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# The Evolving Relationship Between the National People's Congress and the Supreme People's Court in the Xi Jinping Era

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**ABSTRACT**

How the Supreme People's Court, China's highest court interacts with other central institutions, particularly the National People's Congress (NPC), and the impact of that relationship on both institutions, is shrouded in mystery. Through official documents alone it is almost impenetrable to students, analysts, and legal professionals outside of China. This article decodes official documents and draws on interviews with current or former officials to provide a close examination of the evolving relationship between the NPC and SPC in the Xi Jinping New Era, illuminating their nuanced practices. It examines the impact of Party policy on this basic constitutional relationship, focusing on the most important interactions between the two institutions: legal policy making; legislative drafting; oversight of the SPC; SPC seeking NPC support for its initiatives; and NPC delegate interactions with the SPC. The article illuminates the unique evolving Chinese constitutional model and provides further understanding into the operation of China's highest court and its relationship with the NPC.

**KEYWORDS**

Supreme People's Court; National People's Congress; supervision; oversight

How China's highest court interacts with other central institutions, particularly the National People's Congress (NPC), and the impact of that relationship on both institutions, is shrouded in mystery. Through official documents alone it is almost impenetrable to students, analysts, and legal professionals outside of China. This article decodes official documents and draws on interviews with current or former officials to illuminate their nuanced practices and impact of this relationship underlying the operation of the Chinese legal system.

The basic legal principles that govern the relationship between the NPC—China's highest state organ of power—and the Supreme People's Court (SPC) contained in the Chinese Constitution and court legislation have remained virtually unchanged in the past thirty or so years. However, Chinese Communist Party (CCP or Party) policy in the Xi Jinping era has driven changes to NPC legislation and inter-institutional practices, reshaping the dynamics of the relationship. Institutional changes in the Xi Jinping era under which state institutions have been absorbed by their Party counterparts means

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that SPC involvement in legislative drafting increasingly involves Party institutions. The result is a strengthening of the leadership role of the Party Centre and its affiliated institutions in legal policy and legislation. This results simultaneously in the NPC and SPC collaborating in legal policy-making, and legislative drafting, and in the NPC's supervision more tightly constraining the SPC's power while making greater use of its technical expertise, particularly in the legislative process.

The Constitution provides that the SPC is responsible to the NPC and its Standing Committee (NPCSC), and that the NPC and its Standing Committee supervises (监督) the SPC's work. Court legislation states that the SPC is responsible, and reports on its work, to the NPC and the NPCSC.[1] Party policy in the Xi Jinping era seeks to promote 'whole-process democracy'.[2] One aspect of that policy is making the NPC (and its constituent institutions) more responsive to Party Centre requirements and more robustly involved with legislating, overseeing as well as state institutions—including the courts. It presses delegates to take their role seriously, including engaging more with state institutions such as the SPC. The result of this policy is a stronger leadership role for the Party Centre and its affiliated institutions and greater importance placed on the SPC's technical expertise but also tighter constraints on the SPC's authority.

In the Xi Jinping era, China's political and legal systems have been significantly remoulded.[3] The reshaping of the relationship between the NPC and SPC is an important, yet largely overlooked, aspect of that remoulding. It is one that has received little scholarly attention, particularly outside of China, likely because it requires decoding official documents, coping with limited transparency, and unwrapping hidden inter-institutional practices.

This article explores changes to the NPC–SPC relationship by examining five forms of interaction between the two institutions: legal policy-making; legislative drafting; oversight of SPC work; NPC support of SPC initiatives; and NPC delegate interactions with the SPC. These interactions reveal an evolving Chinese model of constitutional relationships tightly guided by the Party leadership—a model involving public and non-public collaboration, persuasion, and, for the most part, hidden criticism and controls. It involves soft boundaries between the work of the legislature and the supreme court, with both institutions working in ever closer cooperation with the Party Centre and its

[1]Article 133, 宪法 Constitution (2018 revision), bilingual versions available as follows: Chinese: https://cpc.people.com.cn/n1/2018/0322/c64387-29881666.html; English: https://npcobserver.com/wp-content/uploads/2023/11/PRC-Constitution-2018.pdf. Article 9, 人民法院组织法 (Organic Law of People's Courts (2018 Revision)), bilingual version available at https://www.chinalawtranslate.com/en/organic-law-of-the-peoples-courts-of-the-p-r-c-2018-revision/.

[2]Official interpretation: What to know about whole-process people's democracy in China, State Council's Official English language website, 6 March 2025, https://english.www.gov.cn/news/202503/06/content_WS67c8f0a0c6d0868f4e8f0784.html; Changhao Wei & Taige Hu, *The NPC and the 2024 Third Plenum Decision*, NPC Observer (July 31, 2024, at 17:12 EDT), https://npcobserver.com/2024/07/31/the-npc-and-the-2024-third-plenum-decision/; Stella Chen, China Media Project blog, 23 November 2021, https://chinamediaproject.org/the_ccp_dictionary/whole-process-democracy/.

[3]On the remoulding of the Chinese legal system in the Xi Jinping era, see, for example: on evolving concepts of the rule of law, see Peerenboom, R. The Transformation of State Socialist Rule of Law into Party-State Socialist Rule of Law in the Xi Jinping Era. *Hague J Rule Law* **17**, 221–276 (2025). https://doi.org/10.1007/s40803-025-00248-5; Zeming Liu and Benjamin L. Liebman, Redefining Law in China, *The American Journal of Comparative Law*, 2025;73(3):672–735. doi:10.1093/ajcl/avaf025; on some of the procuratorate reforms, see He X. Plea Leniency and Prosecution Centredness in China's Criminal Process. *The China Quarterly*. 2023;254:448–465. doi:10.1017/S030574102300022X; for a summary of views of court reforms of observers based outside of China, see He, Xin, 'Historical Background and Judicial Reforms under Xi Jinping', *The Judicial System of China*, Judicial Systems of the World (Oxford, 2024; online edn, Oxford Academic, 6 Nov. 2024), https://doi.org/10.1093/9780198927815.003.0002, accessed 30 Sept. 2025.

institutions. Under this model, the NPC (and NPCSC) are more involved in legal policy making, legislate more, oversee the SPC more closely, and empower delegates to engage more robustly with the SPC and other state institutions. The NPC (particularly the NPCSC) increasingly requires SPC support in legislation; and the SPC, which needs NPC support, strategically involves the NPC to seek support for its work. The SPC uses supervision by the NPCSC and its delegates to demonstrate its own many contributions to the NPC's work through its politically conscious technical expertise.

As this article will explain, one aspect of Xi Jinping era law-based governance is having a legislature with authority appropriate for China's political and legal system. Since 2014, Xi Jinping and senior Party leaders have sought both to revitalise China's legislative (people's congress) system—particularly the NPC (and NPCSC) as the national legislature—and to strengthen Party leadership of that work. This is part of a push to strengthen Party leadership over other central state institutions, to make them more responsive to Party Center plans and arrangements.

As mentioned above, under the Chinese constitutional system, the SPC is responsible to, and supervised by, the NPC. Xi Jinping era Party rules clarify, both the NPCSC and SPC are central state institutions whose Party Groups (党组) are responsible to, and supervised by, the Party leadership.[4] Although it is less known, the SPC supports the NPC through significant involvement in the legislative process and as is illustrated below, involves the NPC in the drafting of judicial interpretations and sometimes other important guidance documents. Additionally, the SPC strategically interacts with NPC delegates who have raised proposals to the SPC and SPC judges communicate with NPC delegates both during the annual NPC meeting and at other times to promote SPC policies. Some delegates operate in a regulatory grey area by involving themselves in cases. Although the NPC (and NPCSC) appoints and removes SPC judges, thus far the process is a formality, and so this aspect will not be discussed.

Section 'Xi Jinping era evolution of party policies on the National People's Congress' of this article reviews evolving Xi Jinping era Party policies relating to the NPC and NPCSC as relevant to their relationship with the SPC. Section 'NPC and the SPC: law and practice' describes the law and illustrates the two institutions' interaction in practice in the five ways mentioned above, looking in turn at legal policy-making, legislative drafting, NPC oversight of the work of the SPC, and finally, NPC delegate interactions with the SPC. Section 'Conclusion' concludes.

[4]The members of a Party Group (党组), such as the SPC's and the NPCSC's, consist of the key decisionmakers in those state organizations. The NPCSC's Party Group is responsible to the Party Centre and presumably the SPC Party Group rules provide similarly. Snape H (2024). The rise of party law: rewiring the party, recalibrating the party-state relationship. China J 92(1):1–26. Central Committee of the CCP, Zhongguo Gongchandang Zhongyang Weiyuanhui 中国共产党中央委员会工作条例 Regulations on the Work of the Central Committee of the Communist Party of China, available at https://www.gov.cn/zhengce/2020-10/12/content_5550656.htm, 12 October 2020, translated at https://www.chinalawtranslate.com/en/centralcommitteeregulations/. The Party Centre has issued Party Group Work Regulations, CCP Party Centre, 中国共产党党组工作条例 (Regulations of the CCP on Party Group Work), 15 April 2019, https://www.gov.cn/zhengce/2019-04/15/content_5383062.htm. The NPCSC itself and NPCSC institutions have issued Party Group rules 中共全国人大常委会党组工作规则 https://zh.wikisource.org/wiki/%E4%B8%AD%E5%85%B1%E5%85%A8%E5%9B%BD%E4%BA%BA%E5%A4%A7%E5%B8%B8%E5%A7%94%E4%BC%9A%E5%85%9A%E7%BB%84%E5%B7%A5%E4%BD%9C%E8%A7%84%E5%88%99 and 中共全国人大常委会机关党组工作规则 (the latter on file with the author), as has the SPC, although the latter rules not publicly available. See an extended discussion of Party Groups in courts (in Chinese), He Fan, Zhongguo Sifa de Zhidu Luoji 中国司法的制度逻辑 hx0028;Gathering Momentum: The Institutional Logic of the Chinese Judiciary), Beijing: Chinese Democracy and Legal System Press, 2023 at 215–228.

The article uses 'NPC' to refer to the institution generally and specifies the Legislative Affairs Commission (法制工作委员会 or '法工委'), the crucially important NPCSC ministerial-level 'working body' [工作机构], or other committees or commissions as appropriate. It similarly specifies relevant institutions of the SPC.[5]

The analysis in this article draws on previous English-language research by Murray Scot Tanner, Rory Truex, Youngnam Cho, Keith Hand, and particularly Changhao Wei and his collaborators who operate the NPC Observer site.[6] Few have shed light on this nuanced inter-institutional relationship. Among the Chinese writings that the author found useful: Judge He Fan's encyclopaedic book on the logic of the Chinese judicial system, Guo Song's article on SPC specialised reports and Zhu Guangxin of the China Academy of Social Sciences, on the drafting of the Civil Code.[7] Additionally, the article draws on relevant press reports, Party, SPC, and NPC official documents to the extent that they are publicly available. The author has supplemented those written sources with correspondence and interviews with current and former SPC judges, former NPC officials, and other officials, enabling her to have some sense of actual practice. The people cited in this article on an anonymous basis have reviewed the statements attributed to them.

## Xi Jinping era evolution of party policies on the National People's Congress

This section sets out how Party policy in the Xi Jinping era have described the principles of a legislative model envisioned by the Party leadership. This is not a model based on a separation of powers; it is a collaborative one in which the Party more firmly leads legislative policy and makes major policy decisions, the NPC becomes a more active and more inclusive legislator, and state institutions, such as the SPC, support NPC legislative and other work and are overseen and restricted by it.

The 2014 Party Plenum document 'CCP Central Committee Decision Concerning Several Major Issues in Comprehensively Advancing Governance According to Law' (hereafter 'Advancing Governance According to Law Decision' or 'Decision') signalled that the Party leadership had decided to invigorate the people's congress system (CCP Central Committee 2014).[8] The Decision serves as a framework for new legal policies that continue

[5]Shuhao Fan, Changhao Wei & Taige Hu, *The NPCSC Legislative Affairs Commission and Its 'Invisible Legislators'*, NPC Observer, https://npcobserver.com/2018/06/scholarship-highlight-the-npcsc-legislative-affairs-commission-and-its-invisible-legislators/ (July 31, 2025).

[6]Murray Scot Tanner, The Politics of Lawmaking in China, Oxford: Clarendon Press, 1999; Keith J. Hand, Constitutional Supervision in China after the 2018 Amendment of the PRC Constitution: Refining the Narrative of Constitutional Supremacy in a Socialist Legal System, 23 ASIAN PAC. L. POL'Y J. 137 (May 2022); Hand, K. J. (2013). Understanding China's System for Addressing Legislative Conflicts: Capacity Challenges and the Search for Legislative Harmony. Columbia Journal of Asian Law, 26(1). https://doi.org/10.7916/cjal.v26i1.3326; Rory Truex, *Making Autocracy Work: Representation and Responsiveness in Modern China*. Cambridge: Cambridge University Press, 2016.

[7]He Fan, Zhongguo Sifa de Zhidu Luoji 中国司法的制度逻辑 (Systemic Logic of the Chinese Judicial System), Beijing: Chinese Democracy and Legal System Press, 2023 and Zhu Guangxin, Minfa Fadian de Licheng yu Tese (民法法典化的历程与特色) (The Process and Characteristics of the Codification of the Civil Code) Zhongguo Falv Pinglun, #3, 2020 (中国法律评论》10–20, republished at http://iolaw.cssn.cn/zxzp/202006/t20200611_5141775.shtml; Guo Song, 法院专项工作报告制度的运行逻辑与优化发展——以最高人民法院专项工作报告的实践为分析素材 (The operational logic and optimized development of the court special work report system—based on the practice of the Supreme People's Court's special work report), 政治与法律 (Zhengzhi yu Falv Politics and Law), #5, 2024, republished at https://mp.weixin.qq.com/s/Qmor5b8M7fmrVW76_7p4mQ.

[8]CCP Central Committee. 2014. 'Zhonggong Zhongyang guanyu quanmian tuijin yifa zhiguo ruogan zhongda wenti de jueding 中共中央 关于全面推进依法治国若干重大问题的决定' [Decision concerning several major issues in comprehensively advancing governance according to law] October 23. https://www.gov.cn/zhengce/2014-10/28/

to have a direct and indirect impact on the work of the NPC and its relationship with the SPC. Those policies have since been detailed in subsequent Party plans, rules and other sources of Party policy and many have been transformed into legislation.

The group that drafted the Advancing Governance According to Law Decision included several senior members of the NPCSC, which (among other institutions) also submitted a specialised research report to the drafters.[9] That Decision's policies on the people's congress system incorporate several aspects relevant here: strengthening Party leadership of legislation; improving the NPC's legislative work; strengthening NPC supervision authority over state institutions, including over the judiciary; and facilitating NPC delegates to carry out their duties.

On strengthening Party involvement in legislation,[10] the Advancing Governance According to Law Decision clarified that 'in all cases where legislation involves adjustment to major structures or major policies, it must be reported to the Party Centre for discussion and decision … .Major questions in the formulation and revision of laws are to be reported to the Party Center by the NPCSC Party Group'.[11] This principle was further developed in the 2019 Party Group Work Rules, which called for Party Groups to strengthen their leadership over the work of the state institutions in which they are located. The NPCSC Party Group Work Rules reiterate that principle. It can be assumed that the SPC's Party Group Work Rules do as well. Another development that increased (or made apparent) the role of Party institutions in the legislative process was the 2018 institutional reforms in which Party institutions, such as the Central Propaganda

content_2771946.htm archived at https://web.archive.org/web/20221214084406/.archive.org/web/20221214084406/https://www.gov.cn/zhengce/2014-10/28/content_2771946.htm; English translation at https://www.chinalawtranslate.com/en/fourth-plenum-decision/. It also signaled the Party leadership's decision to reshape the court system, as the author has discussed elsewhere. See Susan Finder, Dean Jiang Huiling on Chinese Judicial Reform, Supreme People's Court Monitor blog, https://supremepeoplescourtmonitor.com/2022/01/20/dean-jiang-huiling-on-chinese-judicial-reform/.

[9]Hu, Angang. 2015. 'Shiba jie si zhong quanhui 'jueding' zhangxianlie zhongguo tese de juece jizhi' 胡鞍钢：十八届四中全会《决定》彰显了中国特色的决策机制 [The Decision of the Fourth Plenary Session of the 18th CCP Central Committee demonstrates the decision-making mechanism with Chinese characteristics], January 5. http://theory.people.com.cn/n/2015/0105/c83859-26328200.html, archived at https://perma.cc/7XWR-DYMY.

[10]See a description in Finder, S. (2024). How China's Supreme People's Court Supports the Development of Foreign-Related Rule of Law. China Law and Society Review, 8(1–2), 62–118. https://doi.org/10.1163/25427466-08010001, at 69–70.

[11]In Chinese, '凡立法涉及重大体制和重大政策调整的, 必须报党中央讨论决定 … .法律制定和修改的重大问题由全国人大常委会党组向党中央报告。'. Article II (2), supra note 3; see a visualisation at https://npcobserver.com/about-npc/. Renmin University Professor Huang Wenyi explained the role of the Party Group as follows: the Communist Party of China (CPC) has established Party organizations in all state institutions, the most important of which are Party groups. Within the Party's organizational system, Party groups are a crucial institutional design for the Party's internal governance of state organs. They … .are conducive to strengthening the effectiveness of the Party's leadership over the state political system. Article 2 of the 'Regulations on the Work of Party Groups of the Communist Party of China' stipulates that Party groups play a leading role within their respective units and are an important organizational form for the Party to exercise leadership over non-Party organizations. Party groups in state organs are an indispensable link in the Party's leadership chain over the rule of law in state organs, serving as hubs for implementing Party principles and policies in the rule of law work within their respective departments and systems … .These two regulations indicate that Party groups not only oversee Party affairs but also government affairs and professional matters. However, in terms of government affairs and professional leadership, the Party group primarily plays a leading role in setting the direction, managing the overall situation, and ensuring implementation. Huang Wenyi, 黄文艺: 论党法关系的规范性原理 (On the Normative Principles of the Relationship between the Party and the Law), https://fzzfyjy.cupl.edu.cn/info/1035/15922.htm, republishing an article originally published in 政法论坛 (Political-Legal Tribune) 2022, Issue 1. 4.

**Table 1.** Principal related Party documents..

| Date of issuance or release | English full title | English Abbreviated title | Chinese title | Links to full text or authoritative summary |
|---|---|---|---|---|
| 23 October 2014 | Central Committee of the Chinese Communist Party Decision Concerning Several Major Issues in Comprehensively Advancing Governance According to Law | Advancing Governance According to Law Decision | 中共中央 关于全面推进依法治国若干重大问题的决定 | https://www.gov.cn/zhengce/2014-10/28/content_2771946.htm archived at https://web.archive.org/web/20221214084406/https://www.gov.cn/zhengce/2014-10/28/content_2771946.htm |
| 2016 | Opinions of the Central Committee of the Chinese Communist Party Concerning the Strengthening of Party Leadership of Legislation Work | 2016 Strengthening Party Leadership of Legislation Work Opinion | 中共中央关于加强党领导立法工作的意见, document: 中发〔2016〕10号文件 | Full text not publicly available<br>This article likely contains summary https://www.qstheory.cn/dukan/hqwg/2022-01/11/c_1128251152.htm |
| 18 January 2019 | Chinese Communist Party Regulations on Political-Legal Work | 2019 Political-Legal Work Regulations | 中国共产党政法工作条例 | https://www.gov.cn/zhengce/2019-01/18/content_5359135.htm<br>https://www.chinalawtranslate.com/regulation-on-the-communist-party-of-chinas-political-legal-work/ |
| 31 January 2019 | Central Committee of the Chinese Communist Party Opinion on Party Political Construction | 2019 Political Construction Opinion | 中共中央关于加强党的政治建设的意见 | https://www.12371.cn/2019/02/27/ARTI1551263472427508.shtml<br>https://en.everwinlawyer.cn/dtjs_details/66.html |
| 28 February 2019 | Chinese Communist Party Regulations on Requesting Instructions and Reporting on Major Matters | Request Instructions Regulations | 中国共产党重大事项请示报告条例 | https://www.gov.cn/zhengce/2019-02/28/content_5369363.htm<br>English translation: https://www.chinalawtranslate.com/en/regulations-of-the-communist-party-of-china-on-requesting-instruction-and-reporting-major-matters/ |
| 15 April 2019 | Chinese Communist Party Regulations on Party Group Work | Party Group Work Regulations | 中国共产党党组工作条例 | Translation of earlier version: https://www.chinalawtranslate.com/en/partygroupregs/<br>https://www.gov.cn/zhengce/2019-04/15/content_5383062.htm |
| 15 February 2020 | Party Group Work Rules of the NPC Standing Committee | NPC Standing Committee Party Group Work Rules | 中共全国人大常委会党组工作规则 | https://zh.wikisource.org/wiki/%E4%B8%AD%E5%85%B1%E5%85%A8%E5%9B%BD%E4%BA%BA%E5%A4%A7%E5%B8%B8%E5%A7%94%E4%BC%9A%E5%85%9A%E7%BB%84%E5%B7%A5%E4%BD%9C%E8%A7%84%E5%88%99 |

| | | | | |
|---|---|---|---|---|
| 12 October 2020 | Regulations on the Work of the Central Committee of the Communist Party of China | Central Committee Work Regulations | 中国共产党中央委员会工作条例 | https://www.gov.cn/zhengce/2020-10/12/content_5550656.htm<br>English translation: https://www.chinalawtranslate.com/en/centralcommitteeregulations/ |
| 10 January 2021 | Plan on building the rule of law in China (2020–2025)] | Rule of Law Plan | 法治中国建设规划 (2020–2025) | https://www.12371.cn/2021/01/11/ARTI1610320667616954.shtml<br>English translation: https://www.chinalawtranslate.com/en/%E6%B3%95%E6%B2%BB%E4%B8%AD%E5%9B%BD%E5%BB%BA%E8%AE%BE%E8%A7%84%E5%88%92%EF%BC%882020-2025%E5%B9%B4%EF%BC%89/ |
| | Several Regulations of the Political Bureau of the CCP Central Committee on Strengthening and Maintaining the Centralised and Unified Leadership of the Party Central Committee | 2020 Regulations on Centralised and Unified Leadership | 中共中央政治局关于加强和维护党中央集中统一领导的若干规定 | Summary available at https://web.archive.org/web/20230523134036/https://mp.weixin.qq.com/s/CYzUgpKL-a0TBgwDVs0Ofg/. |
| 28 February 2022 | Xi Jinping's 2021 speech at the Central Conference on Work Related to the People's Congresses | Speech at the Central 2021 Xi People's Congress Work Conference Speech | 在中央人大工作会议上的讲话 | https://www.gov.cn/xinwen/2022-02/28/content_5676076.htm<br>English translation: https://en.qstheory.cn/2022-05/12/c_750881.htm |
| 18 July 2024 | 2024 Decision of the Central Committee of the Communist Party of China on Further Deepening Reform Comprehensively to Advance Chinese Modernisation | 2024 Chinese Modernisation Decision | 中共中央关于进一步全面深化改革 推进中国式现代化的决定 | https://www.12371.cn/2024/07/21/ARTI1721551217863166.shtml<br>English translation: https://english.www.gov.cn/policies/latestreleases/202407/21/content_WS669d0255c6d0868f4e8e94f8.html |
| 23 October 2025 | Recommendations of the Central Committee of the Communist Party of China for Formulating the 15th Five-Year Plan for National Economic and Social Development | Central Committee Recommendations for the 15th Five-Year Plan | 中共中央关于制定国民经济和社会发展第十五个五年规划的建议 | https://www.12371.cn/2025/10/28/ARTI1761640401107119.shtml<br>English translation: http://en.npc.gov.cn.cdurl.cn/FourthPlenarySessionof20thCPCCentralCommittee.html |

Department, absorbed state institutions, such as the National Copyright Administration, strengthening the role of Party institutions in legislation.[12]

The Advancing Governance According to Law Decision reflected a Party leadership concern that the legislative process too closely reflected the institutional interests of specific institutions and did not sufficiently reflect broader public concerns—a long-standing concern, signalled by the phrase 'there are tendencies of departmentalisation in legislative work'.[13] To address this, it called for the NPC to establish a system for involving 'relevant institutions' in drafting laws that are 'comprehensive in nature, affect the overall situation, are fundamental or important in other ways' (综合性、全局性、基础性等重要法律), having the relevant NPC special committee or the NPCSC Legislative Affairs Commission organise their participation. As explained below, the Decision also sought to strengthen NPC supervision over the work of state institutions, including that of the judiciary, by improving the procedure for 'recording and review' (备案审查); and sought to better facilitate NPC delegates to carry out their duties. Table 1 below sets out the principal relevant Party documents, current as of this writing.

The strengthening of Party Center control of the NPC, including its work on major legislative, matters is reiterated in many subsequent Party regulations and other Party documents. The 2019 Party Political Construction Opinion describes people's congresses (and judicial institutions) as 'essentially political organs' (本质上都是政治机关).[14] Article 13 of the Central Committee Work Regulations provides that the NPCSC Party Group is responsible to the Party Centre and implements its decisions and arrangements. Article 16 provides that the Politburo Standing Committee exercises powers such as studying and deciding major issues and matters in the work of the Party and state, which would include NPC work and legislation with major implications. The 2020 Regulations on Centralised and Unified Leadership stress the NPCSC Party Group's responsibility to the Party Centre and require the former to submit written reports to the latter.

On Party leadership of legislation, the Rule of Law Plan (2020–2025) reiterates that the Party Centre is to lead the country's legislative work and is to study and decide upon major issues in the country's legislative work. Xi Jinping's speech to the 2021 Party People's Congress Conference stressed that '[We] must strengthen the Party's centralised and unified leadership over legislative work'.[15] The 2024 Chinese Modernisation Decision repeats the principle that the legislative framework under which Party

[12]Xinhua News, 中共中央印发《深化党和国家机构改革方案 (CCP Central Committee Issues 'Plan for Deepening the Reform of Party and State Institutions,' 21 March 2018, https://www.gov.cn/zhengce/2018-03/21/content_5276191.htm#1; for commentary on the impact regarding media regulations, see, i.e., David Bandurski, When Reform Means Tighter Controls, China Media Project blog, 22 March 2022, https://chinamediaproject.org/2018/03/22/when-reform-means-tighter-controls/.

[13]Supra note 9. Discussed in, for example, Chang, Chun-Chih, and Chien-Min Chao. (2022). Can Xi Jinping Stop the Bureaucrats From Seeking Rents via Legislation? In S. Hua (Ed.), *Chinese Legality: Ideology, Law, and Institutions*, Routledge.

[14]That opinion provided, among other content, that the people's congresses, judicial, procuratorial, and other organs at all levels of the central and local governments are essentially political organs '政治机关'. (Firmly grasp the positioning requirements of the 'four organs' and comprehensively strengthen the work and construction of the National People's Congress in the new era)http://www.qstheory.cn/dukan/qs/2021-11/16/c_1128064618.htm.

[15]https://www.gov.cn/xinwen/2022-02/28/content_5676076.htm Changhao Wei, *Translation: Readout of October 2021 Central Conference on Work Related to the People's Congresses*, NPC Observer (Dec. 13, 2021, 11:14 PM), chttps://npcobserver.com/2021/12/translation-readout-of-october-2021-central-conference-on-work-related-to-the-peoples-congress/.

committees exercise leadership over legislation will be improved.[16] The 2025 CCP Central Committee 15th Five-Year Plan Recommendations states: 'we should make coordinated efforts to promote sound legislation … '. The process under which Party Centre approval is obtained is understood to be analogous to the process described by the author elsewhere in the SPC for obtaining approval for policy documents. That process involves oral reporting plus the prior submission of a briefing paper (说明) which explains each provision to enable the leadership to understand the implications of each provision from a policy (political) and legal viewpoint.[17]

On the more robust involvement of the NPC in the drafting of legislation, Party documents typically repeat the same principles without further details. The Rule of Law Plan (2020–2025) is an exception, setting out the Party leadership's policy framework for a legislature that the Party leadership more firmly directs while the NPC more robustly legislates.

The Rule of Law Plan (2020–2025) highlights several goals for the NPC and local people's congresses. Section III (7) of the Plan calls for people's congresses to 'lead' legislative work, implying that previously other institutions took the initiative in drafting or commissioning the drafting of legislation.[18] Therefore it called for people's congresses to engage in coordinating legislation and have the NPC special committees and working bodies (clearly a reference to the NPCSC Legislative Affairs Commission) to take the lead in drafting important laws and improve rules relating to initiating, drafting and considering legislation, to improve its overall quality. The Rule of Law Plan (2020–2025) highlighted areas of law of particular interest to the Party leadership, including emerging topics and foreign-related issues and promoted the codification of law in fields with several laws. It can be surmised that a subsequent Rule of Law Plan will continue to highlight important areas and promote codification.[19]

Xi Jinping's 2021 speech at the Party People's Congress Conference stressed and developed the principles in the 2014 Advancing Governance According to Law Decision. '[We] must give full play to the leading role of the people's congresses and their standing committees in legislative work, and further promote scientific lawmaking, democratic lawmaking, and lawmaking according to law'.[20] Article 33 of the 2024 Modernisation Decision reiterated: 'we will improve the legislative framework under which Party committees exercise leadership, [and] people's congresses play a principal

[16]https://www.fmprc.gov.cn/mfa_eng/zxxx_662805/202407/t20240721_11457422.html.

[17]See S. Finder, supra note 10 Correspondence with a person familiar with the work of the Legislative Affairs Commission, July, 2024.

[18]Supra note 14.

[19](Articles III (7–8), Rule of Law Plan) Improve the framework for legislative work. Strengthen the Party's leadership over legislative work, and improve the legislative work structure featuring Party committee leadership, NPC leadership, government support, and participation of all parties. …

Improve the system and mechanism under which the t people's congresses lead legislative work. Strengthen people's congresses' organization and coordination of legislative work, and give play to the deliberation and gatekeeping role of the people's congresses and their standing committees. Improve mechanisms for the relevant NPC special committees and NPCSC working bodies to take the lead in drafting important laws.

… Strengthen legislation in key fields, emerging fields, and fields related to foreign interests. … Where there are multiple laws in a certain sector, codification should be carried out when conditions are ripe. Strengthen the coordination and supporting work for legislation … Complete mechanisms for legislative work. Complete mechanisms for initiating, drafting, debating, coordinating, and deliberating legislation, to increase the focus, timeliness, systematicity, and feasibility of legislation.

[20]Supra note 15.

role', reiterating the message that people's congresses, from the NPC down to local congresses, should be more active legislators.

The Rule of Law Plan (2020–2025) and the 2024 Modernisation Decision above create the policy framework for the Party leadership's vision for China's legislative model. As mentioned above, this is a collaborative model. The Party leads legislative policy and makes major policy decisions and may be directly involved in legal policy process and legislative drafting process, the NPC has a more active and inclusive role as legislator, and other state institutions, including the SPC, support NPC legislative work and are overseen by it. The law and practice which support this reading are described in Section 'NPC and the SPC: law and practice'.

Similar to the principles discussed above, multiple Party documents since 2014 have called for the NPC to more effectively exercise oversight of other institutions, including the judiciary. As with legislation, in the Rule of Law Plan (2020–2025), the Party leadership set out detailed guidance directed towards making the NPC and local people's congress oversight of state institutions, including the SPC and local courts, more robust.[21] The Rule of Law Plan (2020–2025) focused on strengthening the recording and review system generally, including the filing and review of SPC (and SPP) judicial interpretations and establishing a platform for recording and review. Article 29 of the 2024 Modernisation Decision reiterated: 'we will improve the systems under which the people's congresses conduct oversight of the administrative, supervisory, adjudicatory [judicial], and procuratorial organs, [and] refine the Law on the Oversight by the Standing Committees of People's Congresses'.

On facilitating the performance of NPC delegates' duties, the Advancing Governance According to Law Decision set out a policy framework requiring improvements in their involvement in legislation and other matters. It called for perfecting systems to solicit people's congress delegates' opinions when drafting laws, regulations and rules; and for increasing the number of NPC delegates participating in NPC Standing Committee meetings as nonvoting delegates. Subsequent Party documents and Xi Jinping speeches reiterated these policies. The Rule of Law Plan (2020–2025) called for: 'giv[ing] greater play to the role of people's congress delegates in drafting and revising laws and regulations'. Xi Jinping's 2021 speech highlighted that the NPC Standing Committee should strengthen its capacity for delegates' work and support and ensure better performance of their duties according to law. Further details in the 2024 Modernisation Decision can be expected to be incorporated into legislation: 'We will see that deputies to people's congresses reach out to the public on a greater variety of issues and in more diverse ways and enhance the working mechanisms for drawing on public opinion and pooling the wisdom of the people'.

[21]Establish and improve working mechanisms for legislative supervision and improve supervision proceduresh … Strengthen the recording and review system and capacity building to realize [the requirement] that all documents must be recorded, all recorded documents must be reviewed, and all errors must be corrected (有件必备、有备必审、有错必纠). Improve the recording and review procedures, clarify the review scope, standards and corrective measures…. Strengthen the recording and review of judicial interpretations. Include regulatory documents formulated by local courts and procuratorates into the scope of filing and review by the Standing Committee of the People's Congress at the corresponding level. Speed up the establishment of a unified national information platform for recording and review…. . Establish and improve the annual report system for recording and review work. (Article 15, Rule of Law Plan).

The following section describes and analyses how the Party policies described above have been transformed into law and how those policies and legislation have reshaped inter-institutional practices. It first highlights a little-known practice, illustrating how the NPC and SPC collaborate with other institutions in creating and implementing legal policy, as designated by Party institutions. The rest of the section examines the impact of Party policy in law and practice which has led the SPC to support greater involvement by the NPC (and its Standing Committee) in legislation, the NPC to oversee the work of the SPC more robustly and involve itself in the SPC's judicial interpretation and document drafting, and NPC delegates to engage more actively with the SPC.

## NPC and the SPC: law and practice

This section looks at the legal and practical impact of these Party policies on relations between the NPC and SPC, focusing on five broad areas: legal policy-making; drafting of legislation; oversight of SPC work; NPC support of SPC initiatives; and the interaction of NPC delegates with the SPC. Each section provides insights into the relationship between the institutions little explored in the English, and to some extent Chinese, literature.

### *Legal policy-making*

Although the specifics of how the Party leadership designates multiple Party, state, and other institutions, including the SPC and NPC institutions, to cooperate in creating and implementing legal policy is generally hidden from view, official documents or their summaries occasionally provide a glimpse of practice. As can been seen from the examples below, the Party Center or its subordinate institutions sometimes designate a multi-institutional task force to implement a policy decision, authorising one institution to take the lead by drafting and implementing a plan, with the participation of designated institutions, which may include institutions of the NPC and the SPC. Sometimes that may mean the SPC works with Party institutions on legal policy issues that may eventuate in legislation. These are understood to be usual practices.[22] Two examples follow below.

The published summary of the 2018 Central Committee and State Council General Office Belt and Road Dispute Resolution Mechanisms and Institutions Opinion (BRI Dispute Resolution Opinion), a document never made public, contains a phrase that signals the involvement of NPC institutions, the SPC and related state and other institutions in creating and implementing legal policy, as arranged by the Party Centre. It states 'the Leading Small Group for the Construction of the Belt and Road shall be uniformly responsible and coordinate the work related to the establishment of international commercial dispute mechanisms and institutions, with the drafting and organisation of

[22]Correspondence with the author, November, 2024. Confirmation of this practice can be seen He Fan, supra note 6, at 440 and Office of the Inter-ministerial Joint Conference on Building a Powerful Nation of Intellectual Property Rights, 2025 年知识产权强国建设推进计划 (2025 Powerful Intellectual Property Nation Building Promotion Plan), 29 April 2025, https://www.cnipa.gov.cn/art/2025/5/7/art_542_199524.html?xxgkhide=1, English translation: https://www.chinaiplawupdate.com/2025/05/china-issues-the-2025-intellectual-property-nation-building-promotion-plan-to-accelerate-the-construction-of-a-powerful-intellectual-property-country/.

the implementing of the specific work plan led by the Supreme People's Court, with the NPC Supervision and Judicial Committee, the NPC Standing Committee Legislative Affairs Commission, the Ministry of Foreign Affairs, Ministry of Justice, Ministry of Commerce, and China Council for the Promotion of International Trade (CCPIT) participating in related work'.[23] The SPC's China International Commercial Court is a product of this cooperation, as the SPC consulted with the Legislative Affairs Commission when drafting the judicial interpretation providing the legal framework for the court. Presumably other developments since 2018 related to foreign-related commercial dispute resolution, such as the amendment of the foreign-related part of the Civil Procedure Law and the establishment of the International Commercial Dispute Prevention and Settlement Organization (ICDPASO) are linked in some way to this plan.

A second example is found in the judicial policy document for the SPC pilot project for separating complicated from simple cases. It states 'according to the 'Comprehensive Deepening of Reform in the Political-Legal Sector Implementing Opinion' and its work allocation document, the pilot project work shall be implemented by the SPC, with the Central Political-Legal Commission, the NPC Supervisory and Judicial Affairs Committee, the NPC Standing Committee Legislative Affairs Commission, the Ministry of Justice and others as participating units'.[24]

The above two examples provide evidence that in the Xi Jinping New Era, the practice is that NPC institutions and the SPC (sometimes as well as other Party, state, and other institutions) collaborate in the area of legal policy design and implementation under Party leadership with each institution working in its area of competence. As to whether this occurs more frequently in the Xi Jinping New Era than earlier, reliable data is not available, but the greater involvement of the NPC (and NPCSC) in legislation may be an indication.

## *Legislative drafting*

Although the NPC updated its two primary governing laws, the NPC Organic Law and the NPC Rules of Procedure,[25] as foreshadowed by the Party policy documents discussed in Section 'Xi Jinping era evolution of party policies on the National People's Congress', neither amended law has had an important impact on how the two institutions collaborate to work on draft (or amend) legislation. What has changed in the Xi Jinping New Era is practice. As Changhao Wei and colleagues describe on their site, the Party leadership has a more prominent role than previously, and the NPC (particularly

[23]中共中央办公厅、国务院办公厅印发《关于建立"一带一路"国际商事争端解决机制和机构的意见 (CCP Central Committee General Office and State Council General Office issue 'Opinions Concerning the Establishment of Belt & Road international commercial dispute resolution mechanism and institutions,)' June 28, 2018, https://mp.weixin.qq.com/s/jBUGVSyC1u5QfV62QnTysw; on the Belt and Road Construction Leading Small Group, see Jiang, Jiying. 'Leading Small Groups, Agency Coordination, and Policy Making in China.' *The China Journal*, (2023). Accessed February 19, 2025. https://doi.org/10.1086/722600, which does not discuss the involvement of legal institutions.

[24]Supreme People's Court, 最高人民法院关于印发《民事诉讼程序繁简分流改革试点方案》的通知 (Notice of the Supreme People's Court issuing 'Civil Procedure Reform Pilot Plan to Separate Simple' from Complicated Cases), 15 January 2020, https://www.bjcourt.gov.cn/ssfw/yshjch/zgzxgk162.htm.

[25]Changhao Wei, *2021 NPC Session: Dissecting the Amendments to the NPC's Two Governing Laws (Updated)*, NPC Observer (Mar. 2, 2021, 8:00 PM), https://npcobserver.com/2021/03/2021-npc-session-dissecting-the-amendments-to-the-npcs-two-governing-laws/.

its Standing Committee) engages more deeply in legislative work.[26] What has not been explored in either the English or Chinese literature is the supporting but crucial role of the SPC. This discussion may shed light on the way other state institutions, such as the SPP, supports NPC legislation, although the breadth of the type of cases accepted by the courts means that the SPC supports the NPC in many more substantive and procedural areas than the SPP.

Because Party policy in the Xi Jinping New Era promotes transforming the NPC into a more robust legislator and the increasing codification of legislation, the resulting practice is that the NPC, particularly its Legislative Affairs Commission, works more closely with the SPC on legislative drafting. Insiders in both institutions say that the courts are 'the biggest clients of the legislature' (*lifa jiguan da kehu* 立法机关大客户). Another reason is that issues come before the courts before they are addressed in legislation, so the SPC addresses important legislative gaps through judicial interpretations and conference summaries (会议纪要, also translated as 'meeting minutes') to provide more legal certainty to the lower courts, which it may seek to incorporate into primary legislation.[27]

In reports to the NPC Standing Committee and its own reports or documents, the SPC signals that it actively participates in the drafting or amendment of legislation, usually expressed as 'actively participating in [a specified type] of legislative work' (积极参与…立法工作).[28] SPC participation in legislative work is not new, but (current or former) participants from both the SPC and NPC agree that SPC involvement is much greater than in the past. In her 1993 article, the author flagged this practice and wrote that Court [SPC] personnel provide a perspective to the drafters on what needs to be considered in terms of future judicial practice.[29] From published articles and discussions with current and former participants in the legislative drafting process, it is evident that the SPC participates in legislative drafting in multiple ways and at multiple stages of the process.

The role of the NPC Standing Committee's Legislative Affairs Commission is a special one. As Changhao Wei and colleagues wrote, its drafting mandate is not clearly defined, but appears to encompass two main types of projects: (1) laws that are considered 'basic laws' [基本法律] under the P.R.C. Constitution, such as the Civil Code; and (2) when a Communist Party body acts as the primary drafter or a co-lead, as in the case of the Patriotic Education Law (爱国主义教育法) (which it co-drafted with the Central Propaganda Department).[30] They add that the Legislative Affairs Commission also participates in other entities' drafting process in advance, solicits opinions on

[26]See, for example, https://npcobserver.com/about-npc/, but also elsewhere on the npcobserver.com website.

[27]This is further discussed at supra note 10 at 76, 82, and 88.

[28]Among the many examples are: Supreme People's Court, Zhongguo Huanjing Ziyuan Shenpan 中国环境资源审判 (Chinese Environmental and Natural Resources Trial) (2024), with a section entitled 积极配合环境资源立法工作 (actively cooperate with environmental and natural resources legislation work, report downloadable here: https://cserl.chinalaw.org.cn/portal/article/index/id/1686.html; similarly 中国环境资源审判 (2023) https://www.court.gov.cn/zixun/xiangqing/434381.html; Article 6, Supreme People's Court, Guiding Opinions on Further Expanding People's Court Services and Safeguards for Expanding the Opening Up to the World (2020); Supreme People's Court, Report of the Supreme People's Court on Foreign-related Trial Work of the People's Courts, 2022, translation available at https://cicc.court.gov.cn/html/1/219/208/210/2326.html.

[29]Susan Finder, The Supreme People's Court of the People's Republic of China, Page 211.

[30]Supra note 22.

legislative drafts, and amends pending drafts based on opinions solicited. They note that the Legislative Affairs Commission does not itself have legislative power but has deep legislative drafting and negotiation expertise and its staff members are often described as 'Invisible Legislators'.[31] Persons familiar with the work of the Legislative Affairs Commission described the institution's role as analogous to parliamentary or congressional counsel and having a 'very strong advisory function'.[32]

SPC involvement in legislative drafting takes several forms, depending on the nature of the legislation and whether the SPC takes the lead in drafting. As the author has discussed in her 2024 article, one type of involvement is when the SPC proposes a legislative draft. A second type is when the Party leadership arranges for legislative drafting and designates the SPC to participate in the process. Under a more usual practice, the Legislative Affairs Commission formally invites the SPC to designate staff to participate in a drafting group or alternatively sends Legislative Affairs Commission drafts of legislation or draft amendments to the SPC for comment. This can involve all major areas of the law, including criminal, administrative, civil, intellectual property, and procedural law.[33] It is understood that inter-institutional interactions occur through correspondence in the form of an inter-institutional document (函 *han*). Examples are provided below.

SPC judges may participate in legislative drafting groups when legislation is drafted by the Ministry of Justice (previously the Legislative Affairs Office of the State Council), specialised sectoral ministries, or relevant Party institutions.[34] In virtually all scenarios, the SPC is also involved after the legislative draft is submitted to the NPC Standing Committee, because the Legislative Affairs Commission will seek comments from the SPC (and other affected institutions) after it further amends the draft.

The drafting of the Civil Code provides an excellent example of the first type of legislative drafting mentioned above, illustrating a Party-led collaborative institutional model that the Party leadership is seeking to encourage for the drafting of important laws. The Advancing Governance According to Law Decision signalled that the Party leadership had decided that the time had come to draft the Civil Code. A few months after the Plenum at which the Decision was issued, the General Offices of the Party Central Committee and State Council issued a document entitled 'Division of Responsibilities for the Implementation of Important Measures of the Decision of the Fourth Plenary Session of the 18th CPC Central Committee by Relevant Central Departments' (Advancing Governance According to Law Allocation of Responsibilities).[35] Although

[31]Shuhao Fan, Changhao Wei & Taige Hu, *The Legislative Affairs Commission of China's National Legislature and Its 'Invisible Legislators'*, NPC Observer (July 31, 2025), https://npcobserver.com/2018/06/25/china-npc-legislative-affairs-commission/; see also several of the articles cited by them, including: Chu Chenge [褚宸舸], *On the Force of Responses to Legal Inquiries—and on the Institutional Nature of the NPCSC Legislative Affairs Commission* [论答复法律询问的效力——兼论全国人大常委会法工委的机构属性], *Pol. Sci. & L.* [政治与法律], no. 4, 2014, at 87,90; and .http://www.calaw.cn/article/default.asp?id=9644.

[32]Correspondence with a person familiar with the work of the Legislative Affairs Commission, November, 2024.

[33]Correspondence with persons familiar with the work of the Legislative Affairs Commission.

[34]Supra note 11.

[35]the Arrangement for the Division of Work on Relevant Central Departments' Implementing the Measures Set by the Fourth Plenum of the 18th Party Congress (中央有关部门关于贯彻十八届四中全会(决定) 措施的分工方案) (Fourth Plenum Decision Implementation Arrangement) mentioned in http://bjfxyjy.cupl.edu.cn/__local/8/04/53/2EA9D7B5613CAC91F9BE35A187C_6214CCD1_2E0430.pdf?e=.pdf, mentioned also 二、第一单元: 民法典编纂工作参与单位负责人发言 (Unit 1: Speech by the heads of the units involved in the compilation of the Civil Code)

that document has never been made public, it is likely to be analogous to similar documents that have been made public which designate entities to be responsible or participate in drafting.[36] According to multiple reports, the Advancing Governance According to Law Allocation of Responsibilities authorised the Legislative Affairs Commission to coordinate the compilation of the Civil Code, and designated five institutions, including the SPC, the SPP, the Legislative Affairs Office of the State Council [later merged into the Ministry of Justice], the Chinese Academy of Social Sciences, and the China Law Society to provide research assistance.[37]

The Legislative Affairs Commission established a coordination group for the compilation of the Civil Code, in which the SPC and other institutions participated, and established a special Civil Code working group composed of Legislative Affairs Commission staff.[38] That working group focused first on the General Provisions and produced multiple drafts, drawing on expert drafts provided by the SPC and other institutions, on which the SPC and other members of the coordination group also commented before the NPC Standing Committee issued drafts for public comment.[39]

The SPC committed major institutional resources to the drafting of the Civil Code, establishing a Working and Research Small Group on Compiling the Civil Code (Civil Code Research Small Group) to work closely with the NPCSC's Legislative Affairs Commission.[40] It is also understood that the SPC seconded SPC and lower court personnel to the Legislative Affairs Commission to provide additional support.[41] The SPC also created an Advisory and Expert Committee on Compiling the Civil Code to draw on academic and research institute expertise. The SPC leadership established a similar group to support the amendment of the Organic Law of the People's Courts and organised the preparation of a draft of the law for the NPC's reference, working with the NPC's Internal and Judicial Affairs Committee and the Legislative Affairs Commission when the NPC Standing Committee took the lead in drafting the Organic Law of the People's Courts.[42]

(https://www.chinalaw.org.cn/portal/article/index/id/20467/cid/233.html, August 24, 2016. 薛军, 《比较法研究》2015年第3 期, 中国民法典编纂的组织体制问题:结合意大利经验的讨论, 38.

[36]See for example, Supreme People's Court (spc). 2020. 'Guanyu guanche luoshi 2020 nian renmin fayuan sifa gaige gongzuo yaodian de fengong fangan 关于贯彻落实2020年人民 法院司法改革工作要点的分工方案' [Plan for implementing the allocation of the priorities of 2020 judicial reform work], March 4. https://chinaspc.files.wordpress.com/2023/12/2020-judicial-reform-allocation-plan.pdf, discussed at supra note 9 and 10.

[37]The document, the Arrangement for the Division of Work on Relevant Central Departments' Implementing the Measures Set by the Fourth Plenum of the 18th Party Congress (中央有关部门关于贯彻十八届四中全会措施的分工方案) that detailed the participant institutions' responsibility was not made public. But it could be inferred from the press release, *see Er, Di Yi Danyuan: Min Fadian Bianzuan Gongzuo Canyu Danwei Fuzeren Fayan* (二、第一单元: 民法典编纂工作参与单位负责人发言) [*Second, Unit 1: Speech by the Heads of the Units Involved in the Compilation of the Civil Code*] Zhongguo Faxue Hui (中国法学会) [China L. Soc'y] (Aug. 24, 2016), https://www.chinalaw.org.cn/portal/article/index/id/20467/cid/233.html.

[38]Susan Finder, The Role of China's Supreme Court in Developing Chinese Inheritance Law,6 Peking University Transnational Law Review (forthcoming) 104–139 (2025).

[39]Zhu Guangxin, Minfa fadiande licheng yu tese, (民法法典化的历程与特色) [The Process and Characteristics of Civil Law Codification], originally published in China Law Review, Issue 3, 2020, republished at http://iolaw.cssn.cn/zxzp/202006/t20200611_5141775.shtml.

[40]最高法成立民法典编纂工作研究小组 奚晓明副院长任组长, May 12, 2015, http://iolaw.cssn.cn/flxw/201505/t20150513_4633368.shtml.

[41]Correspondence with a person familiar with the work of the Legislative Affairs Commission.

[42]人民法院组织法首次大修, 最高法的权威解读来了！ (The People's Court Organization Law has undergone its first major revision, and the Supreme Court's authoritative interpretation is here!) People's Court Daily WeChat Account, October 28, 2018, https://mp.weixin.qq.com/s/jgMpF9hL1cIDT5JZwplS1g.).

As mentioned above, one of the underlying assumptions of those leading the Civil Code Research Small Group was that the courts would be principal 'clients' of the Civil Code after its promulgation and the Civil Code therefore needed to incorporate issues that frequently arose in the Chinese courts. They therefore sought to identify the problems with then-current civil law legislation and civil law issues with little corresponding legislation that the court system frequently encountered.[43]Although the legislative drafters of the NPC's Legislative Affairs Commission and other institutions solicited views from experts and then eventually from public through a variety of types of meetings and other fora, those did not draw out the full range of civil law issues that large and small businesses and individuals bring before the courts.[44]

Party leaders made similar arrangements for the drafting of the Ecological Environmental Code. The SPC was a member of the leading small group for its drafting. According to official reports, the SPC participated in workshops to solicit comments on drafts, sponsored research on related issues by the court system, and provided other background information to the drafters.[45]

A second form of SPC participation in legislation is when the SPC submits legislative bills to the NPC Standing Committee, as authorised by Articles 17 and 29 of the Legislation Law, and as commented on by relevant institutions before a draft is released to the public.[46] Although most such bills are successful, in 2024, the Compulsory Civil Enforcement Law bill failed to proceed because of major differences among stakeholders concerning how best to separate adjudicatory from enforcement power.[47]

A third form of SPC participation in legislation occurs when the SPC provides support to the NPC and the NPC Standing Committee, most specifically the Legislative Affairs Commission, when it drafts legislation. That support can cover a range of involvement. Sometimes SPC judges are incorporated into drafting groups led by the Legislative Affairs Commission, while at other times, the SPC provides a suggested draft and other logistical support. In more marginal cases, the SPC, as one of the 'related

[43]Interview with former SPC judges.

[44]Zuigao Renmin Fayuan Chengli Minfa Dian Bianzuan Gongzuo Yanjiu Xiaozu 最高人民法院成立民法典编纂工作研究小组, May 16, 2015, http://iolaw.cssn.cn/flxw/201505/t20150513_4633368.shtml. President Zhou Qiang was the ex-officio head, with then executive vice president Xi Xiaoming in charge, later replaced by Executive Vice President Shen Deyong, with several other vice presidents assisting. Judge Du Wanhua, a member of the SPC judicial committee led the Civil Code Research Small Group on a day to day basis and interacted with the Legislative Affairs Commission regularly.

[45]China Environmental and Natural Resources Trial (2024), supra note 27 at 25–26. See also the Explanation to the draft Environmental Code. 'Under the leadership of Chairman Zhao Leji and the Party Leadership Group of the Standing Committee of the National People's Congress, a leading group for the compilation of the Ecological Environment Code was established. Comrade Li Hongzhong serves as group leader, with key officials from the National People's Congress Constitution and Law Committee, the National People's Congress Environmental and Resources Committee, and the National People's Congress Standing Committee Legal Affairs Committee serving as deputy group leaders. Relevant officials from the National People's Congress Environmental and Resources Committee, the National People's Congress Standing Committee Legal Affairs Committee, the Ministry of Ecology and Environment, the National Development and Reform Commission, the Ministry of Justice, the Ministry of Natural Resources, the State Forestry and Grassland Administration, the Supreme People's Court, the Supreme People's Procuratorate, the China Law Society, and other units serving as members. This group will coordinate and address key issues in the compilation of the code'. https://npcobserver.com/wp-content/uploads/2025/04/Ecological-and-Environmental-Code-Draft.pdf.

[46]Zhonghua renmin gongheguo lifa fa 中华人民共和国立法法" [PRC Legislation Law], Website of the Central People's Government. https://www.gov.cn/xinwen/2023-03/14/content_5746569.htm, bilingual version at https://www.chinalawtranslate.com/en/legislation-law-2023/ (Legislation Law). Supra note 10 at 89.

[47]See Changhao Wei, *In Rare Move, Chinese Legislature Shelves Two Bills*, NPC Observer (Aug. 13, 2024), https://npcobserver.com/2024/08/china-npc-shelves-bill-compulsory-enforcement-rural-land-reform/.

departments', provides comments on the Legislative Affairs Commission draft.[48] As Tsinghua Professor He Haibo 何海波 commented about the drafting of amendments to the Administrative Litigation Law:

> Judges accompanied the Legislative Affairs Commission officials on most of their research visits. The Supreme People's Court drafted their ideal draft amendment to the Administrative Litigation Law and submitted it to the Legislative Affairs Commission; the Supreme Court Party Group also submitted opinions to the National People's Congress Legislative Affairs Commission on specific issues twice. Compared with the opinions submitted by scholars, the opinions of the courts seem to be more valued, although the Legislative Affairs Commission did not accept them entirely.[49]

In an interview, persons familiar with the work of the Legislative Affairs Commission explained why the Legislative Affairs Commission will not accept the views of the SPC (or other institutions) entirely, noting that the SPC (or other institution) will consider matters from their own perspective and interests. In their view, the Legislative Affairs Commission staff need to consider and filter the views that they receive from related institutions and consider what position is most appropriate.

A fourth type of SPC participation in legislation occurs when the SPC participates in legislative drafting when the Ministry of Justice, sectoral ministries, and (or) Party institutions charged with drafting legislation for eventual submission to the NPC or the NPC Standing Committee take the lead in drafting. If a sectoral ministry and (or) Party institution is involved in preparing an initial draft, the SPC may be involved, and involved again when the Ministry of Justice reviews that draft.[50] As mentioned earlier, the SPC also provides comments to the Legislative Affairs Commission after a draft has been submitted to the NPC Standing Committee.

A fifth type of SPC support for the NPC's legislation work is direct support for the NPC's law enforcement inspection work, which indirectly supports the NPC's (NPCSC) legislation, because the NPC is now focusing on 'integrating oversight with legislation'. It is normal practice for the SPC to report to NPC Standing Committee law enforcement inspection groups.[51]

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[48]For an example of an instance in which the SPC provided a suggested draft, see He Fan's description of the drafting of amendments to the Organic Law of the People's Courts, supra note 6 at 126–127.

[49]He Haibo, 一次修法能有多少进步——2014年《中华人民共和国行政诉讼法》修改回顾 []How much progress can one legal amendment bring—a review of the amendment of the 2014 Administrative Litigation Law, http://www.calaw.cn/article/default.asp?id=12733.

[50]国家知识产权强国建设工作部际联席会议办公室关于印发《2024年知识产权强国建设推进计划》的通知 (Notice of the Office of the Inter-ministerial Joint Conference on Building a Strong National Intellectual Property Rights Country on the Issuance of the '2024 Plan for Promoting the Construction of a Strong National Intellectual Property Rights Country') http://www.nipso.cn/onews.asp?id=56045 and the 关于印发《2025年知识产权强国建设推进计划》的通知 (Notice of the Office of the Inter-ministerial Joint Conference on Building a Strong National Intellectual Property Rights Country on the Issuance of the '2025 Plan for Promoting the Construction of a Strong National Intellectual Property Rights Country'), 29 April 2025, http://www.nipso.cn/onewsn.asp?id=56195. Although the SPC and Central Propaganda Department are not designated as working on drafting the same legislation, as the author wrote about these arrangements, 'it is likely that the SPC will be involved in other matters in which the SPC is not listed as a responsible institution'. Susan Finder, The Supreme People's Court and the 2025 Plan for Promoting the Building of a Powerful Intellectual Property Nation, Supreme People's Court Monitor blog, 3 June 2025, https://supremepeoplescourtmonitor.com/2025/06/03/the-supreme-peoples-court-and-the-2025-plan-for-promoting-the-building-of-a-powerful-intellectual-property-nation/.

[51]Changhao Wei, *Chinese Legislature's 2025 Oversight Agenda: 'New Quality Productive Forces', Government Debt, Climate Action, Food Safety, Gig Worker Rights & More*, NPC Observer (June 5, 2025, at 11:00 EDT), https://npcobserver.com/2025/06/05/china-npc-oversight-climate-debt-food-safety-labor-new-productive-forces/. Susan Finder, Labor Dispute Resolution II and the Work of the Supreme People's Court, Supreme People's Court Monitor blog, https://supremepeoplescourtmonitor.com/2025/08/31/2025-labor-dispute-interpretation-ii-and-the-work-of-the-supreme-peoples-

The SPC's expertise has given it a unique role in supporting legislative drafting by the NPC and its Standing Committee, sometimes as designated by the Party leadership, but more often as invited by the Legislative Affairs Commission, the Ministry of Justice, or sectoral ministries or Party institutions. However, a lack of transparency in the drafting process means that it is difficult to accurately assess the SPC's contribution to the legislative process, and the above description can only be impressionistic.

## Oversight of the SPC

The authority of the NPC to oversee the SPC derives from Articles 67 and 133 of the Chinese Constitution, stating that the SPC is responsible, and reports, to the NPC. That language is repeated in Article 9 of the People's Court Organic Law. The Constitution and related laws provide a skeletal legal framework under which the two institutions interrelate. Some of the oversight or supervision that the NPC exercises is uniquely directed at the SPC (and the SPP), while most other types of oversight treat the SPC as just another central state organ.[52] Given the policy developments described in Section 'Xi Jinping era evolution of party policies on the National People's Congress', the period between 2022 and 2025 has seen a revamping of NPC-related oversight legislation. Some oversight procedures were originally non-public, or set out in little-known judicial documents.[53] Characterisation of the nature of the oversight has changed over time. In the middle 1990s, an SPC judge described oversight of courts by people's congresses as chaotic.[54] More recently, a Chinese scholar described the NPC's oversight as 'supportive', but those on both sides of the relationship with current or recent experience interviewed by the author concur with the author's characterisation as 'consultative and increasingly robust'.[55]

The most significant legislative developments in the NPC and SPC relationship have come in the area of the NPC Standing Committee's oversight authority. As flagged by policy developments described in Section 'Xi Jinping era evolution of party policies on the National People's Congress', In late 2023 the NPC Standing Committee adopted the Decision on Improving and Strengthening the System of Recording and Review (Recording and Review Decision) and at the end of 2024, amended the Law on Oversight by the Standing Committees of People's Congresses (Oversight Law).[56] The discussion below of NPC oversight of the SPC focuses on the principal mechanisms: annual and specialised reports, including those linked to a delegation of authority to the

court/; Shuhao Fan, *Scholarship Highlight: Law Enforcement Inspections—The NPCSC's Weapon to Ensure Law-Based Administration?*, NPC Observer (May 27, 2017, at 12:52 EDT), https://npcobserver.com/2017/05/27/scholarship-highlight-law-enforcement-inspections-the-npcscs-weapon-to-ensure-law-based-administration/.

[52]Jiang Qinghua, Zhichixing Jiandu: Zhongguo Renda Jiandu de Tese ji Tiaoshi—Yi Quanguo Renda Changweihui Beian Shencha wei Li, 支持型监督: 中国人大监督的特色及调适——以全国人大常委会备案审查为例 (Supportive supervision: the characteristics and adaptation of the supervision of the Chinese National People's Congress—taking the filing review of the Standing Committee of the National People's Congress as an example), P93, 《中国法律评论》(China Law Review), #4, 2019.

[53]Supreme People's Court, 最高人民法院关于人民法院接受人民代表大会及其常务委员会监督的若干意见 (Several Opinions of the Supreme People's Court on the People's Courts Accepting Supervision by the National People's Congress and Its Standing Committee.), December 24, 1998, http://www.law-lib.com/law/law_view.asp?id=14243.

[54]Jiang Huiling, 论权力机关对法院的监督 (A Discussion of the Oversight of the Courts by Organs of State Power), 人民司法 (People's Justice), #10, 1995, 36–38.

[55]Correspondence with former and current SPC judges.

[56]https://npcobserver.com/legislation/npcsc-decision-on-recording-and-review/; https://npcobserver.com/legislation/oversight-law/.

SPC and the NPC Standing Committee's Recording and Review procedures.[57] NPC delegates also exercise certain supervision authority.

### *Annual and other specialised reports*

The SPC's annual reports to the NPC are the most well-known aspect of NPC oversight and have been discussed in both Chinese and English language academic literature, but under the Oversight Law, the SPC also provides annual specialised reports to the NPC Standing Committee, which have been less researched.[58] Additionally, the NPC Standing Committee usually requires the SPC (and other state institutions) to provide interim and final reports when delegating authority to pilot a project that requires suspending legal requirements temporarily. The latter two types of reports are less well understood. These three types of reports illustrate the policy trends highlighted above, including the more prominent role of the Party Centre in driving legal developments, the increasingly robust interactions with the SPC by NPC Standing Committee members, and tactical responses by the SPC.

Although most observers see the annual SPC reports to the NPC as much of a muchness, in actual fact those reports are carefully drafted and reviewed, first within the SPC and by multiple stakeholders, including by the senior Party leadership, to ensure that the apparently formulaic reports summarise SPC accomplishments in the previous year and goals for the upcoming year in a way that harmonise perfectly with the vision of the current SPC president, current Party and state policies and issues current in Chinese society.[59] The care with which the SPC reports to the NPC are prepared reflects their importance to the Party leadership and therefore to the SPC leadership, as the number of negative votes and abstentions at the NPC is viewed as an indication of public satisfaction with judicial policy.[60]

During the annual NPC meeting, a number of experienced SPC judges are allocated to each group of NPC delegates, to answer their queries about the judicial system, which may include questions about judicial interpretations, policies, or specific cases, collect issues raised, and to encourage them to vote positively for the SPC's Work Report.[61] It is not possible to characterize the types of issues raised, but it surely demands diplomatic skills of those judges. Senior SPC judges also make themselves

[57]This part discusses only two of the NPC Standing Committee's oversight tools. For an overview, see Changhao Wei, December 14, 2024, NPC Observer Monthly, https://newsletter.npcobserver.com/p/november-2024-first-updates-to-chinas?open=false#%C2%A7oversight-law-amendments.

[58]On the annual report, see Shi Fei, Zuigao Renmin Fayuan Zhengzhi Renwu de Bianhua—Yi 1950–2007 nian Zuigao Renmin Fayuan Gongzuo Baogao wei Zhongxin, 最高人民法院政治任务的变化——以 1950—2007 年最高人民法院工作报告为中心 () Kaifang Shidai, No. 1, 123–140, and Hou Xinyi, Fayuan xiang Renmin Daibiao Dahui Baogao Gongzuo Zhidu de Xingcheng 法院向人民代表大会报告工作制度的形成及发展: 以最高人民法院年度报告为例 (The Formation and Development of the System that the Court Reports on its Work to the People's Congress: Taking the Annual Report of Supreme People's Court as an Example), Faxuejia (法学家The Jurist), No. 5, 2020, 115–132. One of the few articles on specialised reports is by Professor Guo Song, supra note 6.

[59]Chinese literature on the topic of these reports includes Hou Xinyi, 法院向人民代表大会报告工作制度的形成及发展: 以最高人民法院年度报告为例 (The Formation and Development of the System that the Court Reports on its Work to the People's Congress: Taking the Annual Report of Supreme People's Court as an Example), 法学家 (the Jurist), 2020(5), 115–132, https://faxuejia.ruc.edu.cn/EN/Y2020/V0/I5/115.

[60]Susan Finder, Supreme People's Court Monitor blog, May 28, 2024, https://supremepeoplescourtmonitor.com/2024/05/28/whats-new-in-the-2024-supreme-peoples-court-report-to-the-national-peoples-congress/.

[61]This is mentioned in Lu Qiankun, 为了人民的关切与期待——人民法院代表委员联络工作综述 (For the people's concerns and expectations: A review of the liaison work of the people's court with [NPC and CCPPC]) September 25, 2024, https://www.chinacourt.org/article/detail/2024/09/id/8125283.shtml; also based on the author's observations.

especially available to the official media to highlight the accomplishments of the judicial system in the previous year, all designed to build support for the SPC's Work Report.

According to published reports,[62] the team of NPC report drafters starts work in the autumn of the preceding year, with the SPC President and other members of the senior leadership reportedly involved in drafting or more likely commenting on multiple drafts. As is typical for Party and government reports, the procedure involves a long period during which the institution drafting the report seeks the views of multiple stakeholders and interested parties.[63] An advanced draft is submitted to the Party leadership as part of the process.[64] Often the amendment process carries on through the Chinese New Year holiday, generally requiring somewhere between 40 and 50 drafts.

A less well-understood type of report is the specialised report (专项报告), which attracts less scholarly and public attention and the proceedings of which are less transparent.[65] This type of report provides a useful vehicle by which to observe the impact of Party leadership and NPC oversight of the SPC. The SPC president gives specialised reports to the NPC Standing Committee, under Chapter II of the Oversight Law.[66] That chapter sets out procedures under which the NPC Standing Committee supervises the SPC and other state institutions, including through providing specialised reports, as set out in the NPC Standing Committee's annual plan. That plan is now described as determined according to the work deployment of the Party Centre (*Zhongyang de gongzuo bushu* 中央的工作部署).[67] It is understood that early in the calendar year, the NPC's Supervisory and Judicial Affairs Committee communicates with the SPC (and analogously with the other institutions that the NPC Standing Committee supervises), to set the topic and timing of the specialised report. The topic is often one on which the SPP also reports, and sometimes the State Council, SPP, and SPC provide specialised reports on related topics.[68]

[62]Jin Hao, 回应关切 践行法治精神——访最高法办公厅副主任、最高法工作报告起草组负责人余茂玉 Responding to concerns and practicing the spirit of the rule of law—Interview with Yu Maoyu, Deputy Director of the General Office of the Supreme People's Court and Head of the Drafting Group of the Supreme People's Court's Work Report), March 9, 2024, https://news.sina.com.cn/zx/gj/2024-03-09/doc-inamsqhu1451565.shtml; 起草组解读：一起来看最高法工作报告中的案例和故事 Qicao zu jiedu—yiqi lai kan zuigaofa gongzuo baogao zhong de anli Let's take a look at the cases and stories in the Supreme People's Court's work report, March 10, 2021, https://www.bj148.org/123/202103/t20210310_1601229.html.

[63]Bai Longfei, 首场征求意见座谈会: 面对面听民声 (The first forum for soliciting opinions: Listening to the public's voice face to face), December 30, 2024, https://mp.weixin.qq.com/s/cXId5EnHkelfMRWjrD5s2Q; Bai Longfei, 最高法举行座谈会征求有关单位意见 张军强调 把真知灼见转化落实到司法审判工作中 The Supreme People's Court held a symposium to solicit opinions from relevant units. Zhang Jun emphasized that the true insights should be transformed and implemented in judicial trial work, January 20, 2025, http://www.courtbook.com.cn/xwz/33775.jhtml.

[64]2025年第3期 中共中央政治局召开会议 中共中央总书记习近平主持会议 (The 3rd Political Bureau of the CPC Central Committee held a meeting in 2025. Xi Jinping, General Secretary of the CPC Central Committee, presided over the meeting), January 26, 2025, http://www.dangjian.cn/xxhywx/2025/01/26/detail_202501267007787.html

[65]See supra note 6.

[66]https://npcobserver.com/legislation/oversight-law/.

[67]Han Xiaowu, 监督法和全国人大常委会的监督工作 (Supervision Law and the Supervisory Work of the Standing Committee of the National People's Congress), June 29, 2018, http://www.npc.gov.cn/zgrdw/npc/xinwen/2018-06/29/content_2057105.htm.

[68]See, for example, the specialised reports on environmental and natural resource matters: Zhang Jun, SPC president, reporting on environmental and natural resources adjudication, http://www.npc.gov.cn/c2/c30834/202310/t20231021_432326.html; Ying Yong, Chief Procurator, reporting on procuratorate environmental and natural resources work https://www.spp.gov.cn/xwfbh/wsfbh/202310/t20231021_631451.shtml Wang Xiaohong, Minister of Public Security, on behalf of the State Council, reporting on combating crimes in the field of ecological environment and resource protection, http://www.npc.gov.cn/npc/c2/c30834/202310/t20231025_432568.html. At that meeting, the NPC Standing Committee combined the hearing of those reports with special inquiries, which give NPC Standing Committee members the opportunity to question officials from related state organs, further explained here: Changhao Wei, Building Capacity

It is likely that the SPC's General Office, which is responsible for inter-institutional liaison, is the entity within the SPC that works out the details for the specialised report with the NPC Standing Committee. Viewing the topics in historical perspective, Guo Song classified them into operational work of the court system, judicial reform, and the regulation of judicial power, and noted that the same topic may be periodically updated.[69] The topics of the specialised reports are increasingly technical, reflecting the importance of the SPC's competence in implementing a policy promoted by the Party leadership with technical legal implications. Examples of this are: the 2022 report on foreign-related judicial work, while environmental and natural resources judicial work was the focus in 2023 and administrative litigation work was the 2024 topic. The Party Centre is involved in the choice of topic.

The SPC division or office that takes the lead in drafting the report depends on the topic. The #4 Civil Division was responsible for the initial drafts of the 2022 and 2025 reports on foreign-related and maritime judicial work respectively; the environmental and natural resources division was responsible for the 2023 report on environmental judicial work; and the administrative division was responsible for the 2024 report on administrative cases, involving other divisions and offices of the SPC as needed. What underlies these reports is likely to be hundreds of hours of drafting, soliciting data and comments from related divisions or offices, including the Research Office, comments from the vice president in charge of the division responsible for drafting, the president's office, and the Legislative Affairs Commission. As part of the drafting process, the SPC's Party Group submits a report to the Party Centre and the drafters incorporate guidance from the Party leadership into the report.[70]

The procedures in the Oversight Law require NPC Standing Committee members to investigate the topic in question. Official reports flag that senior NPC Standing leaders travel to certain provinces, presumably as agreed by the SPC, to investigate how local courts hear the type of cases in question.[71] According to bureaucratic protocol, senior leaders of the SPC accompany the NPC Standing Committee leaders, who in turn have senior NPC Standing Committee staff in attendance. These research visits (described as research 调研) are consolidated into a report provided to the SPC, but the text of the report is not made public. The research visits also enable the NPC Standing Committee members to monitor how well the SPC supervises and guides the lower courts in their work, politically and substantively, also to observe local developments and interactions among the courts and other local institutions.

The Oversight Law provides further details concerning specialised reports. It requires the NPC Standing Committee to gather questions to send to the SPC (or other institution providing a report), presumably intended to highlight issues that the NPC Standing

Through Procedure, NPC Observer (Aug. 8, 2022, 5:07 PM), https://npcobserver.com/2022/08/building-capacity-through-procedure/.

[69]Guo Song, supra note 6.

[70]Zhang Jun 最高人民法院关于人民法院行政审判工作情况的报告 (Report of the Supreme People's Court Concerning the Situation of Administrative Trial Work of the People's Courts), https://mp.weixin.qq.com/s/-ZeyMJcorlv1l5erHsv2Bw, https://mp.weixin.qq.com/s/-ZeyMJcorlv1l5erHsv2Bw.

[71]See the description in Susan Finder, Supreme People's Court's Specialized Reports to the National People's Congress Standing Committee, Supreme People's Court Monitor blog, 8 February 2023, https://supremepeoplescourtmonitor.com/2023/02/08/supreme-peoples-courts-specialized-reports-to-the-national-peoples-congress-standing-committee/.

Committee requires to be incorporated in the report. The procedure requires the SPC to send its draft report to the relevant specialised NPC committee 20 days before the formal report is delivered. If the SPC amends the draft report, it must be submitted to the NPC Standing Committee at least 10 days before that date, so the revised report can be distributed to the members. The written report has a fixed format which concludes with problems and difficulties the institution is facing and next steps.[72] The president of the SPC delivers the report, which is discussed by NPC Standing Committee members. The results of the discussions of the reports are forwarded to the SPC (or other reporting institutions), which must respond to them.

The issues that the NPC Standing Committee raises with the institution providing the specialised report are made public in summary form rather than full text. This practice means that NPC Standing Committee members may pose sharp questions or comments while displaying to the general public that the inter-institutional relations in Chinese-style democracy are harmonious, in comparison to the hostile or fractious relations in Western and other jurisdictions abroad.[73] The summaries published often reveal specific comments and criticisms that the NPC Standing Committee members intend the SPC to consider, such as the following in the 2023 summary on the environmental and natural resources special report: 'some attendees suggested that the openness of environmental resource cases should be strengthened, the people's jury system should be fully implemented, and the live broadcast of court trials and the online posting of judgement documents should be done well'.[74] Under the Oversight Law, the SPC (or other institution) giving the specialised report is obligated to respond to those questions or comments. Reflecting the importance of these responses to inter-institutional relations and more generally to the Party Centre, the practice is that the division responsible for the report would take the lead in drafting the response, which would be reviewed by the SPC vice president in charge of that division, and likely by the SPC president.[75]

Those who have been involved with the specialised report process explain that both institutions see benefits in the NPC Standing Committee requiring specialised reports of the SPC. The NPC Standing Committee sees it as an effective way of exercising its oversight authority over the SPC, while the SPC sees it as an effective way to display its competence while providing a forum to raise issues that require the involvement of the NPC Standing Committee.[76] Interviewees who have been involved in the process comment that the NPC Standing Committee members are more robust in their comments than ten or more years ago. The process is another way in which Party leadership of the courts is indirectly implemented.

[72]See for example the foreign related report: Report of the Supreme People's Court on Foreign-related Trial Work of the People's Courts, translation at https://cicc.court.gov.cn/html/1/219/208/210/2326.html. The full version includes a glossary and statistical attachments.

[73]对人民法院涉外审判工作情况报告的意见和建议 (Opinions and suggestions on the report on the work of the people's courts on foreign-related trials), http://www.npc.gov.cn/npc/c2/c30834/202302/t20230206_423444.html, February 7, 2023; In his article, Guo Song decodes the meaning of fixed phrases used in the summaries.

[74]See NPC Standing Committee, 对打击生态环境和资源保护领域犯罪工作情况、人民法院环境资源审判工作情况、人民检察院生态环境和资源保护检察工作情况等报告的意见和建议 (The opinions and suggestions of the reports on the work on combating crimes in the field of ecological environment and resource protection, the situation of environmental resources trials in the people's courts, People's Procuratorates' Procuratorial Work on Ecological Environment and Resource Protection), http://www.npc.gov.cn/npc/c2/c30834/202311/t20231122_433093.html.

[75]Id.

[76]Susan Finder, Supreme People's Court's Specialized Reports to the National People's Congress Standing Committee, Supreme People's Court Monitor, February 8, 2023, https://supremepeoplescourtmonitor.com/2023/02/08/supreme-peoples-courts-specialized-reports-to-the-national-peoples-congress-standing-committee/, similarly Guo Song, and He Fan (description, with no analysis) supra note 6.

A third type of report that the SPC provides to the NPC Standing Committee is also little known, at least outside of China. It provides an example of oversight of the SPC analogous to other central state organs. When a central state institution, such as the SPC, requests that the NPC Standing Committee authorise a pilot project which requires suspending the application of law as a condition of the delegation of authority, the NPC Standing Committee requires formal reports at the conclusion of the pilot project and sometimes interim reports.[77] Reflecting the more prominent role of the Party in formulating legal policy, the pilot projects are often linked to a Party policy document, such as that mentioned above at A. Both the reporting process and the manner of delegation underscore the institutional weakness of the SPC.

The report drafting process is understood to be analogous to other SPC reports submitted to the NPC or its standing committee, requiring multiple drafts and rounds of comments to ensure it is perfectly politically and institutionally pitched. This is even more important in an era when the NPC Standing Committee more robustly oversees the work of the SPC and other institutions.[78]

Additionally, the manner of delegation is not widely known. Official documents reveal that when the NPC Standing Committee delegates authority for pilot projects, it is not hands-off, with NPC Standing Committee institutions involved with the pilot project on an ongoing basis. For example, in 2022, when then-SPC President Zhou Qiang gave his interim report on the pilots to reorient the four levels of the Chinese courts, he mentioned that the NPC Supervisory and Judicial Affairs Committee and the NPC Standing Committee's Legislative Affairs Commission heard numerous reports and engaged in supervision (perhaps better translated as oversight or monitoring). Similarly, when he gave the interim report on the pilot project to separate difficult from simple cases, President Zhou Qiang stated that the NPC Supervision and Judicial Committee and the Legislative Affairs Commission travelled especially to the pilot project areas to 'engage in research, hear reports on the spot, oversee and guide, and promote the work of the pilot'.[79] Similar to the specialised reports, press reports on the NPC Standing Committee member comments on pilot project reports are usually provided in summary fashion.[80] Participants describe them as 'sharp and direct', more robust than in the pre-Xi Jinping era.[81]

It can be seen from the three types of reports described above that the Party Center is assertive in guiding legal policy, particularly in matters that are released to the general public. Because of the policy developments noted earlier, the NPC Standing Committee and its Legislative Affairs Commission are more robust in using constitutional and legal

[77]Xinhua News, 全国人大常委会关于延长授权国务院在粤港澳大湾区内地九市开展港澳律师取得内地执业资质和从事律师职业试点工 作期限的决定 (Decision of the Standing Committee of the National People's Congress on Extending the Period for Authorizing the State Council to Carry out a Pilot Program for Hong Kong and Macao Lawyers to Obtain Mainland Practice Qualifications and Engage in the Lawyer Profession in Nine Mainland Cities of the Guangdong-Hong Kong-Macao Greater Bay Area), September 2, 2023, https://www.moj.gov.cn/pub/sfbgw/fzgz/fzgzggflfwx/fzgzlsgz/202309/t20230902_485576.html; these reports further described at He Fan, supra note 6 at 307–309.

[78]Correspondence with the author, February, 2025.

[79]最高人民法院关于民事诉讼程序繁简分流改革试点情况的中期报告 (The Supreme People's Court's mid-term report on the pilot reform of separating complex and simple civil litigation procedure), 1 March 2021, https://gxfy.gxcourt.gov.cn/article/detail/2021/03/id/5825531.shtml.

[80]See, for example 对民事诉讼程序繁简分流改革试点情况中期报告的意见和建议(Opinions and suggestions on the mid-term report on the pilot reform of separating complex and simple civil litigation procedures), 2 April 2021, http://www.npc.gov.cn/npc/c2/c30834/202104/t20210402_310942.html.

[81]Correspondence with the author, February, 2025.

reporting requirements to assert their authority over reporting institutions such as the SPC. Reporting institutions such as the SPC use these reports as an effective way to display competence while providing a forum to raise issues that require the involvement of the NPC Standing Committee.[82] The practice of providing summaries of comments or reactions rather than full text means that NPC Standing Committee members and Legislative Affairs Commission staff may be blunt privately, while giving the impression to the general public that the inter-institutional relations in Chinese-style democracy are harmonious, in contrast to other Western-style democracies.

### *Recording and review*

The NPC Standing Committee's Recording and Review procedures, in place in their current form since the end of 2019, illustrate multiple aspects of the evolving oversight of the SPC by the NPC discussed in the previous sections, such as the involvement of the Party leadership, partial transparency of the details of the interactions, and the role of public opinion. Earlier versions of Recording and Review procedures for judicial interpretations have been in place since the early 2000s. As Changhao Wei has written, in Recording and Review, an enacting body must file its enactments with the designated reviewing body for subsequent review, because courts lack the power of judicial review. The reviewing body is either a legislative or an administrative organ, as Chinese courts lack the power to review and invalidate legislation. The NPC Standing Committee is the most powerful of the reviewing entities., because its jurisdiction extends to all major sub-statutory norms and it alone holds the power of constitutional review.[83]

To implement the Party policies described in Section 'Xi Jinping era evolution of party policies on the National People's Congress', Recording and Review procedures in place since the early 2000s were reviewed, expanded, made public and eventually codified in legislation. The Recording and Review procedure for judicial interpretations started in the early 2000s, following the adoption of related legislation, internal working guidelines, and the creation of a responsible specialised institution within the Legislative Affairs Commission.[84] The legislation included the 2000 (later amended) Legislation Law and the 2006 Oversight Law (recently amended). The guidelines included the 2005 Working Procedures for the Recording and Review of Judicial Interpretations and 2016 supplementary procedural rules, neither of which is widely available.[85] In 2004, the

[82]Susan Finder, Analysis of the Supreme People's Court's Interim Report on the Pilot to Reorient the Four Levels of the Chinese Court, Supreme People's Court Monitor, 22 September 2022, https://supremepeoplescourtmonitor.com/2022/09/20/analysis-of-supreme-peoples-courts-interim-report-on-the-pilot-to-reorient-the-four-levels-of-the-chinese-courts/.

[83]Changhao Wei,Toward a More Rigorous Mechanism for Resolving Legislative Conflicts, Verfassungsblog https://verfassungsblog.de/toward-a-more-rigorous-mechanism-for-resolving-legislative-conflicts/ (June 24, 2024).

[84]The history of this procedure is described at: Changhao Wei, *Recording & Review: A Reintroduction*, NPC Observer (Aug. 18, 2020, 9:00 AM), https://npcobserver.com/2020/08/recording-review-a-reintroduction/ and He Fan, supra note 6, 309–311.

[85]These procedures, adopted by the NPC Standing Committee Meeting of the Council of Chairpersons, were cancelled when the 2019 Working Measures for the Recording and Review of Regulations and Judicial Interpretations (2019 Working Measures) were adopted. These procedures are mentioned in Office for Recording and Reviewing Regulations, Legislative Affairs Commission, Standing Committee of the National People's Congress 全国人大常委会法制工作委员会法规备案审查室 (R&R Office). 2020a. 《法规、司法解释备案审查工作办法》导读 [A Guide to the 'Working Measures for the Recording and Review of Regulations and Judicial Interpretations' (Working Measures Guide)]. Beijing: Zhongguo Minzhu Fazhi Chubanshe. The 2016 procedures, entitled Working Procedures for the Recording and Review of Regulations and Judicial Interpretation, 《法规、司法解释备案审查工作规程(试行), is mentioned in Zheng Lei, 备案审查与法治体系的复调变迁 (Recording and Review and the transition of the legal system), 中国政法大学学报 (Journal of the China University of Political Science

NPC Standing Committee established a new department within the Legislative Affairs Commission to focus on recording and review.[86] In 2019, responding to the policy imperatives described in Section 'Xi Jinping era evolution of party policies on the National People's Congress', and following approval by the Party leadership, the NPC Standing Committee consolidated and expanded its guidelines for the review of administrative regulations with the non-public guidelines for the review of judicial interpretations and issued the 2019 Working Measures. That same year, the NPC Standing Committee also established an electronic platform to better enable Recording and Review.[87] The 2023 Recording and Review Decision built further on existing legal provisions and practices as well as more recent legal policy.[88]

A crucial step in Recording and Review procedure is the SPC submitting judicial interpretations to the NPC Standing Committee, required first by the internal guidelines governing the filing of judicial interpretations, the SPC's regulations on judicial interpretation work, the 2019 Working Measures and the Recording and Review Decision.[89] The discussion below addresses certain aspects of the Review and Recording procedure relevant to the SPC.[90]

The evolving Recording and Review mechanism reveals several aspects about the relationship between the NPC and SPC, some of which is applicable to the operation of the mechanism generally. The most important and least obvious is that the mechanism has driven closer cooperation between the SPC and NPC during the judicial interpretation (and judicial document) drafting process. This cooperation predates the Xi Jinping New Era. As discussed below, despite this cooperation, it still leaves SPC judicial interpretations open to challenge, as Recording and Review is handled by a different office of the Legislative Affairs Commission from the one that would have initially reviewed the SPC's draft.

Cooperation between the SPC and the NPC Standing Committee is mandated by SPC regulations on procedures for drafting and promulgating judicial interpretations. In 2007, after the Recording and Review mechanism had begun operation, the SPC

and Law), #6, 2022, republished at https://fzzfyjy.cupl.edu.cn/info/1036/15299.htm. The 2005 measures were mentioned a contemporary summary: Renda Changweihui Jianli Jianquan Fagui he Sifa Jieshi Beian Shencha Zhidu 人大常委会建立健全法规和司法解释备案审查制度 (The Standing Committee of the National People's Congress established and improved the filing and review system for laws, regulations and judicial interpretations), 19 December 2005, https://www.gov.cn/jrzg/2005-12/19/content_130950.htm, and are discussed at He Fan, supra note 6, 309–311.

[86]This new department was mentioned in a 2005 summary of those measures, supra note 83.

[87]Changhao Wei, *Recording & Review: An Introduction to Constitutional Review with Chinese Characteristics*, NPC Observer (Jan. 19, 2018, 12:57 PM), https://npcobserver.com/2018/01/recording-review-an-introduction-to-constitutional-review-with-chinese-characteristics/.

[88]The Recording and Review Decision is analyzed in Wei, Changhao: *Toward a More Rigorous Mechanism for Resolving Legislative Conflicts: Unpacking China's Transitional 'Mini Law' on the 'Recording and Review' Process, VerfBlog,* 2024/6/24, https://verfassungsblog.de/toward-a-more-rigorous-mechanism-for-resolving-legislative-conflicts/, DOI: 10.59704/0fa1cb52713697ba.

[89]He Fan details the package of documents delivered in paper form to the NPC Standing Committee General Office by the SPC General Office (or the entity responsible for drafting, if the interpretation is jointly issued by the SPC and SPP. He Fan, supra note 6 at 311. He wrote that the General Office undertakes a pro-forma review and require judicial interpretations that fail certain formal requirements to correct the filing before permitting registration. He Fan, supra note 6 at 312–313.

[90]For a detailed discussion of Recording and Review, see Changhao Wei, Reining in Rogue Legislation: An Overview of China's Invigoration of the 'Recording and Review' Process, Made in China Journal, Vol. 6, Issue 2, 2021, posted at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3929020 and Changhao Wei, Toward A More Rigorous Mechanism for Resolving Legislative Conflicts, June 24, 2024, https://verfassungsblog.de/toward-a-more-rigorous-mechanism-for-resolving-legislative-conflicts/.

repromulgated its rules on judicial interpretation work, incorporating a new provision requiring communication with the relevant specialised NPC Committees or the relevant working department under the NPC Standing Committee (usually the Legislative Affairs Commission) before the SPC Judicial (Adjudication) Committee would consider the draft.[91] In 2015, the SPC issued the 'Notice concerning the Strict Enforcement of Requirements in Judicial Interpretation Work and the Strengthening of Judicial Interpretation Work (Notice on Strengthening Judicial Interpretation Work)', a little known SPC judicial document.[92] One section of that notice stresses liaison with the Legislative Affairs Commission.[93] It states: 'liaison with the NPC Legislative Affairs Commission must be timely, and after major revisions to a judicial interpretation draft after the NPC Legislative Affairs Commission had been consulted, the view of the NPC LAC should be solicited again.[94] This practice, however, does not immunise SPC judicial interpretations from being successfully challenged through Recording and Review, as is visible from the information in the Recording and Review annual reports submitted to the Legislative Affairs Commission to the NPC Standing Committee as well as Recording and Review case reports. The Legislative Affairs Commission has published selected summaries of Recording and Review case reports, some of which review SPC judicial interpretations, and are also mentioned in the annual reports.[95]

The Recording and Review reports are for the most part consistent in form although the regulatory basis has evolved. Each Recording and Review report lists the number of judicial interpretations that the NPC Standing Committee has received (without further breakdown between the SPC and SPP), and the number of judicial interpretations and other judicial documents it has reviewed through the modes of review set out in Recording and Review procedures and provides in its narrative examples of its review of certain judicial interpretations and judicial documents. Some representative examples follow.

The first example concerns a provision in a judicial interpretation of the Marriage Law relating to community debt in divorce proceedings. This Recording and Review

[91]Supreme People's Court, Supreme People's Court Regulations on Judicial Interpretation Work (最高人民法院关于司法解释工作规定) of 9 March 2007, which replaced initial regulations issued on 1 July 1997. He Fan notes because the SPC described its interpretations as having the force of law, it implemented filing with the NPCSC. He Fan supra note 6 at 310.

[92]The author discussed this notice in detail at Susan Finder, How the Supreme People's Court Drafts Criminal Procedure Judicial Interpretations, Chinese Courts and Criminal Procedure: Post-2013 Reforms (Bjoern Ahl, ed).

[93]最高人民法院关于严格执行司法解释工作规范确实加强司法解释工作的通 ('Notice concerning the Strict Enforcement of Requirements in Judicial Interpretation Work and the Strengthening of Judicial Interpretation Work). This notice, which addresses eight broad issues, seems to be missing from Chinese electronic databases, although it was publicly distributed.

[94]Id. Chenge Chu (褚宸舸), 'Discussion of the Effectiveness of Responses to Legal Inquiries (论答复法律询问的效力)' (2014) (4) Political Science and Law, republished at www.calaw.cn/article/default.asp?id=9644 (last accessed 6 November 2020).

[95]Those reports are republished at https://npcobserver.com/recording-review/. As of the writing of this article, two books that published a selection of NPC LAC and local people's congress LAC Recording and Review case summaries are: National People's Congress Standing Committee Legislative Affairs Commission Office for Recording and Reviewing Regulations, 规范性文件 备案审查案例选编 (Selection of Edited Cases of the Recording and Review of Normative Documents (Selected Recording and Review Cases Book 1), Beijing: 中国民主法制出版社 (China Democracy and Legal System Press), 2020; Zhang Yong and Yan Dongfeng (Chief editor and associate editor) 规范性文件备案审查案例选编 (二) (Selection of Edited Cases of the Recording and Review of Normative Documents (2) (Selected Recording and Review Cases Book 2), Beijing: 中国民主法制出版社 (China Democracy and Legal System Press), 2024.

case was described in the 2017 Recording and Review report, and Selected Recording and Review Cases Book 1. It provides a useful example of how a judicial interpretation that has caused public controversy is resolved through inter-institutional coordination.[96] Although it was not mentioned in the Recording and Review report or case summary, as discussed earlier in this section, the relevant office of the Legislative Affairs Commission must have reviewed and commented on that interpretation when it was in draft. According to the report, during 2016–2017, almost 1000 citizens filed requests for review of that interpretation, constituting almost all challenges by individuals. Additionally, during the 2017 NPC meeting, a group of NPC delegates submitted proposals with challenges to that provision. Because it had become a public controversy, it could be expected that the Recording and Review report would address the controversy and the constructive role of the Legislative Affairs Commission in resolving it.[97]

As a public controversy reported in the domestic and international press, it needed to be resolved. According to the report and case summary, the Recording and Review Office of the Legislative Affairs Commission reviewed the requests for review made by the delegates and individuals and concluded that the provision in the interpretation was too simple, overly favoured the interests of the creditor, and had been controversial since it was issued. The case summary, however, did not set out further details concerning the basis for the conclusions of the Recording and Review Office.[98] Therefore the Recording and Review Office required the SPC to resolve the issues that had arisen. In June, 2017, the Legislative Affairs Commission convened a workshop with some of the NPC delegates, and those responsible for the drafting the interpretation at the SPC, likely senior judges of the SPC's #1 Civil Division. The 2018 Recording and Review report and the case summary reported that the SPC issued a follow up interpretation in January, 2018 which resolved the issue. Presumably the Legislative Affairs Commission and SPC continued to communicate on the best resolution for the controversy and the text of a draft interpretation during the period between June 2017 and January 2018. Similarly, the 2024 report addressed a controversial interpretation of the Company Law that caused both citizen and NPC delegates to submit proposals, triggered demonstrations outside local courts, and was reported both domestically and internationally.[99] The 2024 report stated that the Legislative Affairs Commission would follow up with the

[96]The second judicial interpretation of China's marriage law, promulgated in 2004, contained a provision intended to protect creditors from couples who divorce to avoid mutual debt obligations, but resulted in thousands of people, primarily women, who found themselves in debt for loans of which they were not aware, which became a major controversy. Ni Dandan, *Supreme Court Clarifies Debt-After-Divorce Rulings*, https://www.sixthtone.com/news/1001573, January 17, 2018, discussed, with a different emphasis, at Changhao Wei, *Recording & Review: An Introduction to Constitutional Review with Chinese Characteristics*, NPC Observer (Jan. 19, 2018, 12:57 PM), https://npcobserver.com/2018/01/recording-review-an-introduction-to-constitutional-review-with-chinese-characteristics/.

[97]全国人民代表大会常务委员会法制工作委员会关于十二届全国人大以来暨2017年备案审查工作情况报告 (The Legislative Affairs Commission of the Standing Committee of the National People's Congress Report on the status of filing and review work since the 12th National People's Congress and in 2017), NPC Standing Committee Legislative Affairs Commission Registration and Review Office, Fagui, Sifa Jieshi Beian Shencha Gongzuo Banfa 法规, 司法解释备案审查工作办法导读, (Guide to Reading the Working Measures for the Recording and Review of Regulations and Judicial Interpretations), Beijing: Democracy and Legal System Press (2020), 205–216.

[98]This is discussed in more detail by Li Lei in 人大备案审查结论存疑的优化机制探究 (Exploring the Optimization Mechanism for Questionable Conclusions of the National People's Congress Filing Review), WeChat Public Account of Huazhong University of Science and Technology Law School, republishing an article that appeared in issue #12, 2021, 法学 (Legal Science), 31 December 2021, https://mp.weixin.qq.com/s/yVbGWq7WV5PiS33qbKtkUg.

[99]James Pomfret and Engen Tham, China After Protests Reverses Course On Law That Hurt Shareholders, 23 December 2024, https://www.reuters.com/world/china/after-protests-china-reverses-course-law-that-hurt-shareholders-2024-12-23/.

drafters because the interpretation had retroactive effect. Two days following the release of the report, the SPC issued an interpretation resolving the issue, flagging that the two institutions had been in communication about an appropriate resolution.[100]

Recording and Review reports also illustrate the role of the Legislative Affairs Commission in promoting specific changes to the work of the SPC, as well as the face-saving way that it makes that work public. The 2024 report, for example, stated that the Legislative Affairs Commission 'supported the Supreme People's Court in establishing a filing and review system for judicial normative documents'. He Fan describes the Legislative Affairs Commission as having supervised and urged (*ducu* 督促) the SPC to do so. The filing and review system is set out in a 2020 SPC document.[101]

The examples above provide insights into the evolving nuanced relationship between the NPC (Standing Committee) and the SPC and the impact of Party policy. The more robust Recording and Review procedures provide a way for the NPC Standing Committee to demonstrate its strengthened oversight authority over the SPC in a way that maintains the SPC's authority and harmonious relations between the two institutions. Second, as both Wei and Keith Hand have recognised, Party policy favours making the procedures more accessible to the public and NPC (and CPPCC) delegates because it provides a mechanism for channelling public discontent with judicial interpretations in a politically acceptable way.[102] Third, the SPC likely favours resolving these public controversies concerning judicial interpretations through Recording and Review because it enables a collaborative resolution process out of the public eye, in a way that preserves its prestige. The partial transparency of the Recording and Review reports and case summaries is intentional. Providing the full text of the Legislative Affairs Commission's analysis, related correspondence with the SPC, or prior review of the draft interpretation by another department of the Legislative Affairs Commission is not consistent with harmonious relations between the institutions. Additionally, it can be seen that supervision by the Legislative Affairs Commission is pointed (behind the scenes) and the SPC complies through institutional change, such as establishing a filing platform for local judicial documents or 'cleaning up' outdated or inconsistent judicial interpretations or documents.

### *SPC and NPC support*

From time to time the SPC seeks support from the NPCSC Legislative Affairs Commission for its substantive initiatives, such as the drafting of judicial interpretations or conference summaries (meeting minutes). The reasons for seeking such support vary.

[100]Supreme People's Court, 最高人民法院关于《中华人民共和国公司法》第八十八条第一款不溯及适用的批复 (Reply of the Supreme People's Court on the non-retroactive application of Article 88, Paragraph 1 of the Company Law of the People's Republic of China, 24 December 2024, https://www.court.gov.cn/zixun/xiangqing/450831.html.

[101]Supreme People's Court, Zuigao Renmin Fayuan Guanyu Guifan Gaoji Renmin Fayuan Zhiding Shenpan Yewu Wenjian Bianfa Cankaoxing Anli Gongzuo de Tongzhi, 最高人民法院关于规范高级人民法院制定审判业务文件编发参考性案例工作的通知 (Notice by the Supreme People's Court of Standardizing the Development of Trial Business Documents and the Compilation and Issuance of Reference Cases by the Higher People's Courts, 1 December 2020, https://lawinfochina.com/display.aspx?id=34739.

[102]Changhao Wei & Taige Hu, *The NPC and the 2024 Third Plenum Decision*, NPC Observer (July 31, 2024,), https://npcobserver.com/2024/07/the-npc-and-the-2024-third-plenum-decision/: Keith Hand, supra note 5 (May 2022).

Sometimes the SPC seeks to have the Legislative Affairs Commission better understand the reasons that the SPC wishes to address particular issues in a judicial interpretation or conference summary. Other times the SPC requires the NPC to assist in resolving inter-institutional disagreements. Two examples follow.

One example of orienting Legislative Affairs Commission staff to issues faced by the courts involved the 2019 National Civil Commercial Trial Work Conference Summary. The book written by the drafters revealed that the attendees of that conference included persons from the Legislative Affairs Commission and other institutions. It is understood that the reason for doing that is understood to enable staff in those institutions to have a better understanding of the background for the drafting of related provisions when the SPC sends draft documents to the NPCSC for comment.

The second example, involving inter-institutional disagreement, involves the drafting of a judicial interpretation on prostitution-related crimes.[103] The SPC drafting team, which began work in 2012, amended their existing draft to reflect a 2015 amendment to the Criminal Law and despite multiple discussions with public security officials, were unable to come to a consensus on certain issues. The Legislative Affairs Commission eventually convened a coordination meeting (协调会议) with relevant ministries and commissions on relevant issues in the draft interpretation, and it was ultimately decided that the interpretation would be jointly issued by the SPC and the SPP. The interpretation was finally issued by those institutions in 2017.[104]

### *NPC delegate interactions with the SPC*

Ensuring that NPC delegates better perform is one aspect of NPC reform that has implications for the relationship with the SPC, because it has an impact on SPC liaison work with NPC (and CPPCC) delegates. In his 2021 speech to the Central Party conference on People's Congress work, Xi Jinping highlighted that the NPC Standing Committee should strengthen its capacity for delegates' work and support and ensure that delegates better perform their duties according to law.[105] It is a curious phrase, which reveals Party policy sees the NPC Standing Committee as both supervising and supporting NPC delegates. The institutional and legislative developments on delegate liaison with state institutions such as the SPC parallel those for NPC oversight, but appear to be delayed in comparison. Institutional developments include the NPC Standing Committee creating a Delegates Affairs Commission as a working body analogous to the Legislative Affairs Commission, an electronic platform for delegate suggestions, and the SPC establishing a corresponding platform for NPC delegate liaison

[103]'Interpretation of the Supreme People's Court and Supreme People's Procuratorate on Several Issues Concerning the Application of Law in the Trial of Criminal Cases of Organizing, Forcing, Enticing, Harboring, and Procuring Prostitution.'

[104]Zhou Feng, Dang Jianjun, Lu Jianhong, and Yang Hua, 《关于办理组织、强迫、引诱、容留、介绍卖淫刑事案件适用法律若干问题的解释》的理解与适用 (Understanding and Application of the 'Interpretation on Several Issues Concerning the Application of Law in Handling Criminal Cases of Organizing, Forcing, Enticing, Harbouring, and Procuring Prostitution'), originally published in Criminal Trial Reference, Volume #115, republished at Yangming Public Security WeChat Public Account, https://mp.weixin.qq.com/s/xrE_LVoekmhdH-Rn4x9QXA.

[105]Xi Speech at the Central People's Congress Work Conference.

in addition to its existing liaison office within the SPC's General Office.[106] Legislative developments include the 2025 amendment of the Delegates Law and the 2018 updating of 2005 Council of Chairperson measures on the handling of NPC delegate suggestions, criticisms, and opinions' (Measures on Handling Suggestions). However, the 2018 regulations are not publicly available. It is understood that the SPC has not updated its counterpart regulations on the handling of NPC delegate suggestions, also originally issued in 2005.[107] Despite the documentary challenges noted, this section briefly discusses two aspects of the relationship between NPC delegates and the SPC: the handling of NPC delegate suggestions and delegate involvement in cases.

As Wei has discussed, the term 'suggestions' is often used to refer to three types of submissions by one or more NPC delegates: 'suggestions, criticisms, and opinions' [*jianyi, piping and yijian*建议、批评和意见] and can be addressed to a range of state bodies, including the SPC[108]. Suggestions are used to recommend certain official actions or policies, express the delegates' views on policies, or criticise what an institution has done, and the delegates are required to make them on topics of general public interest. The Measures on Handling Suggestions (and presumably its updated 2018 version) direct the state bodies to set up systems for handling suggestions, reply to them as a priority, and to make those in the state body handling the replies accountable, and require one or more state bodies to respond.

The SPC's 2005 counterpart regulations detail the SPC internal procedures, designating the replies as priority work, generally imposing a three month deadline, and requiring SPC leadership approval. For suggestions considered 'key', the entities within the SPC handling the matter are encouraged to contact the representatives and engage with them through arranging visits, workshops and other means to obtain their support. An example of that would be the workshop on the Marriage Law interpretation discussed in Part 2. The SPC's General Office is the liaison point.

According to the SPC's annual work report, the SPC receives several hundred suggestions from NPC delegates. The SPC makes a small number of its replies to those suggestions public, through its platform for NPC delegate liaison or other SPC publications but does not make its summary report to the NPC Standing Committee public, unlike some other state bodies. The NPC Standing Committee Delegates Work Commission

[106]A 2000 decision of the SPC called for the establishment of a liaison office within the SPC's General Office. See Supreme People's Court, Zuigao Renmin Fayuan Guanyu Jiaqiang yu Renda Diaibiao Lianluo Gongzuo de Jueding 最高人民法院关于加强与人大代表联络工作的决定 [Decision of the Supreme People's Court Concerning the Strengthening of Liaison Work with National People's Congress Delegates], https://mp.weixin.qq.com/s/XyNjnd3QHVvccAwmsOVcyQ; Changhao Wei, *NPC to Establish New Agency to Support Delegates*, NPC Observer (Mar. 20, 2023, 6:45 PM), https://npcobserver.com/2023/03/china-npc-delegate-affairs-commission/; The SPC platform is available here: http://gtpt.court.gov.cn/#/YAJYTA?type=03000000. Changhao Wei and Ying Sun, Why Did China Amend Its Law Governing Delegates to People's Congresses, The Diplomat, 10 April 2025, https://thediplomat.com/2025/04/why-did-china-amend-its-law-governing-delegates-to-peoples-congresses.

[107]Supreme People's Court, 最高人民法院关于印发《最高人民法院办理全国人大代表建议、批评和意见及全国政协委员提案工作的规则》的通知 (Rules on the Supreme People's Court's Handling of the Suggestions, Criticisms and Opinions of NPC Deputies and the Proposals of the Members of the CPPCC), 29 December 2005. Those rules are cited in a 2024 report on the SPC's delegate work in the SPC's NPC Liaison WeChat Public Account, Lu Qiankun, 为了人民的关切与期待——人民法院代表委员联络工作综述(For the People's Concerns and Expectations: A Summary of the Courts), People's Court Representative Liaison WeChat Public Account (republished People's Court Daily article), 30 September 2024, https://mp.weixin.qq.com/s/QiibLM9A2ETCjc38Hae6vw **Ni** Issuie.

[108]Changhao Wei, *Explainer: What Happens to the Delegate Bills Introduced During Annual NPC Sessions?*, NPC Observer (Feb. 5, 2024, 6:40 PM), https://npcobserver.com/2024/02/china-npc-delegate-bills/.

publishes an annual report, which generally mentions the SPC handling of delegate suggestions positively, describing the SPC as 'deeply communicating with delegates, and listening and absorbing their views'.[109] The responses are carefully worded, following the requirements in the 2005 SPC counterpart regulations, expressing praise if it concurred with the proposal. One example is a 2017 response to the NPC Standing Committee, also addressed to the State Administration of Industry and Commerce (now the State Administration of Market Regulation) on the topic of professional consumers, which although not a legally binding letter, provided an authoritative signal that it expected to tighten its rules on litigation brought by professional consumers.[110] Additionally, if several delegates raise analogous issues or confusions about court matters, the SPC may use this opportunity to post a related article in the People's Court Daily to clarify the matter and publicize the SPC's work.

NPC delegate involvement in cases is a little discussed issue in the English language literature and comprehensive information is scarce. When this author first wrote about this in 1993, it was the usual practice, which later became controversial, resulting in a 2010 amendment to the Delegates Law. As mentioned in a 2025 article by Wei and Sun Ying, since 2010, Article 59 of the amended Delegates Law has prohibited delegates from interfering in court cases in the name of exercising their official duties. However, as Wei and his co-author note, there continue to be instances where delegates take an interest in a pending court case, ostensibly to oversee the courts, although it may not be clear whether the delegate is acting in his own or the public interest. What the author understands from WeChat articles and queries with those familiar with a range of types of litigation at the SPC is that the practice has not disappeared, although markedly less than in the past. It means that the cases are handled more cautiously and reporting requirements are analogous to those described earlier. Those who have dealt with such delegate inquiries remark that it will not trigger a change in case outcome.

Interactions between NPC delegates and the SPC in the form of NPC delegate suggestions are considered important by the SPC because they relate to public opinion and the prestige of the SPC. Similar to other SPC documents, because these responses are internally regarded as an official expression of the view of the SPC, they require approval by the responsible SPC leader. The SPC's General Office liaises with the relevant entities within the SPC and SPC rules require the head of those entities to be responsible for the response.[111] Inquiries concerning cases, now frowned upon, have diminished but not entirely disappeared, which means the cases are handled more cautiously and must be similarly reported.

[109]Citation to the 2024 report. Changhao Wei, *NPC to Establish New Agency to Support Delegates*, NPC Observer (Mar. 20, 2023, 6:45 PM), https://npcobserver.com/2023/03/china-npc-delegate-affairs-commission/.

[110]对十二届全国人大五 次会议 第5990号建议的答 复意见 (Opinion on a Response to Suggestion #5990 of a delegate of the 5th meeting of the 15th National People's Congress), June 23, 1917, https://m.sohu.com/a/151299563_169411/?pvid=000115_3w_a. On the binding nature of the response, see correspondence with the author, October, 2023.

[111]Chang Xianyu, 民有所呼 行有所应——2022年最高人民 法院办理全国人大代 表建议、全 国政协提案工作综述 (The people have something to say and the people have something to say—A summary of the Supreme People's Court's handling of the National People's Congress deputies' suggestions and the National Committee of the Chinese People's Political Consultative Conference's proposals in 2022), WeChat version of 中国审判,March 8, 2023, https://mp.weixin.qq.com/s/b46_tSKW_hejjCKUikYCKA.

## Conclusion

This article has provided a close examination of the evolving relationship between the NPC and SPC in the Xi Jinping New Era because it is an important but poorly understood aspect of the ongoing reshaping of the Chinese legal system. It has examined the impact of Party policy on this basic constitutional relationship, including the role of Party institutions in driving legal policy and legislative changes. The article has provided insights into the most important interactions between the two institutions: legal policy making, legislative drafting; oversight of the SPC, SPC seeking support for its initiatives, and NPC delegate interactions with the SPC. In so doing, it illuminates the unique evolving Chinese constitutional model and provides further understanding into the operation of China's highest court and its relationship with the NPC and its delegates.

The NPC Standing Committee and the SPC, designated by the Party leadership as 'essentially political organs', are tightly guided by Party leadership, and their work—separately or together—is often described as further to Party Centre deployments. Under this model, the NPC (and its Standing Committee) are more involved in legal policy making, legislate more, oversee the SPC more closely, and empower delegates to engage more robustly with the SPC and other state institutions. In limited situations, the Party leadership directs the SPC to work with committees of the NPC Standing Committee and its Legislative Affairs Commission to evolve legal policy.

The more important role for the SPC is its involvement in legislative drafting, which occurs at multiple stages of the legislative drafting process. The SPC's expertise has given it a unique role in supporting legislative drafting by the NPC and its Standing Committee, sometimes as designated by the Party leadership, but more often as invited by the Legislative Affairs Commission or other institution charged with initial drafting. It is often involved when drafting is undertaken by the Ministry of Justice, sectoral ministries, and Party institutions charged with drafting legislation for eventual submission to the NPC or the NPC Standing Committee. As mentioned earlier, the SPC also provides comments to the Legislative Affairs Commission after a draft has been submitted to the NPC Standing Committee.

The relative institutional weakness of the SPC is evident in the NPC's increasingly robust and detailed oversight, but the SPC also takes strategic measures to deal with that oversight, and the NPC is solicitous of the SPC's prestige and promotes collaborative relations between the institutions. For those reasons, issues that the NPC Standing Committee raises with the SPC are usually made public in summary form rather than full text. This practice means that NPC Standing Committee members may pose sharp questions or comments while displaying to the general public that the inter-institutional relations in Chinese-style democracy are harmonious, in comparison to the hostile or fractious relations in Western and other jurisdictions abroad.

The more robust Recording and Review procedures provide a way for the NPC Standing Committee to demonstrate its strengthened and close oversight authority over the SPC in a way that maintains the SPC's authority and harmonious relations between the two institutions. Party policy favours making the NPC oversight procedures more accessible to the public and NPC (and CPPCC) delegates because it provides a mechanism for channelling public discontent with judicial interpretations and other SPC measures in a politically acceptable way. While the NPC Standing Committee strategically

and increasingly robustly uses its oversight authority, it enables the SPC to deal with controversial matters in a politically acceptable way that preserves the prestige of the SPC. The SPC deals with suggestions of NPC delegates in a solicitous and partially transparent manner, highly valuing positive relations with delegates. It is known that delegates sometimes use their position to make inquiries about or otherwise involve themselves in cases, although it is generally prohibited and it may be unclear whether or not the delegate is acting in his own or the public interest.

The interactions between the NPC and SPC reveal an evolving Chinese model of constitutional relationship, tightly guided by Party leadership, involving public and non-public collaboration, persuasion and for the most part, hidden criticism, revealing soft boundaries between the work of the legislature and the supreme court, with both institutions working in ever closer cooperation with the Party Centre and Party institutions.

## Disclosure statement

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