deeply embedded in the governing process, they will have a chance to become a fully mature parliament in the democratic sense.4

My argument in this paper is that, in reality, Chinese legislative development seems to have defied a strategy of ‘sequencing’ (either prioritize institutionalization or contestation) and has been characterized by the simultaneity of its institutionalization and legislative contestation, which have been perceived by many parliamentary scholars on the PCs as almost irreconcilable in the early stage of legislative development vis-à-vis a strong party state. In the very early years, namely around 1980, ‘institutionalization’ and ‘legalization’ were taken as guiding principles and urgent tasks necessary for conducting legislative development.5 After 1987 when the Thirteenth National Party Congress adopted a program for political reform and the PCs had also become more institutionalized, the PCs started to embrace these new guidelines: ‘If the work of PCs expects to gain status, it must attempt something worthwhile’ (Renda gongzuo yao you diwei, shouxian jiude you zuowei), ‘Influence is gained as you attempt something, status is improved as you contribute something’ (You zuowei caiyou zuoyong, you gongxian caiyou diwei).6 In the entire process of Chinese legislative development, the institutional development and assertion of power have been intertwined. How do we explain this simultaneity? How have the Chinese PCs solved the dilemma of autonomy vs institutional development? Another closely related question is: if legislative institutionalization and contestation have happened to the PCs simultaneously, can we claim that this development amounts to ‘democratization’ or ‘liberalization’ in any sense?7 By applying the network approach which focuses on institutional embeddedness and connectedness, and reciprocity in interactions, I intend to make two points. First, by weaving institutional linkages among the long or recently established institutions within the system of PCs and with other political institutions, the leaders of the PCs have dramatically increased their political resources. Second, by applying a reciprocal strategy to contestation, which is made possible by these


institutional linkages, the leaders of the PCs at all levels have been able to expand their influence in the decision-making process without turning other political institutions into stumbling blocks to legislative development. Since the issues of institution building and institutional linkages have been addressed in other articles, here I would like to concentrate on how the PCs (here I choose the Provincial People’s Congresses, PPCs; the analysis could be extended to PCs at other levels) have interacted with other major political institutions under the circumstances of contestation.

Political contestation and its origin

During China’s economic reform era, the Provincial People’s Congresses (PPCs) have struggled to acquire real power in political life. They have had to contend with established power institutions, principally the Party and the government at various levels. When dormant and subordinated institutions in the current Chinese political system become emancipated from the Communist monopoly of power and are allowed to assert their full power, local organs of representation will probably be one of the last to fully achieve that goal. For this reason, it is important to note that the PPCs have become more independent-minded and rebellious, challenging the Party, the government, and other powerful institutions. Accordingly, there is reason to believe that some fundamental changes are taking place in Chinese politics, mostly unnoticed by outsiders.

My focus is on the institution-based contestation within the current state structure, which is different from other forms of political opposition such as fractional opposition, ‘line struggle’, popular rebellion, dissident movements, pressure groups, and opposition parties. According to recent studies on Chinese politics, contestation has emerged within the Chinese political system and decision-making process. For example, a group of China specialists have argued that the country’s bureaucratic system and decision-making process (especially in economic affairs) have been characterized by ‘fragmentation’ in the reform era of Deng Xiaoping’s ascendancy. Communist rule in China is no longer totalitarian; it is, rather, more like ‘fragmentary authoritarianism’ based on bargaining and negotiation, on ‘institutional pluralism’ characterized by ‘competitive persuasion’ instead of the old ‘coercion’ in decision making. ‘Mutual consent’ and bargaining have increasingly come to characterize the relationship between central authorities and local governments. Power in the Chinese political system has been dispersed, if not to the

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societal organizations and ordinary citizens, at least within the governmental structure. Based on a body of data that has only recently become available, I would argue that the relationship between the PPCs and other power institutions has gone far beyond bargaining and negotiation. Direct challenge, confrontation, and opposition have begun to appear in the relationship between the PPCs and other power institutions in China, setting the stage for even more radical changes in the Chinese political system.

Generally speaking, there are several factors responsible for the legislative contestation in China. Firstly, according to the 1982 Constitution, the people’s congress (PC) system is the most fundamental structure in the Chinese political system. In theory, the National People’s Congress (NPC) is the highest power organ of state power and the sub-national PCs are power organs in their respective administrative units. Executive or government activity is nominally subordinated to PCs at all levels of administrative units. Government is said to be elected by and accountable to PCs. The ‘Communist leadership’ and the PCs as ‘the supreme state organ’ defined by the 1982 Constitution, the PCs as the ‘symbol of law’ in theory and the government as the ‘symbol of power’ in reality, have created built-in tensions between the PCs and the party-state.

Secondly, in Deng Xiaoping’s reform plan, in order to sustain some of Deng’s major reform policies, the PCs at both national and sub-national levels were increasingly expected by the top leaders (especially Deng himself) to fulfill more functions, e.g. decentralization, marketization, legalization, integration, etc. The Chinese leadership faced a challenge in choosing a specific mode of governance for organizing its national economy. The leadership could persist with hierarchical control (the ‘hegemonic regime’ in Dahl’s terminology), e.g. Stalinist command economy; or they could adopt a market order (the ‘polyarchival system’ in Dahl’s terminology) under which more autonomy could be granted to enterprises and individuals. But China’s Stalinist legacy put Deng in this dilemma: a Stalinist government had proved a failure (e.g. state failure or bureaucracy failure) in organizing the economy; to salvage the Chinese economy from the failed Stalinist model, a market economy was the only sensible exit; but to transform a Stalinist economic system into a market economy, a transformative and developmental state is needed. The state, which itself was a problem, was expected to be a solution to other problems. Deng Xiaoping found that more autonomous and independent PCs could help to solve this dilemma by facilitating the marketization process through creatively making more laws to regulate the economy. And, they could also prevent the state failure by actively supervising the governments and other state institutions.


agencies. Fitting in the context of Deng Xiaoping's larger reform agenda, the PCs at the national and sub-national levels have adapted to new political and economic environments accordingly.

Thirdly, once the Constitution and Deng's reforms gave the first move to the PCs, they quickly acquired their own life to become a self-motor. Beginning in 1984, some important events helped the PCs at all levels to become institutionalized and expand their power bases. In that year, Peng Zhen, the most powerful dynamo behind the legislative development in its early stages, gave speeches to emphasize the importance of local PCs in the construction of Chinese democracy and the legal system. Old veterans were forced to retire in order to give positions to younger, better-educated leaders; special committees were established within the standing committee; staff members were recruited from new graduates out of university. The institutionalization of PCs laid down a foundation for their future power expansion. These changes boosted the morale of deputies in the PCs, encouraged their participation and independent thinking, and transformed the working style of the institution. Under these circumstances, the PPCs elected in 1987–88 started attaching real contents to the dead letter in the Constitution and exercising the power granted to them on paper. Conflict quickly developed between the PPCs and other political institutions.

The most high-profile cases of conflict are in the process of selecting major provincial governmental officials. Following Leninist and Stalinist principles, the Chinese Communist Party nominated candidates for positions in the government, court, and procuratorate; the PC always 'rubber-stamped' the Party's nominations. However, the Party's monopoly over personnel began to undergo a change in the 1988 elections as a consequence of The Local Organic Law and Elections Law laying down two important principles in 1986: 'one position has more than one candidate' and 'the right of voters and deputies (passing a minimum number of ten) to nominate candidates'. That the PPCs have vetoed important nominations indicates strong defiance to these governmental officials. Because the party controls the list of nominees, it is also rubbing the nose of the party. Around 1988, elections were conducted in China. In 18 provinces nominees for provincial governmental

14. Deng Xiaoping's ideas are strongly reflected in his two important speeches: 'Emancipate the mind, seek truth from facts and unite as one in looking to the future', and 'On the reform of the system of party and state leadership', in Selected Works of Deng Xiaoping (Beijing: Foreign Languages Press, 1983).

15. Peng Zheng's two speeches, later circulated as the Central Party Committee Document, 'Not only we shall rely on party policies, but also follow the rule of law: the main points of the speech to the responsible leaders of the People's Congress Standing Committees of the Provinces, Autonomous Regions, and Municipalities under the Central Government' and 'On the work of NPC Standing Committee: the main points of Comrade Peng Zhen's speech to the members of NPC Standing Committee in Beijing', were issued as No. 8 Document of Central Committee of CPC. They are available in: Quanguo Renda Changweihui Bangongting Yanjushi [Research Office of the General Office of the NPC Standing Committee], Zhonghua Renmin Gongheguo Renmin Daibiao Dahui Wenzian Zhitiao Huibian [A Compilation of Documents and Files of the People's Congress of the People's Republic of China] (Beijing: Minzhu Fazhi Chuabanshe, 1990), pp. 588–591.

16. According to Robert Benewick, this is a 'process of re-institutionalization', that is 'the attempt to activate and develop structures that were in place but never achieved or lost value and stability'. See his 'Political institutionalization at the basic level of government and below in China', in Gordon White, ed., The Chinese State in the Era of Economic Reform: The Road to Crisis (Armonk, NY: M.E. Sharpe, 1991), p. 249. On this point, Suzanne Ogden has also provided insights in her 'The changing content of China's democratic socialist institutions', In Depth 3(1), (Winter 1993), pp. 237–256.
posts were denied by the PPCs. In Hubei, among 37 nominees, seven were denied; in Hebei and Shanxi, five each were denied among 41 and 38 nominees, respectively. In Heilongjiang, three nominees for provincial bureau directors were rejected by the PPC Standing Committee. It caused quite a fuss. Among these provinces, on average, 4% of the nominees were not elected by their PPCs. In Hebei, Guangxi, Shaanxi, Gansu and Qinghai, six candidates sponsored by the party for vice-governors failed to win the support of the PPCs. The party-sponsored candidate for the chief justice in Guangdong, and candidates for the chief procurators in Henan and Shaanxi lost their elections. In 1993, the party-sponsored candidates for governor in Guizhou and Zhejiang failed to win approval from the PPCs. In 1998, the party-sponsored candidates for vice-governor in Hunan, Hubei, Zhejiang and Anhui could not win support from their PPCs.

Since many party-sponsored candidates were rejected, among 28 provincial units in the 1988 elections, 12 candidates nominated by deputies were elected into important positions: four PPC chairmen, two vice-chairmen, five vice-governors and deputy mayors, and one chief judge of the Provincial Higher Court. In Shanghai, for example, the Municipal PC got eight nominees for seven deputy-mayor positions from the Party. The deputies did not think the composition of candidates satisfactory in terms of their expertise and suggested 16 more candidates. In total all 24 names were presented to the deputies for discussion and consultation. The final official candidate list had 10 names: eight from the Party nomination and two from the nomination of deputies. In the election, one nominee sponsored by the deputies was elected deputy-mayor, one candidate designated by the Party lost the election. In Anhui, one candidate nominated by deputies for vice-governor was elected. In Jiangsu, the PPC deputies nominated their own candidate for Chief Judge of the Higher Court in rivalry with the Party-designated nominee. The PPC decided to present both to the deputies for discussion. After hearing the majority opinion, the deputy-nominated candidate was chosen and became the Chief Judge.

Although successful nominations by ordinary deputies and voters (at the county and township levels) have accounted for only a tiny part of all elected officials, and the deputy-supported candidates largely have been from the Party rank, the psychological impact of these nominations upon the office-holders and the Party bosses at all levels is enormous. The party has certainly paid more attention to screening candidates; the elected officials have to worry about losing an election, and become more attentive to public opinion and more accountable to the deputies.

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Another important Chinese political tradition has been reshaped: the safe old days are over when the office-holders were solely dependent upon their superiors; now they are held more accountable to the people, although indirectly. The cases involving vice-governor and governor in Sichuan and Hunan discussed later are examples that today’s Chinese officials sometimes have to pay highly for their misconduct. Challenges and scrutiny from the PPC deputies could be fatal to their political as well as physical lives, as two Sichuan leaders tragically discovered.

Scholars agree that contestation has emerged from the more assertive PPCs. What is intriguing and controversial is how to make sense of the empirical data on legislative contestation and how to grapple with its theoretical implications. There have been two types of conventional interpretation of the assertive role of Chinese PCs. The ‘political decay’ thesis takes it as an accidental revealing of the tension between the public discourse and the hidden script of a Leninist party state and/or as a part of the political decay syndrome which indicates the deep and total crises of the Chinese Leninist regime.23 The ‘political democratization’ thesis takes it as the barometer of a ‘mundane revolution’, or ‘a silent revolution’ toward democracy.24 Instead of taking either of these interpretations, here I would like to present a network interpretation: the legislative contestation should be taken into consideration within the network strategy pursued by Deng’s reforms to transform the Chinese regime and by the congressional political entrepreneurs to achieve organizational development, and within the network society which has emerged in the process of China’s transition.

The network strategy and ‘Mohe society’

In its political and economic transition, China has shunned both the hierarchy and market modes of governance, and adopted a hybrid, or the network strategy to organize its political and economic transactions.25 The network mode of governance is characterized by a complex set of ties among the actors. It accommodates both hierarchical structures and autonomous actors by linking them together. Since it does not exclude hierarchical control, it retains the strength of a hierarchy to be efficient at integrating different actors and reducing transaction costs to coordinate collective efforts. Because networks can interpenetrate the boundaries of hierarchical organizations, it also provides organizations with channels for learning and communication, and flexibility for adjustment and change. Due to its concern over the rigidities under a Stalinist model (which weakens incentive and innovation) and over autonomy under a market system (which makes coordination from the state for

economic development more difficult), its concerns regarding the transition costs for switching from the former to the latter, coupled with its traditional culture of ‘guanxi’ (connections), the Chinese leadership pursued a strategy of network capitalism.

Against this big backdrop of network strategy, the legislative leadership applied this same strategy to legislative development. As a result, the system of PCs has been conspicuously defined by the ties among the PCs and their multiple linkages with the party, government, the court, their deputies, the ordinary people, and other social organizations. These ties as a whole then define the structural properties of the environment in which the PCs interact with other actors. Therefore, the pattern of this interaction should be understood and interpreted by examining the structural properties formed by the linkages and ties between the PCs and other political actors. Particularly, their interdependent relationship, on the one hand, makes friction and conflict unavoidable; on the other hand, it forces the actors in conflict to keep it within a manageable level. For example, the legislative leaders have constitutional weapons (personnel appointments, legislation, oversight, decision-making powers) to make their will count. In addition, the PCs have developed the ‘officials report, the deputies review’ system (daibiao pinyi zhidu) (which the Constitution does not mention) to evaluate the performances of the officials and to decide their suitability for their job. The PCs have also threatened to withhold budget to make the executive branch blink. But they are also very clear; most of them have to get their paychecks from their previous governmental departments. Their housing, car, welfare benefits and many services depend on them, too. Least of all, they are still living with other party and government leaders within the same compound and have many social activities (such as dancing, practicing taichi every morning) together. From the perspectives of party and government officials, the PCs are indispensable for legitimating their power and integrating the nation. Even though the key leaders within the party and government have the power to influence whether some leaders within the PCs will continue to be nominated for the next term, they also know that they themselves may want to work there someday when they step down from their current positions within the party and the executive. Their support of the legislative work will someday be their political capital to claim a good spot within the PCs. Besides, the veteran cadres in the PCs may be the political patrons for the younger leaders sitting in the party and the government under the current selection process. Considering the complexity of these relationships, collegiality is desirable and encouraged. If some actors have not been well socialized into this norm, conflict becomes necessary to establish credibility and a ‘deterrence effect’, self-restraint instead of an abrasive manner is a feature of these conflicts.

The ties and linkages, as an institutional property of relationships in Chinese legislative politics, determine that the interactions between the PCs and other political actors have been more a process of seeking cooperation through competition, which is conducive to the final goods of ‘cooperation and harmony’ (Hehe, hezuo and hexie) that Chinese culture values highly. In other words, although contestation and competition have happened in the Chinese legislative development, they are tolerated and sometimes encouraged because of their instrumental
value in bringing in cooperation and harmony, and finally they create an equilibrium. This idea is best reflected in a widely circulated word in China: 'Mohe'.

In Chinese, 'Mohe' combines two words: 'mo' means 'friction' between two objects or conflict between people. 'He' means 'cooperation' or 'congruence'. 'Mohe' is often interpreted as a 'grinding process' as happens to new cars or machines in which new parts adjust themselves in order to accommodate each other and work in harmony. Its best equivalent in English is 'co-petition' (a combination of cooperation and competition, coined recently by a scientist) which also has accurately connoted the crucial meanings of 'Mohe': it is a process in a time frame. Friction exists, but it does not grind an entity (either a group, a system, or a machinery) apart. Rather it helps each part to smooth its jarring quality and form an everlasting coexistence. Since in this situation all actors lose part of their original qualities which cause disharmony, there is no actor with an absolute hegemony to impose its will upon other actors completely, it is hard to argue who is a winner and who is a loser. The more important feature is the reciprocation of cooperation and mutual restraints.

The word 'Mohe' first caught my attention when three Chinese scholars in different places used it to describe the legislative contestation. In particular, they talked about the fact that after a new round of elections, when new leaders are elected for the party, the executive and the PCs, a 'Mohe' period always follows. In contrast to the immediate 'honeymoon' between the legislative and executive branches after the elections in American politics, which is soon followed by divorce and fist-fights, the Chinese leaders start bickering when they are newly wedded. The honeymoon then follows once the storm peters away. If we keep in mind that elections at and above the county level are held once every 5 years (the recent ones were 1985, 1988, 1993 and 1998), it is interesting to note that many cases I draw upon in this paper happened immediately after these years when the learning curve had just started. Once I started paying attention to the 'Mohe' phenomenon, I realized that this term is used by the Chinese to explain the physical world, the conjugal relationship (Mohe fuqi), family ties (Mohe jiating), social interactions (Mohe shehui), and even the universe (Mohe yuzhou). As one Chinese writer puts it, 'Everything has a process of Mohe'. With this point in mind, two statements with regard to legislative contestation can be inferred. First, legislative contestation is a tip of the iceberg of the interaction between the PCs and other political actors. Since it is mainly used to achieve harmony, the precedents established by the previous contestation have a 'deterrence effect' to convince the other party in imminent conflict to choose a high road and pre-empt new actions. For example, in Fujian Province, within 5 years (1983–88), the PPC denied or delayed 50 nominees for irregularities in the process of nomination. Under the new PPC (1988–93), the party committee actively consulted with the party members within the PPC for opinions even before the nominees

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26. Interviews with a professor of political science at Fudan University, June 1998; interview with a research fellow of the China Academy Social Sciences, he was also an advisor for the NPC, June 1998; interview with a research fellow of Shanghai Academy of Social Sciences, he was also a member of the Chinese National Political Consultative Conference, June 1998.

27. Pan Guoben, 'Mohe fuqi' ['Mohe couples'], Better Life [Meihua Shenghuo], (Shanghai, May 1998), p. 36.
were submitted, and, as a result, friction over personnel nomination declined dramatically. We have seen less conflicts during the latter period, but the PCs did really exercise their power. Second, if the PCs have to choose a low road in order to win respect and to deter future carelessness or arrogance from the party and the executive, they are deliberately paying great attention to the subtleties of how contestation should be dealt with.

**Tactics for legislative contestation**

Since the PCs were late-comers to an already crowded political arena, to fight for respect from the party–state and to claim their own turf are highly risky and have to be handled with care. Fortunately for the PCs, in their early stage of organizational development, the leadership skill was provided by a large number of veteran Communist leaders who had suffered all complex political situations (in particular the Cultural Revolution) and held positions in the party and government branches, and intellectuals and non-Communist party leaders who had learned better how to deal with an authoritarian party–state. A variety of tactics have been developed to guide the legislative contestation.

**Demonstration effect**

The PCs tend to impose a higher expectation upon themselves in terms of abiding by the constitution and other laws. This has several utilities: it can establish good examples for the people and other state organizations; it also strengthens the moral authority of the PCs to point out the problems lying within other political actors. For this reason, the PC leaders like to educate their own members by quoting a Chinese old saying: 'To strike iron, first you have to be strong'.

The legislative leaders were highly sensitive to their own behavior and had the courage to redress their own mistakes. In the history of the People’s Republic of China, the first governor to be removed by the PPC was Ni Xiance, governor of Jiangxi Province, in 1986. The Jiangxi PPC Standing Committee made a decision to remove Ni without consulting the Plenary Session after listening to the report on his corruption from the Provincial Party Committee. But, this decision went beyond the authority of the PPC Standing Committee and violated the Constitution. The NPC pointed out its unconstitutionality, the Jiangxi PPC Standing Committee withdrew its decision and decided to convene the Plenary Session which had the power to remove a governor. On 23 December 1986, fully supported by the Party Committee of Jiangxi province and the Central government, the Fifth Plenary Session of Sixth Jiangxi PPC voted to sack Governor Ni for corruption and moral degeneracy. This action had symbolic political significance: the Party had to go through the PPC, not the PPC Standing Committee, to remove a governor.

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Selectivity

The PC leaders are highly selective in choosing the targets. Peng Zhen once advised the leaders who worked for the PCs: ‘As for matter regarding the principle of right or wrong, you must take it if you should. It’s better for the PCs to intervene more than less. As for ordinary trivia, it is unnecessary to deal with them. It’s better to get involved less than more’. Because provincial governors, mayors and county heads have been nominated by the Party, they have been always the deputy party secretaries in their administrative units. In contrast, most Chairmen of the PCs often were not deputy party secretaries, and sometimes not even members of the Party Standing Committee of their administrative units. To supervise the government was too easily viewed as a supervision over the Party. Hence the PCs tend to be wary of challenging the government but stick to the principle of ‘embedding supervision into support’, under which support to the governments became the best way to supervise them.

Peng Zhen also instructed the leaders of the PPCs, when the PPC Standing Committees deal with the governments, that they should follow this guideline: they are not putting up a rival show. But they are not a ‘rubber stamp’ of ‘in view of the above’, either. If the PCs are certain that something is a matter of principle, law and the national interest and they have enough reason to intervene, they should use all their efforts and resources to do it. Their target may even be the party branch. In 1986, Zhang Youyu, an instrumental jurist for Chinese 1982 Constitution and Local Organic Law and a vice-chairman of the Legislation Work Committee of the NPC Standing Committee, told leaders in the PCs how they should handle their relationship with the Party:

As for incorrect policies and guidelines from the Party, should we accept them? Here are two solutions: one is to report your opinion to the Party Committee. If you are a member of the Party Committee, you may debate and contest in its meeting. If the Party Committee still insists, what should we do? If issues involved are not urgent, you may report to the Party Committee of the higher level and let the superior consider. If they are urgent, you implement them but keep your opinion, then raise them for debate and contestation. This is allowed. Another solution is to be a ‘hard-bone’ (dauntless and unyielding). If the Party Committee hurts the interest of the Party and revolution, you can say ‘I shall not obey. I do not fear a contest in front of the superior Party Committee and an expulsion from the Party’. In this case, you have a confrontation with the Party Committee. If the disagreement is too important, the execution of one policy will damage the interest of the Party and the people, you should be a hard-bone. Didn’t Comrade Mao Zedong once say, ‘Don’t fear an expulsion from the Party, don’t fear a divorce!’ But, this measure is too extreme and should not be used casually.

But the PPC leaders know that their security margin is wider if they choose fundamental issues. One vice-chairman of the Beijing PPC Standing Committee says, 'It is worth taking a little risk on the issue of principle'.

*Safeguarding the 'overall situation'*

The legislative leaders or members can insist on principles and at the same time be ready to make compromises, if the political situation turns against them. By paying close attention to the change of situation, exploiting the law and party lines, the PPCs can launch an oversight over high-profile leaders.

Two cases in Sichuan reveal that even in the aftermath of the 1989 Tiananmen crackdown, political contestation continued, because, with great courage and political skill, the PPC members could turn the 4 June legacy into a political justification for fighting against corruption and sustain the development of political contestation. These cases also demonstrate how an individual deputy could provide leadership to the collective action against the high-rank government officials.

In 1989, the accountant of the Sichuan Sino-Japanese Taxi Company, a subsidiary of Changjiang Trade Corporation, found out that a large amount of money was missing from the account and about US$200,000 had been siphoned into the pockets of the General Manager of the company, Zheng Liuyi and his deputy director of office, Jing Cheng. Because Manager Zheng used to be the secretary working for the Party Secretary of Chengdu, the provincial capital, he had powerful social connections in the provincial and central governments. Jing Cheng was a son of Sichuan Vice-governor, Jing Hongsheng, who used to be the Director of Provincial Foreign Trade Bureau and was still in charge of foreign economic affairs. As a subordinate unit to the Provincial government, Changjiang Trade Corporation were unable to handle this case when they faced pressure and resistance from some provincial leaders.

In September, 1989, Professor Luo Shiyong, a member of the Sichuan PPC Standing Committee and its Political and Legal Committee, legal advisor to the Sichuan Provincial Association of Foreign Trade Promotion (which shares office buildings with the Bureau of Foreign Trade, therefore, Vice-governor Jing and legal advisor Luo used to work under the same roof), started to intervene by bringing the case to the attention of the PPC Standing Committee. Before he came to work in Sichuan, Luo once worked in the Fujian PPC Standing Committee and was a law professor in Xiamen University. To overcome the strong resistance from the government and to get political support from the center in Beijing, on 27 September, Luo sent a letter to Liu Fuzhi, the Procuratorate General of the PRC in Beijing. Upon returning from his short visit to Australia, Luo collected signatures from some other PPC Standing Committee members and filed an inquiry in the late November of 1989. Meanwhile, his letter was transferred to Party General Secretary Jiang Zemin and Qiao Shi, the Standing Committee member of CPC Central Committee in charge of political and legal affairs. They summoned the Sichuan Party Secretary, Yang Rudai, criticizing the work of Sichuan leaders and prodding

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him to solve the problem. Under pressure the judicial branch acted immediately, arresting Manager Zheng and Jing Cheng in February of 1990, later sentencing them to death with a 2 year reprieve and 8 years in jail, respectively. At the same time, the PPC Standing Committee members were discussing the establishment of a special committee to investigate the misconduct of some government officials. Probably because of stress, humiliation, and anger, 3 days before the announcement of the verdict, Vice-governor Jing Hongsheng suddenly broke down in a meeting and died unexpectedly in hospital. The plan for a special investigation committee was given up.\(^{35}\)

Only 3 years later, Professor Luo again involved himself into another shocking case of economic crime. This time it implicated the governor of Sichuan, Xiao Yang. On 3 January 1993, 27 PPC deputies headed by Luo Shiyong, initiated a motion to the Sichuan PPC Fifth Plenary Session, asking for an investigation into the economic crimes and malfeasance of Wei Wenlie, Director of the Board of Chongqing Yufeng International Corporation. Wei Wenlie had engaged in speculation of foreign exchange, stock, gold and silver in Hong Kong, incurring a loss of US$18 million to the state. Although Wei’s corporation was located in Chongqing, the Municipal PC of Chongqing dared not touch this case, for some officials in the Party and government warned that such an action was a tendency of ‘bourgeois liberalization’. The major underlying obstacle arose from the fact that these crimes implicated Governor Xiao, who used to be the Party Secretary and Mayor of Chongqing Municipality. However, the Sichuan PPC Standing Committee decided to submit the motion to the Presidium (a temporary organ which conducts the PPC session and is replaced by the Standing Committee with the end of the session) and the Political and Legal Affairs Committee of the Sichuan PPC Standing Committee required the Provincial Procuratorate to investigate the case. In February after the Spring Festival of 1994, Wei Wenlie was arrested. In April 1994, the Procuratorate filed a formal charge against him in the court. Almost 1 year passed, and the Court still could not decide the case. The delay caused popular resentment and stimulated the deputies of the new PPC to file an inquiry (at this moment, Professor Luo left the Sichuan PPC Standing Committee to concentrate on his own legal practice).

On 18 February 1995, the inquiry against the Provincial Higher People’s Court was carried out in Sichuan PPC, lasting for 2 hours. The Chief Judge of the Higher Court with his assistants and subordinate officials attended the inquiry and gave a detailed explanation. In the end, the PPC Standing Committee told the Higher Court officials to consider the criticisms by the deputies and speed up its procedure. The PPC Standing Committee also said that it would intensify supervision until this case was adjudicated. After 1 year had passed, no substantive progress had been achieved. In December of 1995, some PPC members started to target the cover-up by Governor Xiao and attempted to impeach him. In February, even though the case was still pigeonholed, it had its major victim: Governor Xiao Yang was forced to resign and was assigned to the post of Fifth Deputy Director of Sanxia (Three

\(^{35}\) The construction of this case is based on my 1996 telephone interviews with officials in Sichuan.

**Alliance politics**

To establish alliance with other actors in order to borrow support is another common tactic. The PPCs have tried to ally with the party, the NPC, the government, and the social forces, depending on different targets.

A surprising case in 1989, Hunan, the first impeachment case against a vice-governor in PRC history, typified contestation with the government during the last decade. On 12 May 1989, when the Hunan PPC was in plenary session, 31 deputies filed an inquiry on the issue of company rectification. At that time, many ‘bubble companies’ had proliferated in Hunan province not unlike other places over the country. Many of these companies, controlled by the governmental agencies, were marked by official corruption. The phenomenon of ‘official profiteering’ (guandao) stimulated popular complaints which hurt the image of government. To rectify this problem, Hunan Province (as all other provinces in China) established a Leading Group for Rectification of Companies, which was headed by Vice-governor Yang Huiquan. The deputies were not satisfied with the lack of progress under Yang’s aegis and asked for an inquiry. The vice-governor, with the directors for the Provincial Planning Commission, Foreign Trade Bureau, Auditing Bureau, and the Bureau of Industrial and Commercial Administration, attended the question time. Facing critical questions from the deputies, Yang stammered and failed to answer many of them. Meanwhile, it was revealed that when he attended the Spring Trade Fair in Guangzhou, Yang and his daughter and son-in-law spent a large sum—RMB 4,437.1 yuan—from official funds on a single dinner. His corruption and incompetence angered many deputies and prompted a series of new actions. The nationwide anti-corruption, pro-democracy student demonstrations (Changsha, provincial capital of Hunan was swept over) and the ephemeral spring of liberalization in China made them unstoppable.

The next day, 177 deputies initiated impeachment proceedings against Yang Huiquan. The Presidium was not prepared for such a development and decided to send the case to each delegation (basic unit in the PPC plenary session, which consists of deputies from the same municipality or prefecture. The army is an independent delegation) for discussion. The session was also prolonged for one more day to give top leaders time for consultation with the Party and to attempt damage control. At first, they wanted to delay the impeachment proceedings by insisting that the deadline for initiating a motion had been passed. On 14 May, the Presidium decided to ask for legal direction from the Legislation Work Committee of the NPC Standing Committee. Although the relationship between the NPC and sub-national PCs is one of ‘work contact’ instead of ‘leading and being led’, as the only institution for judicial interpretation, the NPC does frequently answer ques-
tions from the sub-national PCs and give them guidance on specific constitutional issues. The NPC Legislation Work Committee gave a reply, stating that ‘the deadline for initiating a bill shall not become a reason for the Presidium not submitting the impeachment to the plenary session’. It said that one-tenth or more deputies of a PC have the legal right to initiate impeachment proceedings, and that plenary session has the authority to decide by vote whether to go directly to impeachment proceedings or first to establish an investigation commission to look into the matter.\(^{37}\) In its intervention, the NPC Standing Committee sided with ordinary deputies, stating that the deputies have the right and authority to remove any officials accountable to them, and there is no specific criterion for justifying such an action. This is another important breakthrough in Chinese political development.

Under pressure from the NPC Standing Committee, the Presidium convened the plenary session and informed the deputies of the guidance and ruling of the Legislation Work Committee of the NPC Standing Committee. The Plenary Session voted on the impeachment question. Among 766 deputies present, 506 voted to impeach the vice-governor; 162 cast negative votes; 98 abstained. The decision to impeach was affirmed by the Plenary Session, causing Vice-governor Yang Huiquan to be dismissed.\(^{38}\)

In addition to the successful impeachment, the Plenary Session of Hunan PPC also passed a resolution to establish a special investigation commission on the company issue. The Investigation Commission consisted of 20 members drawn from the PPC Standing Committee and ordinary deputies, and had five investigation groups. They established a ‘tip hotline’ and a ‘tip box’ to gather information from ordinary people, interviewed many work units, and closely scrutinized the five most notorious companies. The investigation was conducted over a 2-year period, from May 1989 to April 1991; and included reports made to the Plenary Session, to the Standing Committee and Chairmen group meeting of the PPC (Chairmen group consists of Chairman, Vice-chairmen, and the general-secretary. They usually meet once a month). As a result, 4,098 companies were abolished or merged, affecting 31% of total number of companies. The phenomenon of official profiteering was thereby basically controlled and the incidence of government officials holding positions in the companies was reduced to a manageable level.\(^{39}\)

Almost at the same time as the Hunan events were transpiring, the Shaanxi PPC had a similar case involving Wei Mingsheng, a deputy-director of the Provincial Economic Council, a deputy to the 7th NPC, and a deputy to the PPC. He became notorious for accepting bribes and attending numerous banquets. In the first week of May 1989, the Plenary Session was convened and some deputies initiated to recall Wei Mingsheng from the NPC against the backdrop of nationwide student

\(^{37}\) Zhang Youyu, ‘Zhengzhi tizhi gaige he difang renda changweihui gongzuo’, p. 796.


demonstrations. In the Chinese electoral system, deputies of PCs at township (district) and county levels are directly elected by the ordinary citizens, but all deputies of PCs above the county level are elected by the Plenary Sessions of PCs at the immediate lower level. Therefore, Wei was elected into the NPC by the Shaanxi PPC, into the Shaanxi PPC by the Ziyang County PC in indirect elections. The Shaanxi PPC Presidium decided to have an anonymous vote on this initiative. Among the 495 deputies present, 286 deputies supported a recall; 77 voted against; and 126 abstained; six votes were voided. Because more than 100 deputies failed to attend the meeting; the yeas, although passing the majority number of the deputies present, did not constitute a majority of all PPC deputies and the impeachment initiative was rejected. Meanwhile, the Ziyang County PC which elected Wei to the PPC successfully recalled him, the Provincial Party Committee and Provincial Government also dismissed him from all positions. Finally, the Shaanxi PPC Standing Committee decided to pursue their recall action against Wei in a meeting of the Standing Committee. After consulting with the Legislation Work Committee of the NPC Standing Committee for jurisdiction issues, the Shaanxi PPC Standing Committee later recalled Wei Mingsheng from the NPC. 40

Comparing these two cases in Hunan and Shaanxi, actions to remove a high-rank government official received different reactions from the Standing Committee and ordinary deputies. In Hunan, ordinary deputies could not tolerate corruption and incompetence, and started the impeachment action. The Hunan PPC Presidium initially hesitated and tried to block it. In Shaanxi, many ordinary deputies thought that a recall was an excessive punishment for Wei’s misconduct and were not active in using their authority. As a result, many deputies refused to attend the vote or cast void and absentee votes. Their absence from the voting aborted the recall in the PPC Plenary Session, but the Standing Committee was more enthusiastic and persistent until Wei was recalled from the NPC. In Hunan, it was a reversed situation. Many leaders in the PPC Presidium thought that Vice-governor Yang Huiquan’s problem was a matter of everyday mistake to which impeachment did not apply, but most ordinary deputies did not buy it and were determined to punish him severely. In most cases, the Standing Committees are much more aggressive in asserting their power than the ordinary deputies. Rebellions from deputies are rarer. In these two cases, in accordance with the Constitution, the NPC backed far more aggressive actions and its crucial support helped clear away major hurdles obstructing the legislative challenges.

NPC support was crucial to yet another case, this one involving the PPC in Heilongjiang Province, where a challenge was posed against the authority of a central-government ministry. In the early 1980s, Heilongjiang instituted a regulation on toxic pollutants, imposing fees and fines on enterprises releasing them. Some enterprises directly owned by central-government ministries chose to ignore the regulation; one ministry advised its enterprises in Heilongjiang to do so. The Heilongjiang PPC Standing Committee reported on the matter to the NPC Standing Committee and asked for its support in enforcing the local law. When the NPC

Standing Committee decided to back up the PPC Standing Committee, the central-government ministry withdrew its directive. All enterprises owned by the central government had henceforth to abide by the local laws in Heilongjiang Province.41

‘Hot button’ issues

One more tactic is to target. The ‘hot button’ issues which ordinary people are concerned with but to which other political institutions have failed to respond. If they can succeed, its impact upon society and other political actors is tremendous, which can publicize the heightened status of the PCs. Because many legal cases affect ordinary people and easily become inflamed, the PPCs are beginning to try to strengthen their own authority and legitimacy in the eyes of the people. In the past decade, the PCs at sub-national levels have intensified their scrutiny of the judicial branch, which, in China, includes the Court, the Procuratorate (e.g. Chinese prosecutor), and the Public Security Bureau (e.g. Chinese police department). Some judges and procurators have been impeached by the PCs. Many legal decisions were reviewed by the PCs and overturned as a result of intervention by the PCs.

Many instances of misconduct in legal processes were reported and exposed by ordinary citizens or victims in their letters to newspapers, to the Letter and Visit Office of the PC, or to the leaders at a higher level PC or other authorities. These complaints caught the attention of the delegates of PCs. In the 1980s, the Municipal People’s Congress Standing Committee in Tianjin Municipality (which is a special municipality, enjoying the status of a provincial unit) was quite ‘interventionist’ in legal affairs. A case in point illustrating the power relationship among different institutions at the sub-national level in China is as follows. In November 1979, the judge of Tianjin Intermediate People’s Court and deputy chief judge of the Third Criminal Adjudication Division, Zhang Wenju, reversed a criminal accusation of a man who had also at the time been a former preliminary interrogator in a district public security bureau. This interrogator had been tried, convicted, and sentenced to 7 years in jail for violating due process of law, for raping relatives of defendants, and for covering up evil deeds of various criminals. The father of the interrogator used his good connections with Judge Zhang Wenju, who then was a group leader of the Review Office of the Municipal Court, to help his son, whereupon, Judge Zhang conducted his own individual interview with the key witness, coercing her to change her mind. The testimony was rewritten, ‘rape’ was converted to ‘adultery’. Zhang ‘reviewed’ the case, ‘redressed’ the verdict, and set the former interrogator free.

The trial judge who first decided the case believed this was a wrongful reversal and wrote a letter to the People’s Daily, the official newspaper of the Chinese Communist Party. The Tianjin People’s Procuratorate informed the Tianjin Higher People’s Court by official letter for it, too, disagreed with the verdict. The Letter and Visit Office of the Municipal Government also urged the Higher People’s

Court to reconsider the reversal, but all these efforts proved fruitless. In May 1982, after a year and a half had passed, the Letter and Visit Office of the Municipal Government decided to pass this case to the Municipal PC Standing Committee for help. The Standing Committee Chairman immediately wrote an instruction to the Political and Legal Affairs Committee of the Standing Committee to start its own investigation. After several months, the Political and Legal Affairs Committee produced a report that contained two principal conclusions. First, the former interrogator had indeed violated the law: the reversal of verdict had been wrongful and a correction should be made. Second, the misconduct of Judge Zhang Wenju and other officials involved in reversing the verdict should be investigated and punished. These conclusions, with endorsements from the Standing Committee leaders, were passed on to the Municipal People’s Higher Court. In November 1982, the Higher Court reviewed the case. The reversal was subsequently rescinded, sending the freed criminal back to jail, but the issue of misconduct by the judge and other officials was not addressed. Despite repeated prodding by the Standing Committee, the Higher People’s Court took no further action to address the problems with its subordinate court. But by March 1983, the Third Adjudication Division of the People’s Intermediate Court where Zhang worked gave a self-criticism on their part of responsibility. Zhang refused to admit his wrong-doings and to undertake self-criticism. A month later, the Municipal People’s Congress Standing Committee completed its term and a new one was elected.

After the new PC leaders took office, they decided to focus on several cases to strengthen their supervision over the government and legal branch in order to demonstrate their determination and authority. At this time, the Political and Legal Affairs Committee of the Tianjin Municipal People’s Congress again mentioned the unsolved problems of this case to the new leaders and suggested that another investigation be conducted. With the enthusiastic support of the PC leaders, the Political and Legal Affairs Committee organized another investigation group which also recruited officials from the Party Discipline Inspection Committee and the Higher People’s Court. The investigation group examined the files, interviewed witnesses, and finally confronted Zhang with a showdown. After a year’s work, on 31 March 1984, the Political and Legal Affairs Committee presented its findings and suggestions: (1) the People’s Procuratorate should start its legal process against Zhang; (2) the Standing Committee of the Municipal PC should remove Zhang from his positions. Two months later, Zhang was relieved from his posts, arrested, and then sentenced to 3 years in jail.\textsuperscript{42}

Meanwhile, the PC Standing Committee of Tianjin had a series of other actions targeting the judicial branch.\textsuperscript{43} Most of these cases had one thing in common: they had been appealed through various channels to the Party, government, and judicial branch but ended up being stalled in the bureaucratic maze for months and even years. Finally, the PC Standing Committee decided to step in and cracked the hard nut.

\textsuperscript{42} This case is constructed based on the following materials: Research Office of the NPC Standing Committee, \textit{Difang Renda Shi Zhenyang Xingshi Zhiquan de}, pp. 204–205; Zhang Bingyin, \textit{Renda Falu Jiandu Anli Xuanbian [Selected Cases on Judicial Supervision of People’s Congress]} (Beijing: Falu Chubanshe, 1992), pp. 8–16.

\textsuperscript{43} All these cases are collected from Zhang Bingyin, \textit{Renda Falu Jiandu Anli Xuanbian}. 

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The legislative activism in supervising the judicial branch in Tianjin was not isolated. During the 1980s, the PPC Standing Committees in various provinces intervened in many high-profile cases, prodding the courts to undertake retrials and to overturn many old verdicts. This development was not stopped by the 4 June crackdown in 1989 and a pattern of legislative activism in supervising over the judiciary has emerged. For example, in Hunan province in 1993, there was a case involving a conflict between the Taojiang County Public-Security Bureau and an accountant in another city, Lianyuan. A factory in Taojiang refused to pay a factory in Lianyuan after a delivery, the accountant who worked for the factory in Lianyuan decided to seize a truck borrowed from the factory in Taojiang until it paid the money back. To protect its local interest, the public-security bureau in Taojiang dispatched policemen to arrest the accountant and illegally detained her for 218 days, during which she engaged in two hunger-strikes. Despite two orders from the court, various instructions from the Provincial Party Secretary, several directives from the Provincial Public-Security Bureau, and numerous appeals by her relatives to the central and local governments and mass media, the Taojiang County Public-Security Bureau still refused to execute the court order to release her. The jailed accountant then sent a suicide note to her family and initiated a 19-day hunger strike. Desperate, her husband and son appealed to the Hunan PPC which decided to intervene by sending a joint work group consisting of officials from other Party and government agencies to conduct field work for resolving the problem and saving the woman’s life. After many meetings, discussions and words exchange, the County Public-Security Bureau had to yield to the pressure from the PPC: the accountant was freed. The county public security bureau had to pay damages to the accountant as well as other legal fees.

During the last decade, China has moved substantially in the direction of codifying into law both informal practices and new policies. As more and more new laws have been passed, the implementation of laws has become a major challenge. Not only do many individuals and enterprises ignore them, even the judicial branch sometimes does not give appropriate respect to them. For example, after the Heilongjiang PPC had passed a regulation for pollution control, a paper mill refused to pay the required fee. The Provincial Finance Bureau acquiesced at the refusal. The Standing Committee of Heilongjiang PPC pressured the Bureau to implement the law strictly. The provincial government expressed its support to the PPC; and the Bureau undertook a self-criticism. Notwithstanding, the paper mill still refused to pay the fee. Later the case was brought to the court, but the court refused to hear it, arguing that it had no authority in cases involving local laws. The PPC Standing Committee responded by stressing that the court must strictly implement all laws, including local laws. The court later obeyed and heard the case.

One reason that the judicial branch has heeded warnings from the PCs and their

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44. Ibid.
46. Chen Hengbo, 'Difangxing fagui xiaoli zhi wojian', p. 75. Sen Lin also cited this case in his China's Decentralization and Provincial Economic Legislation, pp. 140–141.
standing committees is the power of impeachment. Like an arrow on the tense bow, the power of impeachment strengthens the position of deputies. There have been several impeachment cases involving officials in the legal branch. For example, in January 1988, 86 deputies of the PPC in Shaanxi initiated impeachment proceedings against the Provincial Procuratorate General, Ji Yushuo. An investigation commission was established, but because the PPC was in transition into a new term, after the new PPC was elected, the new Standing Committee decided not to proceed with the case, for two reasons: Ji was no longer nominated as a candidate for the Procuratorate General, and the two cases which the deputies had complained had been improperly handled were decided by Ji in accordance with the instructions of the Provincial Party Committee.  

The two Standing Committees in Shaanxi and Tianjin (in the Judge Zhang case) responded to the problem of term expiration in different ways: for Shaanxi, it was an excuse to avoid the impeachment power; for Tianjin, in contrast, it was an opportunity to demonstrate its persistent determination to supervise the judicial branch until the problem was solved. This difference was affected by two factors: (1) the political will of major leaders of the Standing Committee. When they took office, the new leaders in Tianjin were eager to find several ‘big, thorny cases’ as break-through in order to boost the work and prestige of the People’s Congress; (2) the Party’s attitude, supportive or obstructive, also affects the Standing Committee in selecting cases to pursue. In Tianjin of the 1980s, Li Ruihuan, then the Mayor and Party Secretary, conducted his work in a much more democratic style than his counterparts and energized the work of Tianjin PC by providing a relatively tolerant and democratic environment. But in the case of Shaanxi, the intervention from the Party rendered more difficult the legislative supervision over the procuratorate.

Under the policy of separating the party from the government, the Party has become less involved in routine operations and less willing to intervene in non-policy matters of the executive branch, but the Party has not loosened its control over the legal work and continues the practice of a party secretary of legal and political affairs supervising the judicial branch. Most of our legal cases involved both the Party and ordinary individuals, the powerful and the powerless. For the common people in China, to deal with the legal branch is always full of risks and frustrations. Any time, their constitutional rights could be violated even had they done nothing wrong. Despite the fact that the Party sometimes tried to intervene, in only a few of our collected cases did the Party intervene effectively in favor of the victims. The local judicial organizations could repeatedly ignore Party instruction. In fact, in several cases, the Party became the protector of the powerful officials (in the Shaanxi case; in the Hunan case, after Vice-governor Yang Huiquan was dismissed, he was transferred to Hainan Province and continues to maintain his vice-governor rank). As the Chinese political system continues to loosen up, the command link of the Party over the judicial branch will further become disjointed. For the poor Chinese common people who are ceaselessly

47. Zhang Youyu, 'Zhengzhi tizhi gaige he difang renda changweihui gongzuo', p. 796.
48. This information was obtained by interviewing officials from Hunan Provincial government in 1996.
looking for an 'upright official' to redress their wrongs, the bad legal system could become worse. Realizing this danger, the PCs have tried to provide a remedy. Realizing its limited resources and dependence on new means for old problems, the Party has in general become more tolerant of, sometimes supportive of, the supervisory work of the PCs over the judicial branch.

Since the Party still has enormous influence over legal affairs, the PPCs and their Standing Committees have to align with the Party in many important cases. In conducting their investigations, the Standing Committees always report to the Party first to solicit support. The investigation team is always a joint one, including Party officials. In this way, any investigation does not look like an action against the Party. The accomplishment can be naturally credited under the name of the great Party. If the Standing Committees were not doing this, the Party may become defensive and suspicious, and create more obstacles to the work of the PCs. To some extent, whether the PC dares to challenge the Party is the litmus test for the authority of PCs.

**Righteous Defiance**

The PPCs have used their own favorite, better qualified Communist leaders to knock out the party-sponsored candidates for top positions. In defying the party nomination, the PPCs did not nominate political dissidents but other committed Communist leaders with better qualifications (such as better educated, younger, etc.) to coax the party to accept the *fait accompli*.

The close scrutiny by the PC over Party-designated candidates caused concern in the Party. In 1990, the Central Party Committee issued No. 2 (1990) Central Document, *Instruction of the CPC Committee Concerning the Regulations over the Local Party Committee Recommending Leaders to State Organs*, and restated the principle that the Party controls cadres, despite the legal processes that must be followed. The document was critical of the meticulous way that some local PCs scrutinized the Party's nominees, acting as the Party Organization and Personnel departments to conduct a thorough review. However, this document did not stop the tendency of the PCs paying more attention to personnel nomination. In 1991, another significant event happened with regard to the Hunan PPC: in its fourth plenary session, Hunan PPC had two vice-governor vacancies to fill. The Party designated two candidates after discussion with major Party leaders and consultation with other governmental and social organizations. When the deputies were asked to discuss this candidate list, they added 10 candidates for deputy-governor. Among them, six wrote requests to the Presidium asking not to be nominated. Therefore, six candidates were left for discussion by the deputies. Finally, three were included in the final list to be voted upon: one candidate designated by the Party, two nominated by the deputies. One original Party-designated candidate was dropped in this selection process. After the votes were cast, one candidate nominated by the deputies was elected vice-governor; he received 51 more votes than the other elected vice-governor who was designated by the Party.  

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In the 1993 nationwide elections, the Party’s monopoly control over gubernatorial elections continued to weaken. In Guizhou province, the Party center recommended incumbent governor Wang Chaowen for re-election. The deputies considered him old and incompetent and nominated another candidate, Chen Shineng, a 55-year-old Qinghua-trained engineer and vice-governor. As a result, two candidates were voted upon. Chen was elected governor. This was the first time in PRC history that more than one candidate was listed as candidate for the governorship; it was also the first time that a candidate nominated by deputies was elected governor.\(^{51}\) Ironically, later the Guizhou PPC accepted Wang Chaowen as the Chairman of the Standing Committee. It reflects the PPC’s own ambivalent perception of its identity: on the one hand, the PPC is eager to assert its power; on the other hand, it self-degraded its political standing by electing a ‘loser’ to its top position. But in a long run, Wang Chaowen’s exit to the PPC will strengthen its power position vis-à-vis other power rivals, because Wang, as former Party Secretary and Governor, is well-connected and powerful.

Several days after the Guizhou event, a similar event occurred to the PPC of Zhejiang province, whose ‘root’ was traceable back to 1992, when Zhejiang’s governor, Shen Zulun, ‘resigned’. Because he did not follow the hard line closely in handling student demonstrations and sent a telegraph to the NPC in the capacity of NPC deputy appealing for a democratic and rational method to solve the crisis in 1989, Shen was later forced to step down from the governorship and was replaced by Ge Hongsheng, a deputy Party Secretary who did not have enough knowledge in managing the economy but was significantly ‘left’ to be politically correct. The resignation of a respected governor and promotion of a leftist politician disappointed many local officials and ordinary people.\(^{52}\) After Ge Hongsheng became the acting governor for a year, in the 1993 PPC plenary session, he was designated the only official candidate for governor. However, many deputies supported a new face, Wan Xueyuan, for the candidacy. Wan was formerly secretary general of the Shanghai Municipal Government and had recently been transferred to Zhejiang to take a position of vice-governor. Ultimately, Wan was elected governor instead of the Party-designated candidate and acting governor.\(^{53}\)

In 1993, two other Party-designated candidates for governor in Sichuan and Anhui Provinces encountered almost the same trouble, but thanks to the Party’s manipulative technology of power, they survived the crises. In Sichuan, former Chongqing Party Secretary Xiao Yang was designated internally by the Party center in Beijing to be the Party Secretary of the Sichuan Provincial Party Committee, but deputies of the Sichuan Party Congress rejected his internal appointment and Xiao Yang failed to be elected into the Central Party Committee; in a later election for

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\(^{52}\) Yi Zhichen, ‘Zhejiang shengzheng cizhi neimu’ ['Inside the “resignation” of Zhejiang Governor'], Cheng Ming (Hong Kong, January, 1991), p. 22.

candidate members, he was among the last of the elected candidate members. Instead, Xiao Yang was later appointed deputy party secretary, in preparation for his promotion to the governorship. To avoid obstacles to the promotion, the Party reshuffled the Provincial Party Committee and spent unusual time and energy on pressuring the PPC to endorse Xiao Yang for governor. The day before the voting in the Sichuan PPC, the People's Daily editorialized on the need for party discipline and 'democratic centralism', lashing out against 'separatism' and 'groupism'. In that circumstance, Xiao Yang won 88% of the votes and became the governor. In this case, the Party center anticipated the potential trouble and managed to head it off by the use of intensive pressure. The PPC also became a crucial arena for a power struggle among different factions in Sichuan Province. In Anhui Province, the Party had difficulties in steering its candidate through the PPC's electoral process. The Party-designated candidate, the current governor, Fu Xishou, failed to receive a majority vote for his re-election. The PPC session was therefore prolonged until he gathered enough votes in the follow-up voting rounds. These two cases in Sichuan and Anhui underlie the fact that the Party still has power resources to influence politically restless PPCs, and the PPCs are also ready for compromise if the situation turns against them.

In contrast to their contestation with the government and judicial branch, the PPCs handle their relationship with the Party in two different ways: First, the Standing Committees have always refused to take a lead and occupied an awkward position between the Party and ordinary deputies. The cleavages between the Party and ordinary deputies have pointed out a more radical direction for today's political contestation, namely, public contestation; and eventually will result in the empowerment of ordinary deputies. Second, the rebellions of ordinary deputies against the Party have been spontaneous, the process of building a support coalition has been absent. On the other hand, the Party and PPC leaders are not prepared for such an exigency. So far, the two sides have preferred to find solutions quickly. Appeasement is the often-used strategy by the Party. For deputies challenging the Party on a personnel appointment, the best strategy has been to boycott the Party-nominated candidate and to find another popular Party cadre to knock him out. For example, both in Guizhou and Zhejiang, the vice-governors were favored by the deputies. Judged from this, up to now, the challenge from PC deputies has not violated the fundamental rule of adherence to the Party's leadership.

In addition, to explain the successful spontaneous collective actions by the ordinary deputies, additional factors seem relevant. First, the qualities of deputies. If the level of legal and democratic consciousness of deputies is low, they are less enthusiastic and courageous for asserting the constitutional rights of PCs aggressively (i.e. the Shaanxi Wei Mingsheng impeachment case). Second, the leading role provided by some respected deputies. The model peasants, workers and soldiers in the PCs are unlikely to initiate a motion against officials; nor are the official-deputies willing to act against their superiors. Relative autonomy and

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merit-based recognition have emboldened the intellectuals and professionals (i.e. university professors, medical doctors) to provide leadership to actions challenging the Party and PPC leaders. For example, in the investigations of two economic crimes cases in Sichuan, Professor Luo Shiyieng, a legal scholar, and his colleagues played a crucial role. Most supporters of Professor Luo’s motions were also respected scholars, university professors, senior engineers and medical doctors. Third, the political environment, which is mainly determined by the policies from Beijing and popular mood. The Hunan PPC’s impeachment against the vice-governor was successful because of the crucial support from the NPC Standing Committee and the 1989 student demonstrations. It happened 1 week before the declaration of martial law in Beijing, when the anti-corruption and pro-democracy movement had brought a short period of political liberalization to China. Although the 4 June crackdown did not suppress political contestation at the subnational levels, Deng Xiaoping’s 1992 ‘Southern Inspection Tour’ did boost a new wave of legislative assertiveness.

Because the Party controls the nomenclature system in China, most nominations of PC leaders, and its party members within the PC, it is the most crucial factor in the institutional environment in which the PC operates. It is very important for the PC to maintain a favorable relationship with the Party in order to get institutional support, and to foster a friendly environment for the PC’s institutional development. In the past decade, many PPCs have elected the Party Secretary to the position of PC Chairman. In the late 1980s, Party Secretary Sun Weiben of Heilongjiang was also the PPC Chairman. In the 1993 elections, Provincial Party Secretaries in Liaoning, Henan, Guizhou, Zhejiang, and Fujian were elected to head the PPC Standing Committees. Kevin J. O’Brien argues that the ‘legislative embeddedness’, for example, in the form of the PC’s association with powerful political figures, proximity to the existing power center, acceptance and exploitation of subordination, will benefit its organizational development. Instead, conflict and independence will only marginalize the PCs in politics. Contrary to the ‘legislative embeddedness’ prescription for the organizational development, many PCs contested against the Party power, especially its power over personnel, and the confrontational gestures of the PCs towards the government and the judicial branch have enhanced their power. However, it works a little bit differently in the PC–Party relationship. We have pointed out the distinction between the PC plenary session and the Standing Committee. The challenges to the Party have generally arisen from the deputies in the plenary session. The plenary session is always huge and very inclusive, it serves as a well-chosen control group in the statistical sense to articulate and represent interests; therefore, it is closest to the people’s mandate. Having a restless plenary session, the Standing Committee is able to play the ‘tying hand strategy’ to draw attention and support from the Party. This was exactly what had happened in the aftermath of rebellions both on the PCs’ floors and streets in 1989.

55. Bao Ming, ‘Woguo difang zhengquan jianshe de yixiang zhongda jucuo’ ['A significant measure to construct China’s local authority'], Shenyang Shifen Xueyuan Xuebao (shekeban) [Shenyang Normal College Journal (Social Science Edition)] (April 1993), pp. 31–32.
Saving face

At the crucial moment when victory is within their grasp, the PCs are willing to offer compromise to show their generosity and concern for the ‘overall situation’ (daju), and also to save face for the targeted actor and to make him indebted to the PCs.

As the Hunan impeachment case points out, arrogant attitudes and unsatisfactory answers often precipitate inquiries, may intensify confrontation and can lead to impeachment. In contrast, when government officials replied to PCs with self-criticism and responsive, cooperative attitudes, their confrontations with the PCs tend to be de-escalated. In 1987, three PPC deputies in Sichuan province received a letter from some teachers and students of four colleges for training administrative, legal, economic, financial and commercial, family-planning cadres; the letter criticized the extravagant investment practice of four government bureaus in Sichuan. In response, the Educational, Scientific, Cultural and Health Committee of the PPC Standing Committee started an investigation and eventually found the criticisms well-grounded. In April, some delegations filed an inquiry of the Provincial Planning and Economic Council. The government bureaus involved contested the criticism in the inquiry and refused to admit that their investments were wasteful. Under pressure from the PPC Standing Committee, the provincial government organized two investigation groups. The Sichuan PPC Standing Committee also had its own investigation group and conducted a week-long field investigation. Three vice-chairmen, seven Standing Committee members and seven ordinary deputies participated in these activities, assisted by three experts. After twice listening to reports from the provincial government, the PPC Standing Committee was not satisfied with the solution they proposed. The provincial government was ordered to consult experts and to adjust its construction plans. Henceforth, adjustment plans would have to be approved before the PPC appropriated money for them. Finally, in November 1988, the provincial government presented a third report in which five measures were proposed for saving money. The PPC Standing Committee reviewed the adjustment plan and approved it. A power encounter was over.57

In addition to the impeachment power, the power to control the purse string has increasingly become another effective means for the PCs to influence government behavior. As this Sichuan case demonstrates, if and when the PCs, especially their Standing Committees, are aware of and are tempted to use the power of the purse, the legislative–executive relationship in China will enter a stage of more conflicts. If the PCs can grasp the budgetary power from the government, the power center will certainly become more dispersed, as all Western nations have witnessed.

In 1994, a political confrontation between the PPC Standing Committee in Guangdong Province and the Bureau of State Land was also defused by a concession from the later. That year, the PPC Standing Committee passed The Registration Regulation Concerning Urban House and Land in Guangdong Province, intending to end the practice that houses and the land on which houses were

located were to be registered with and regulated by two separate agencies. The new regulation put them under the same agency, making it simpler for owners. After this regulation was promulgated, the Provincial Bureau of State Land sent two telegraphs to its local bureaus ordering them not to follow the new regulation if they had not already done so. This effectively blocked implementation of this regulation. Consequently, 21 PPC Standing Committee members filed an inquiry and asked the bureau director to answer various questions. Facing fierce criticisms in the PPC Standing Committee, that official had to back up a little bit and told the Standing Committee that his decision was ‘imprudent and inappropriate’. The members were angered. They thought the refusal to follow the PPC law was far more serious than ‘imprudent and inappropriate’ and insisted that he should admit it was completely wrong, a mistake, a violation of law, an act of using a departmental decision to invalidate a PPC law. The members believed that this wrong decision had undermined the sacredness of the law and damaged the PPC’s authority. The PPC Standing Committee Chairman, Lin Ruo, who had been Party secretary in Guangdong Province before taking up the PPC position, delivered a sharp attack against the bureau director. Subsequently, the PPC Standing Committee passed a resolution, expressing its dissatisfaction and warning: ‘Comrade Yuan Zhen (the bureau director) must re-study the Constitution and Local Organic Law seriously, enhance his own level of legal knowledge and consciousness of doing work in accordance to law, reflect on himself, and give a new answer to the inquiry in the next Standing Committee meeting. We give him 2 months to rectify his mistake. We will listen to his words and watch for his actions’. Soon after this resolution was passed, Bureau Director Yuan Zhen apologized to the PPC Standing Committee for his mistake, promised to accept its criticisms, and withdrew his directive.\footnote{Liu Jidong \textit{et al.}, ‘Jiqi fulu zhijian’ [‘Worship the sword of law’], \textit{Renda Gongzuo Wenzhai [Digest of People’s Congress Work]} 30(1), (February 1995), pp. 24–25; also see: \textit{Yangcheng Wanbao [Yangcheng Evening News]}, (13, 16, 18 November 1994), all p. 1.}

This case points out that when a resolution passed by the PPC is accompanied by serious warnings and a tacit threat, teeth are put on the supervisory power of the PC. This is further corroborated by a case in the Shaanxi PPC Standing Committee. In 1989, commodity prices in Shaanxi Province, especially in the provincial capital Xi’an, exceeded the national average and soon became a hot topic for discussion among ordinary people and PC deputies. Upon listening to the provincial government articulate the measures for price control, many members of the Shaanxi PPC Standing Committee were still not satisfied. They informed the provincial government that if it could not achieve the promise by the provincial governor that 1989 prices would be lower than the preceding year, the Standing Committee would impose ‘tough measures’: ‘If that situation happens, it will not remain an economic issue. Rather, it will be a political issue’.\footnote{Wu Wentai, ‘Zhuazhu redian weni jinxing jiandu de zuofa hao’ [‘It’s good to conduct supervision by focusing on “hotspot” issues’], in Research Office of NPC Standing Committee, ed., \textit{Renmin Dabiao Dahui Zhidu Lancong}, p. 191.} Over the next 3 months, the government cut several projects and used the money saved to stabilize prices; the rate of price increases was kept lower than the previous year. In most such cases, the govern-
ment officials accepted the criticisms in the inquiry, offered workable remedies, and appeased the deputies’ anger.60 Self-criticisms with good attitudes always save the positions of officials who were guilty of misconduct and help them escape from any legal responsibility.

Conclusion

Careful examination of Chinese politics at the provincial level has unraveled many significant developments during the last decade under reform. The PPCs have become more mature and independent-minded and more disposed to assert their power vis-à-vis the government, court, procuratorate, and even the Party, all of which are traditionally more powerful than the PCs in ‘real politics’. A large number of cases indicate that PPCs’ meekness can never again be taken for granted. Their achievements in the past decade have been significant and encouraging. Today, they are trying to force other key political actors to recognize and respect their power positions and are competing with the Party for one of the most valuable power resources, the people’s loyalty and mandate, by playing the role of last redress for their problems. In both the Tianjin and Hunan court cases, when the Party, government and other channels had failed, ultimately, the PC stepped in and restored justice. The deputies have tried to stretch the margin of the Party’s tolerance further. If this tendency continues, once societal demands become a driving force behind the deputies (as occurred temporarily in 1989), the institution-based contestation among the political elite will be ushered into public contestation. One Chinese dissent belief is that ultimate success will be attained by the PCs, i.e. that they will become real parliaments, when they display the ‘martyr’s spirit’, namely, they are ready to fight and die for their power.61 Now, some deputies have demonstrated this spirit in their contest with the government, court, procuratorate, and the Party. As more well-educated deputies and seasoned politicians, after finishing their terms in the Party and other government branches, enter the PPCs, the PPCs’ assertiveness will continue to build. The power position of the PPCs will be further consolidated and institutionalized. The decision-making process in China has become more complicated.

In the process of expanding their political power, the PPCs have benefited from the tactics they used to build enabling linkages or support coalitions for their activities. First, in dealing with the government and the judicial branch, they have paid special attention to winning support from the Party and the NPC Standing Committee. Their support has always helped the sub-national PPCs triumph over their rivals for power. NPC support is more predictable for the PPCs than Party support, for the NPC can also strengthen its own position in assisting the PPCs to become institutionalized. If the Party tries to block the PPCs from asserting power,

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POLITICAL CONTESTATION

it always makes it difficult for the latter to pursue that objective. In many instances, the Party has built insurmountable obstacles. Second, in order to strengthen their positions vis-à-vis the Party, the PCs have carefully selected their targets based upon the state of public opinion. Many high-profile, ‘hotspot’ issues have been exploited by PPCs. Popular attention and pressure make these cases difficult for the Party to cover up or evade. At the same time, the PPCs can demonstrate their potential utility by solving problems and preventing them from exploding and causing further damage to the whole system. Third, to avoid a ‘trouble-maker’ image, the PPCs have pursued a cautious contestation strategy with the Party, government, court, and procuratorate to facilitate mutual understanding and preempt a final show-down as far as possible. For example, once the Standing Committee senses the trouble with one Party-designated nominee, it is able to suggest that the Party withdraw the name before it is sent forward to be voted upon. The Party often listens to these suggestions and thereby avoids a face-losing confrontation. The PPCs and their Standing Committees have actually achieved their goals principally by institutionalized consultations with other power institutions. However, the possible escalation to public confrontation strengthens the hand of the PPCs.

Fortunately, PPCs have attracted many former leaders in the Party, government, and legal branch and enhanced their political standing. In the early 1980s, most positions of PPC Standing Committee Chairman were taken by the vice-governors, number-two men in the executive branch, who retired to the second-front work. In the mid-1980s, more number-one men in the executive branch entered the PPCs. In the early 1990s, many Party Secretaries and young rising government leaders have taken PPC leading positions. For example, in the Guangdong case, including the inquiry of the Bureau of State Land, the PPC Standing Committee Chairman Lin Ruo was the former Party Secretary; it is the same in Guizhou. In Sichuan case, including the inquiry into the Higher Court, the Chairman of the Political and Legal Affairs Committee of the PPC Standing Committee who presided over the inquiry of the Chief Judge was himself a former Chief Judge. These seasoned politicians were able to take advantage of their good connections and long-term experience within the Party, government or legal branch and were skilled in balancing the use of consultation and confrontation, to strengthen instead of weaken each other’s effect.

The mixture of consultation and confrontation in the interactions among major political institutions indicates a change in the mode of political governance in China. Obviously, China’s reform leaders want to reduce bureaucratism and increase incentive, especially local incentive, while at the same time maintaining central state capacity (or ‘general efficiency’ in Deng Xiaoping’s terms). Because of this dilemma, the network strategy, a hybrid mode of political governance (a ‘mixed regime’ in Dahl’s terminology) has been followed by the Chinese leadership. This network mode of governance, which has taken shape during the reform era, provides a baseline for us to discuss and evaluate political contestation in Chinese politics. With such contests that are characterized by ‘Mohe’ (cooperation through competition), they serve the goal of increasing local incentive and reducing bureaucratism and corruption, without, however, threatening the central-state
capacity and obstructing institutional transformation (economic marketization is superior to political democratization for the Chinese leadership). The nature of these contestations discussed above clearly demonstrates that they are close to pluralism but not participation, therefore, have not amounted to ‘democratization’. China’s transition has been toward ‘authoritarian pluralism’.  

Since subnational legislative contestation is less threatening to the state capacity than political opposition at the national level and also serves the goal of controlling bureaucratism and promoting local incentive, the central leadership has allowed more political contestation at sub-national levels than at the national level. The Party center could not tolerate Hu Jiwei, NPC Standing Committee member, who organized a signature-collection drive among his colleagues in 1989 intending to impeach Li Peng and to stop martial law, and expelled him from the NPC. In contrast, the Chinese leadership in Beijing has shown restraint in handling the same actions at the sub-national level. Predictably, political contestation at the sub-national level may someday spill over into national-level politics, because the NPC and the sub-national PCs have formed an ‘institutional isomorphism’ (for example, the PPC leaders attending the NPC meetings, the NPC providing guidance to sub-national PCs, etc.) and have emulated policies and structures from each other. If this continues, the process is apt to mirror a scenario prescribed by Robert Dahl: developing sub-national representative institutions and allowing contestation to exist initially at lower levels constitute a prudent strategy for democratization. Without knowing it, China may already be fixed on that course. But a caveat should be noted: the ‘Mohe society’ in China may find more affinity for a deliberative democracy (which pays more attention to the deliberation process as an important component for democracy) rather than a pluralist democracy (which more favors pluralism and autonomy).

63. Shikai Hu, ‘Representation without democratization: the “signature incident” and China’s National People’s Congress’.