

# Peng Zhen's Democratic Legal System Thought to Contemporary Enlightenment

Yanteng Gao

Law School, Shanxi University of Finance and Economics, Taiyuan, 030006, China

591513343@qq.com

**Abstract.** Comrade Peng Zhen is one of the important founders of China's socialist legal system. His democratic legal system has played a major role in the establishment of China's socialist legal system. The 19th National Congress of the Communist Party of China hold in 2017 set new goals and new requirements for the rules of law in the new era. Comrade Peng Zhen's democratic and legal thinking is still of great significance for the construction of the rule of law in China today because of its democratic, scientific and systematic nature.

**Keywords:** Peng Zhen; democracy and legal system; contemporary; enlightenment.

## 1. Introduction

Comrade Peng Zhen is an important leader of the Chinese Communist Party, and the country, and a great revolutionary and politician. He has served as the secretary of the Central Political and Legal Committee of the Party and later the chairman of the Standing Committee of the National People's Congress. Throughout his life, he had always adhered to the truth, sought truth from facts, established and perfected the system and team of the political and legal front, and always stood at the forefront of the building of democracy and the legal system, and made great contributions to the building of a new socialist democracy and legal system in China.

## 2. The Formation of Peng Zhen's Democratic Legal Thought

Comrade Peng Zhen is one of the important founders of China's socialist legal system. The formation of his democracy and legal system was based on his solid theoretical foundation and rich practice. Comrade Peng Zhen was unfortunately arrested in 1929, but the six-year of prison life did not defeat his enthusiasm for the revolution. Instead, it gave him ample time to study the law. and laid a solid theoretical foundation for Comrade Peng Zhen to form his own scientific ideology in the future. After being released from prison, Comrade Peng Zhen firstly went to the Shanxi-Chahar-Hebei border area and proceeded to organize and revise the laws and regulations of the border area. Later, he participated in and guided many legal works in the Northeast and the Central Committee. At this stage, he accumulated a lot of practical experience in building democracy and legal system. In the early days of the founding of the People's Republic of China, Comrade Peng Zhen served as the vice chairman of the Standing Committee of the first, second and third National People's Congress, which played an important role in the active promotion of China's political and legal work. Especially after the special historical period of the "The Great Proletarian Cultural Revolution", Comrade Peng Zhen further recognized the importance of a complete socialist legal system for the country's construction and political stability. Therefore, after he was appointed as the director of the Legal Committee of the Standing Committee of the National People's Congress, he led and presided over the political and legal work of the Committee, and created a myth that seven major draft laws were drafted in three months. The formulation and implementation of these seven laws had contributed greatly to the further improvement of China's socialist legal system. At the same time, Comrade Peng Zhen's thoughts on democracy and legal system construction had been further developed during this period and gradually matured.

### **3. The Content of Peng Zhen's Democratic Legal Thought**

Peng Zhen's Thought of Democracy and Legal System has a huge content. It has many contributions in the fields of legislation, law enforcement, and judiciary. In short, the author believes that his thought is more embodied in democracy, scientific and systematisms. It is precisely these three characteristics that guided Peng Zhen's democratic legal thought to develop on the right path and will provide a good reference and guidance for the legal construction of China in the new era.

#### **3.1 The Democracy of Peng Zhen's Democratic Legal Thought**

The democratic nature of Peng Zhen's democratic legal system is embodied in the principles of "Everyone is equal before the law", "Adhere to democratic centralism", "protect human rights" and "overall supervision". Although Comrade Peng Zhen had held an important leadership position of the Party and China for a long time, he had not been contaminated by the bad atmosphere of the officialdom, and had always adhered to the concept of starting from the masses in the construction of the legal system. Comrade Peng Zhen believed that the legislators should combine the centralism on the basis of democracy with the democracy under the guidance of the central government, adhere to the implementation of the mass line, and take into account the fundamental interests of the majority of the people in the legislative work. At the same time, Comrade Peng Zhen also actively advocated the principle of "Everyone is equal before the law" and finally wrote it into the 1982 Constitution. Not only that, but Comrade Peng Zhen was also very concerned about the issue of human rights protection. After his return, he first amended the "Regulations on Arrest and Detention" and clarified the principle of "Citizens of the People's Republic of China, not subject to arrest except by the decision of the people's court or the approval of the People's Procuratorate." Later, in the revision of the criminal law, the principle of "killing less and killing carefully" was established, and 12 death penalty clauses were removed in the chapter on counter-revolutionary crimes. Moreover, besides the top-down legislative work, Comrade Peng Zhen also stressed the need for bottom-up supervision of power. As a basic force, the masses can supervise all state organs and their staff in the country. Of course, this supervision should be carried out within the scope of legal compliance to prevent secondary corruption.

#### **3.2 The Scientific Nature of Peng Zhen's Democratic Legal Thought**

The scientific of Peng Zhen's democratic legal thought is mostly reflected in his opposition to the rule of man, support to the implementation of the rule of law and the analysis of the relationship between the Party, law and judicial independence. Comrade Peng Zhen experienced the highly centralized and planned political system and the gloomy "Cultural Revolution" in the early days of the founding of the People's Republic, which made him more profoundly aware of the importance of the legal society. Comrade Peng Zhen pointed out that "developing socialist democracy and improving socialist legal system" proposed by the Third Plenary Session of the Eleventh Central Committee is a major reform and historical fundamental task of the Party and the state. In order to speed up the process of socialist legal system in New China, we must first completely abandon individual monopoly. Moreover, Comrade Peng Zhen had also made an analysis of the relationship between the Party and the law, and the relationship between the Party and the independence of the judiciary, which was the bone of contention by academia. Comrade Peng Zhen pointed out that it is our political principle to adhere to the leadership of the Party. Judicial organs should adhere to the leadership of the Party, but that does not mean that the Party can interfere in judicial activities at will. Only when the judicial organs encounter unsolvable problems can the Party conduct macro-guidance without interfering in the specific work of the judicial organs. Judicial activities should not be guided by the Party, but should be guided by law and based on facts. At the same time, Comrade Peng Zhen also emphasized that the Party should act within the scope of the Constitution and the law, and in 1982, when presiding over the revision of the Constitution, he wrote in the Constitution "the Constitution has the highest legal status, the Party should take the Constitution as the fundamental activity criterion, and no organization should have the privilege of exceeding the Constitution".

### **3.3 Systematicness of Peng Zhen's Democratic Legal Thought**

The systemic nature of Peng Zhen's democratic legal system is reflected in the establishment of a legislative system with distinct levels, as well as improvement of the enthusiasm of the central and local governments and following the rule of the social development. During the nine years that Comrade Pengzhen presided over the revision of laws in various departments, he gradually formed a Chinese characteristic socialist legal system with the constitution as the core. He established the legislative system that the National People's Congress (NPC) and its Standing Committee enacts laws, and the State Council makes administrative regulations. The name of the legal provisions was further standardized; the level of effectiveness was clarified; and the role of each individual in a system was emphasized. Since the enactment of laws cannot meet the needs of all parts of the country, and the formulation of many detailed rules is difficult to implement nationwide, the building of a socialist legal system must fully mobilize the enthusiasm of the central and local governments, and local governments should make local implementation rules to regulate regional activities. At the same time, the legislation should also follow the law of social development, should be based on economic construction and contribute to economic construction so as to exert its greatest value.

## **4. The Contemporary Enlightenment of Peng Zhen's Democratic Legal System**

### **4.1 The Party's Policies and Laws Complement Each Other.**

The differences between the Party's policies and laws are mainly reflected in the following four aspects. First, the organization and procedures are different. In a narrow sense, laws can only be enacted by the NPC and its standing Committee, administrative regulations and local laws and regulations shall be enacted by the State Council and local competent organs, and the Party's policies shall be made by the Party Central Committee. Second, the way of implementation is different. The law has the National coercive force, and the policy of the Party is more used for propaganda and study, but also can carry on certain degree of sanction to the party members. Third, the scope of adjustment is different. Specific criminal issues can only be regulated by law. Fourth, the degree of certainty is different. Laws are more standardized and established; policies are more flexible. In the face of the conflict between the policies and laws of the Party, we must analyze the relationship and distinction between the two, and must not put the two on the opposite direction.

### **4.2 Institutionalization of Personnel Selection and Appointment, Crack down on Bribery**

For the controversial point of rule of man and rule of law, China has already made clear provisions in the law, but in recent years, some leaders in China are still obsessed with rule of man, and even regard the judiciary as their own private weapon and a tool for making money. In view of this, we should follow the guide of the Nineteenth National Congress to pay close attention to bribery and bribe-taking. We should not only crack down on bribery but also severely punish bribery, strangle the germination of corruption in the cradle, and jointly build a more institutionalized, fair and transparent office environment. Only in this way can the power be confined in a cage to put an end to the bad situation of active and passive bribery of The Party's leading cadres.

### **4.3 The Change of Major Contradictions Promotes Legislative Renewal**

History has proved that if the superstructure adapts to the economic base, it will promote the development of the economic base. On the contrary, if not suitable f, the superstructure will hinder the economic development. Therefore, we must adhere to the general thinking of the Law Movement. We must always pay attention to social and economic development when enact laws and regulations, so that the superstructure can better serve the economic foundation. Nowadays, major contradictions in China have undergone major changes. With the development of economy, there are many new economic crime cases in our society which need to be regulated by law urgently. Therefore, in order to further improve the socialist legal system and take the road of "ruling the country according to law", it is necessary for China to innovate the current law.

## 5. Conclusion

The study of Peng Zhen's thought of democracy and legal system has a profound influence on the construction of a country ruled by law today. However, due to the limited level of research, the author failed to make a deeper analysis of the content in order to get more valuable inspiration for the construction of the rule of law in China. further research in this field will be made in order to improve the construction of the rule of law in China.

## References

- [1]. See Zhu Leyu: “Peng Zhen's Theory of Rule of Law and Democracy”, Renmin University of China Press, 1999.
- [2]. See Tian Yuru, “Peng Zhen Biography”, People's Publishing House, 2007, p. 321.
- [3]. See Tian Yuru, “Peng Zhen Biography”, People's Publishing House, 2007, p. 309.
- [4]. See Deng Zeqiu, Wang Min: “Peng Zhen's Outstanding Contribution to China's Democracy and Legal System Construction”, published in the Lantai World.
- [5]. See Gu Anran: “The Main Founder of China's Socialist Legal System – Commemorating the 100th Anniversary of Comrade Peng Zhen's Birth”, in Qiushi, No. 21, 2002, p. 22.
- [6]. Guo Fuyou. Peng Zhen's Legal Thought and Its Contemporary Enlightenment. Hunan University of Science and Technology. 2011.
- [7]. Li Guoqing. Research on Peng Zhen's Legal Thought. Northeast Forestry University. 2017.