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Government of China

All power within the **government of the People's Republic of China** is divided among several bodies:

- the legislative branch, the National People's Congress.
- the executive branch, the State Council
- the judicial branch, the Supreme People's Court and the Supreme People's Procuratorate
- the military branch, People's Liberation Army (PLA) via the Central Military Commission

This article is concerned with the formal administrative structure of the state, its branches, departments and their responsibilities. Most, but not all, positions of significant power in the state structure and in the military are occupied by members of the Communist Party of China which is controlled by the Politburo Standing Committee of the Communist Party of China, a group of 4 to 9 people, usually all older men, who make all decisions of national significance. As the role of the military is to enforce these decisions, the support of the PLA is important in maintaining Party rule.

Power is concentrated in the Paramount Leader, currently Xi Jinping, who heads the three most important political and state offices: He is General Secretary of the Communist Party and of the Central Committee and Chairman of the Central Military Commission and also the President of the People's Republic of China. Recently, experts have observed growing limitations to the Paramount Leader's de facto control over the government.

The legal power of the Communist Party is guaranteed by the PRC constitution and its position as the supreme political authority in the PRC is realised through its comprehensive control of the state, military, and media. According to a prominent government spokesman:

We will never simply copy the system of Western countries or introduce a system of multiple parties holding office in rotation; although China's state organs have different responsibilities, they all adhere to the line, principles and policies of the party.

The primary organs of state power are the National People's Congress (NPC), the President, and the State Council. Members of the State Council include the Premier, a variable number of Vice Premiers (now four), five State Councilors (protocol equal of vice premiers but with narrower portfolios), and 29 ministers and heads of State Council commissions. During the 1980s there was an attempt made to separate party and state functions, with the party deciding general policy and the state carrying it out. The attempt was abandoned in the 1990s with the result that the political leadership within the state are also the leaders of the party. This dual structure thereby creates a single centralized focus of power.

At the same time there has been a move to separate party and state offices at levels other than the central government. It is unheard of for a sub-national executive to also be party secretary. This frequently causes conflict between the chief executive and the party secretary, and this conflict is widely seen as intentional to prevent either from becoming too powerful. Some special cases are the Special Administrative Regions of Hong Kong and Macau where the Mainland Chinese national laws do not apply at all and the autonomous regions where, following Soviet practice, the chief executive is typically a member of the local ethnic group while the party general secretary is non-local and usually Han Chinese.

Under the Constitution of the People's Republic of China, the NPC is the highest organ of state power in China. It meets annually for about two weeks to review and approve major new policy directions, laws, the budget, and major personnel changes. Most national legislation in the PRC is adopted by the Standing Committee of the National People's Congress. Most initiatives are presented to the NPCSC for consideration by the State Council after previous endorsement by the Communist Party's Politburo Standing Committee. Although the NPC generally approves State Council policy and personnel recommendations, the NPC and its standing committee has increasingly asserted its role as the national legislature and has been able to force revisions in some laws. For example, the State Council and the Party have been unable to secure passage of a fuel tax to finance the construction of expressways.

Constitution:

The Constitution was first created on September 20, 1954. Before that, an interim Constitution-like document created by the Chinese People's Political Consultative Conference was in force against the backdrop of the Cultural Revolution. The 2nd promulgation in 1975 shortened the Constitution to just about 30 articles, and contained Communist slogans and revolutionary language throughout. The role of courts was slashed, and the Presidency was gone. The 3rd promulgation in 1978 expanded the number of articles, but was still under the influence of the just-gone-by Cultural Revolution.

The current Constitution is the PRC's 4th promulgation. On December 4, 1982, it was promulgated and has served as a stable Constitution for 30 years. The role of the Presidency and the courts were normalized, and under the Constitution, all citizens were equal. Amendments were made in 1988, 1993, 1999, and most recently, in 2004, which recognized private property, safeguarded human rights, and further promoted the non-public sector of the economy.

National People's Congress :

The National People's Congress is the highest state body and the only legislative house in the People's Republic of China. Although the membership of the NPC is still largely determined by the Communist Party of China, since the early 1990s it has moved away from its previous role as a symbolic but powerless rubber-stamp legislature, and has become a forum for mediating policy differences between different parts of the Party and the government. For the NPC to formally defeat a proposal put before them is rare, but the NPC has become the forum in which legislation is debated before being put to a vote.

President:

The President (formerly, Chairman) and Vice President are elected by the National People's Congress for five-year terms. The President is a ceremonial office and serves as the nominal head of state. The office was created by the 1982 Constitution. Formally, the President is elected by the National People's Congress in accordance with Article 62 of the Constitution. In practice, this election falls into the category of 'single-candidate' elections. The candidate is recommended by the Presidium of the National People's Congress. Currently the President of China is Xi Jinping and the Vice President is Li Yuanchao.

State Council:

The State Council is the chief authority of the People's Republic of China. It is appointed by the National People's Congress and is chaired by the Premier and includes the heads of each governmental department and agency. There are about 50 members in the Council. In the politics of the People's Republic of China, the Central People's Government forms one of three interlocking branches of power, the others being the Communist Party of China and the People's Liberation Army. The State Council directly oversees the various subordinate People's Governments in the provinces, and in practice maintains an interlocking membership with the top levels of the Communist Party of China.

Currently the Premier of the State Council is Li Keqiang and the Vice Premiers are Zhang Gaoli, Liu Yandong, Wang Yang and Ma Kai.

Central Military Commission:

The Central Military Commission exercises the command and control of the People's Liberation Army and is supervised by the Standing Committee of the National People's Congress. The state CMC is nominally considered the supreme military policy-making body and its chairman, elected by the National People's Congress, is the commander-in-chief of the armed forces. In reality, command and control of the PLA, however, still resides with the Central Military Commission of the Chinese Communist Party Central Committee. Currently the Chairman of the Central Military Commission is Xi Jinping and the Vice Chairmen are Guo Boxiong and Xu Caihou.

Supreme People's Court and Supreme People's Procuratorate:

The Supreme People's Court is the highest court in the judicial system of the People's Republic of China. Hong Kong and Macau, as special administrative regions, have their own separate judicial systems based on British common law traditions and Portuguese civil-law traditions respectively, and are out of the jurisdiction of the Supreme People's Court. The judges of the Supreme People's Court are appointed by the National People's Congress.

Currently the President of Supreme People's Court and the Procurator-General of Supreme People's Procuratorate are Wang Shengjun and Cao Jianming separately.

Provincial and local government:

The governors of China's provinces and autonomous regions and mayors of its centrally controlled municipalities are appointed by the central government in Beijing after receiving the nominal consent of the National People's Congress (NPC). The Hong Kong and Macau special administrative regions (SARs) have some local autonomy since they have separate governments, legal systems, and basic constitutional laws, but they come under Beijing's control in matters of foreign affairs and national security, and their chief executives are handpicked by the central government. Below the provincial level in 2004 there were 50 rural prefectures, 283 prefecture-level cities, 374 county-level cities, 852 county-level districts under the jurisdiction of nearby cities, and 1,636 counties. There also were 662 cities (including those incorporated into the four centrally controlled municipalities), 808 urban districts, and 43,258 township-level regions. Counties are divided into townships and villages. While most have appointed officials running them, some lower-level jurisdictions have direct popular elections. The organs of self-governing ethnic autonomous areas (regions, prefectures, and counties)—people's congresses and people's governments—exercise the same powers as their provincial-level counterparts but are guided additionally by the Law on Regional Ethnic Autonomy and require NPC Standing Committee approval for regulations they enact "in the exercise of autonomy" and "in light of the political, economic, and cultural characteristics of the ethnic group or ethnic groups in the areas."

Politics of China:

The politics of the People's Republic of China take place in a framework of the single-party socialist republic. The leadership of the Communist Party is stated in the Constitution of the People's Republic of China. State power within the People's Republic of China (PRC) is exercised through the Communist Party of China, the Central People's Government and their provincial and local counterparts. Under the dual leadership system, each local Bureau or office is under the coequal authority of the local leader and the leader of the corresponding office, bureau or ministry at the next higher level. People's Congress members at the county level are elected by voters. These county level People's Congresses have the responsibility of oversight of local government, and elect members to the Provincial (or Municipal in the case of independent municipalities) People's Congress. The Provincial People's

Congress in turn elects members to the National People's Congress that meets each year in March in Beijing. The ruling Communist Party committee at each level plays a large role in the selection of appropriate candidates for election to the local congress and to the higher levels.

Overview:

The PRC's population, geographical vastness, and social diversity frustrate attempts to rule from Beijing. Economic reform during the 1980s and the devolution of much central government decision making, combined with the strong interest of local Communist Party officials in enriching themselves, has made it increasingly difficult for the central government to assert its authority. Political power has become much less personal and more institutionally based than it was during the first forty years of the PRC. For example, Deng Xiaoping was never the General Secretary of the Communist Party of China or President, Premier of China, yet he was the leader of China for a decade. Today the authority of China's leaders is much more tied to their institutional base.

Central government leaders must increasingly build consensus for new policies among party members, local and regional leaders, influential non-party members, and the population at large. However, control is often maintained over the larger group through control of information. The Chinese Communist Party considers China to be in the initial stages of socialism. Many Chinese and foreign observers see the PRC as in transition from a system of public ownership to one in which private ownership plays an increasingly important role. Privatization of housing and increasing freedom to make choices about education and employment severely weakened the work unit system that was once the basic cell of Communist Party control over society. China's complex political, ethnic and ideological mosaic, much less uniform beneath the surface than in the idealized story of the Propaganda Department of the Central Committee of the Communist Party of China, resists simple categorization.

As the social, cultural and political as well as economic consequences of market reform become increasingly manifest, tensions between the old—the way of the comrade—and the new—the way of the citizen—are sharpening. Some Chinese scholars such as Zhou Tianyong, the vice director of research of the Central Party School, argue that gradual political reform as well as repression of those pushing for overly rapid change over the next thirty years

will be essential if China is to avoid an overly turbulent transition to a middle class dominated polity. Some Chinese look back to the Cultural Revolution and fear chaos if the Communist Party should lose control due to domestic upheavals and so a robust system of monitoring and control is in place to counter the growing pressure for political change.

Communist Party:

The more than 80 million-member Communist Party of China (CPC) continues to dominate government. In periods of relative liberalization, the influence of people and groups outside the formal party structure has tended to increase, particularly in the economic realm. Under the command economy system, every state owned enterprise was required to have a party committee. The introduction of the market economy means that economic institutions now exist in which the party has limited or no power.

Nevertheless, in all governmental institutions in the PRC, the party committees at all levels maintain a powerful and pivotal role in administration, especially when related to politics and related aspects.

Central party control is tightest in central government offices and in urban economic, industrial, and cultural settings; it is considerably looser over government and party establishments in rural areas, where the majority of Mainland Chinese people live. The CPC's most important responsibility comes in the selection and promotion of personnel. They also see that party and state policy guidance is followed and that non-party members do not create autonomous organizations that could challenge party rule. Particularly important are the leading small groups which coordinate activities of different agencies. Although there is a convention that government committees contain at least one non-party member, a party membership is a definite aid in promotion and in being in crucial policy setting meetings.

Constitutionally, the party's highest body is the Party Congress, which is supposed to meet at least once every 5 years. Meetings were irregular before the Cultural Revolution but have been periodic since then. The party elects the Central Committee and the primary organs of power are formally parts of the central committee.

The primary organs of power in the Communist Party include:

- The General Secretary, which is the highest-ranking official within the Party and usually the Chinese Paramount leader.
- The Politburo, consisting of 22 full members (including the members of the Politburo Standing Committee);
- The Politburo Standing Committee, which currently consists of seven members;
- The Secretariat, the principal administrative mechanism of the CPC, headed by the General Secretary;
- The Central Military Commission;
- The Central Discipline Inspection Commission, which is charged with rooting out corruption and malfeasance among party cadres.

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At the same time, there has been a convention that party and state offices be separated at levels other than the central government, and it is unheard of for a sub-national executive to also be party secretary. Conflict has been often known to develop between the chief executive and the party secretary, and this conflict is widely seen as intentional to prevent either from becoming too dominant. Some special cases are the Special Administrative Regions of Hong Kong and Macau where the Communist Party does not function at all as part of the governmental system, and the autonomous regions where, following Soviet practice, the chief executive is typically a member of the local ethnic group while the party general secretary is non-local and usually Han Chinese.

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Local government:

Currently, local government in China is structured in a hierarchy on four different levels. With the *village* being the grassroots (usually a hundred or so families), and not considered part of the hierarchy, local government advances through the *township, county, prefecture or municipality*, and the *province* as the geographical area of jurisdiction increases. Each level in the hierarchy is responsible for overseeing the work carried out by lower levels on the administrative strata. At each level are two important officials. A figure that represents the Communist Party of China, colloquially termed the *Party chief* or the *Party Secretary*, acts as the policy maker. This figure is appointed by their superiors. The head of the local People's Government, is, in theory, elected by the people. Usually called a *governor, mayor, or magistrate*, depending on the level, this figure acts to carry out the policies and most ceremonial duties. The distinction has evolved into a system where the Party Secretary is always in precedence above the leader of the People's Government.

After Deng Xiaoping took power in 1978 greater autonomy has been given to provinces in terms of economic policy implementation as well as other areas of policy such as education and transportation. As a result, some provincial authorities have evolved tendencies of operating on a *de facto* federal system with Beijing. Prominent examples of greater autonomy are seen in the provinces of Guangdong and Zhejiang, where local leaders do little to adhere to the strict standards issued by the Central Government, especially economic policy. In addition, conflicts have arisen in the relations of the central Party

leaders with the few provincial-level Municipalities, most notably the municipal government of Shanghai and the rivalry between former Beijing mayor Chen Xitong and Jiang Zemin. The removal of Shanghai Municipality Party Secretary Chen Liangyu in September 2006 is the latest example.

China's system of autonomous regions and autonomous prefectures within provinces are formally intended to provide for greater autonomy by the ethnic group majority that inhabits the region. In practice, however, power rests with the Party secretary. Beijing will often appoint loyal party cadres to oversee the local work as Party secretary, while the local *Chairman* of the region's government is regarded as its nominal head. Power rests with the Party secretary. To avoid the solidification of local loyalties during a cadre's term in office, the central government freely and frequently transfers party cadres around different regions of the country, so a high ranking cadre's career might include service as governor or party secretary of several different provinces.

People's Liberation Army:

The Communist Party of China created and leads the People's Liberation Army. After the PRC was established in 1949, the PLA also became a state military. The state military system inherited and upholds the principle of the Communist Party's absolute leadership over the people's armed forces. The Party and the State jointly established the Central Military Commission that carries out the task of supreme military leadership over the armed forces.

The 1954 PRC Constitution provides that the State Chairman (President) directs the armed forces and made the State Chairman the chair of the Defense Commission (the Defense Commission is an advisory body, it does not lead the armed forces). On September 28, 1954, the Central Committee of the Chinese Communist Party re-established the Central Military Commission as the leader of the PLA and the people's armed forces. From that time onwards, the system of joint Party and state military leadership was established. The Central Committee of the Communist Party leads in all military affairs. The State Chairman directs the state military forces and the development of the military forces managed by the State Council.

In December 1982, the fifth National People's Congress revised the State Constitution to provide that the State Central Military Commission leads all the armed forces of the state. The chair of the State CMC is chosen and removed

by the full NPC while the other members are chosen by the NPC Standing Committee. However, the CMC of the Central Committee of the Communist Party of China remained the Party organization that directly leads the military and all the other armed forces. In actual practice, the Party CMC, after consultation with the democratic parties, proposes the names of the State CMC members of the NPC so that these people after going through the legal processes can be elected by the NPC to the State Central Military Commission. That is to say, that the CMC of the Central Committee and the CMC of the State are one group and one organization. However, looking at it organizationally, these two CMCs are subordinate to two different systems – the Party system and the State system. Therefore the armed forces are under the absolute leadership of the Communist Party and are also the armed forces of the state. This is a unique Chinese system that ensures the joint leadership of the Communist Party and the state over the armed forces.

Judicial system of China:

The judicial branch is one of three branches of government in the People's Republic of China, along with the executive and legislative branches. Strictly speaking, it refers to the activities of the People's Court system. The Chinese court system is based on civil law modeled after the legal systems of Germany and France, but with local characteristics.

Constitutionally, the court system is intended to exercise judicial power independently and free of interference from administrative organs, public organizations, and individuals. Yet the constitution simultaneously emphasizes the principle of the "leadership of the Communist Party." As stated by former SPC President Xiao Yang in 2007, "the power of the courts to adjudicate independently doesn't mean at all independence from the Party. It is the opposite, the embodiment of a high degree of responsibility vis-à-vis Party undertakings."

Court structure:

According to the Constitution of the People's Republic of China of 1982 and the Organic Law of the People's Courts that went into effect on January 1, 1980, the Chinese courts are divided into a four-level court system:

- At the highest level is the Supreme People's Court (SPC) in Beijing, the premier appellate forum of the land, which supervises the

administration of justice by all subordinate "local" and "special" people's courts. It is the court of last resort for the whole People's Republic of China except for Macao and Hong Kong.

- Local people's courts—the courts of the first instance—handle criminal and civil cases. These people's courts make up the remaining three levels of the court system and consist of "high people's courts" at the level of the provinces, autonomous regions, and special municipalities; "intermediate people's courts" at the level of prefectures, autonomous prefectures, and municipalities; and "basic people's courts" at the level of autonomous counties, towns, and municipal districts.
- Courts of Special Jurisdiction (special courts) comprises the Military Court of China (military), Railway Transport Court of China (railroad transportation) and Maritime Court of China (water transportation), and forestry.

The court system is paralleled by a hierarchy of prosecuting offices called people's procuratorates, the highest being the Supreme People's Procuratorate.

Hong Kong and Macau have separate court systems due to their historical status as British and Portuguese colonies, respectively.

History:

Between the Anti-Rightist Campaign of 1957 and the legal reforms of 1979, the courts—viewed by the leftists as troublesome and unreliable—played only a small role in the judicial system. Most of their functions were handled by other party or government organs. In 1979, however, the National People's Congress began the process of restoring the judicial system. The world was able to see an early example of this reinstated system in action in the showcase trial of the Gang of Four and six other members of the "Lin-Jiang clique" from November 1980 to January 1981 (see the Four Modernizations). The trial, which was publicized to show that China had restored a legal system that made all citizens equal before the law, actually appeared to many foreign observers to be more a political than a legal exercise. Nevertheless, it was intended to show that China was committed to restoring a judicial system.

The Ministry of Justice, abolished in 1959, was re-established under the 1979 legal reforms to administer the newly restored judicial system. With the support of local judicial departments and bureaus, the ministry was charged with supervising personnel management, training, and funding for the courts and associated organizations and was given responsibility for overseeing legal research and exchanges with foreign judicial bodies.

The 1980 Organic Law of the People's Courts (revised in 1983) and the 1982 State Constitution established four levels of courts in the general administrative structure. Judges are elected or appointed by people's congresses at the corresponding levels to serve a maximum of two five-year terms. Most trials are administered by a collegial bench made up of one to three judges and three to five assessors. Assessors, according to the State Constitution, are elected by local residents or people's congresses from among citizens over twenty-three years of age with political rights or are appointed by the court for their expertise. Trials are conducted in an inquisitorial manner, in which both judges and assessors play an active part in the questioning of all witnesses. (This contrasts with the adversarial system, in which the judge is meant to be an impartial referee between two contending attorneys.) After the judge and assessors rule on a case, they pass sentence. An aggrieved party can appeal to the next higher court.

The Organic Law of the People's Courts requires that adjudication committees be established for courts at every level. The committees usually are made up of the president, vice presidents, chief judges, and associate chief judges of the court, who are appointed and removed by the standing committees of the people's congresses at the corresponding level. The adjudication committees are charged with reviewing major cases to find errors in determination of facts or application of law and to determine if a chief judge should withdraw from a case. If a case is submitted to the adjudication committee, the court is bound by its decision. The Supreme People's Court stands at the apex of the judicial structure. Located in Beijing, it has jurisdiction over all lower and special courts, for which it serves as the ultimate appellate court. It is directly responsible to the National People's Congress Standing Committee, which elects the court president.

China also has 'special' military, rail transport, water transport, and forestry courts. These courts hear cases of counter-revolutionary activity, plundering, bribery, sabotage, or indifference to duty that result in severe damage to military facilities, work place, or government property or threaten the safety of soldiers or workers.

Military courts make up the largest group of special courts and try all treason and espionage cases. Although they are independent of civilian courts and directly subordinate to the Ministry of National Defense, military court decisions are reviewed by the Supreme People's Court. Special military courts were first established in 1954 to protect the special interests of all commanders, political commissars, and soldiers, but they ceased to function during the Cultural Revolution (1966–76). Military courts and procuratorates were reinstated in October 1978, and open military trials resumed in December of that year.

In April 1986, at the Fourth Session of the Sixth National People's Congress, the General Principles of the Civil Code was approved as "one of China's basic laws." Consisting of more than 150 articles, the code was intended to regulate China's internal and external economic relations to establish a stable base conducive to trade and attractive to foreign investors. Many of its provisions define the legal status of economic entities and the property rights they exercise. The code clearly stipulated that private ownership of the means of production is protected by law and may not be seized or interfered with by any person or organization. It also recognizes partnerships and wholly foreign-owned or joint-venture enterprises.

In March 2011, China's parliament enacted a revised Criminal Procedure Law which prohibited self-incrimination, allowed for the suppression of illegally-obtained evidence, and ensured prompt trials for suspects. The State Council's 2012 white paper on judicial reform, unlike previous papers, does not mention the subordination of the judicial system to "the leadership of" the Communist Party of China (CPC), and replaces mentions of "the CPC" in other places with "China".