

# A Study on the Legalization of Political Parties in Contemporary World Democratic Politics

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**ABSTRACT.** *The degree of democracy and the rule of law are the two important indexes to measure the political modernization, and the political party is gradually developed along with the political modernization. As an important carrier of political modernization, how to play a correct and effective role in political parties has become a common topic of exploration all over the world. The legalization of political parties is the trend of the development of party politics all over the world, and it is also the exploring path for the countries to realize the political modernization. The legalization of political parties is an important component of the legalization of party politics. The development of democratic politics needs the promotion of the rule of law of party politics.*

**KEYWORDS:** *political party, party politics, rule of law*

## 1. Introduction

In the more than 300 years of political parties' emergence and existence, political parties are closely related to the democratic and legal construction of modern politics. Although the internal laws and regulations of political parties developed relatively early, the history of party legislation is less than half a century. Political parties, as representatives and spokesmen of special groups, can help the groups they represent to engage in political participation and political voices. Political parties are the inevitable products of the development of political democratization. It is inevitable that some people who take an active part in politics will be the representatives of the group. Furthermore, in order to maintain the endorsing relationship and expand the political influence, the political groups or organizations with certain goals and norms will be formed. It must be noted that in those countries where political party politics has developed earlier and the party system has become more mature, party legislation has not been too thorough and meticulous, while those countries that have developed party politics later have been even harsher in

terms of party legislation. This has much to do with the mass base of democracy and the idea of rule of law.

## **2. The rule of law by political parties has become the consensus of the majority of the state governing the party and administering the party**

At present, the rule of law of political parties is the trend of political development in the world. Political parties are important carriers for the development and perfection of national democracy. However, if the activities of political parties are not regulated, the activities of political parties will be excessive or insufficient. Before the 1990s, there were only more than 50 countries in the Constitution that legislated on political parties and only 10 or 20 countries that specifically promulgated laws on political parties. But since the end of the Cold War, 123 countries have legislated on political parties through constitutions, and more than 90 countries have enacted political party laws. Bringing the activities of political parties under the constraints of national laws has become the choice of more and more countries. The standardization and rule of law of political party activity infuse new idea for political democratization. Democracy is not unlimited freedom, but freedom within the scope of normative agreement.

Party legislation is a common political phenomenon or legal phenomenon. First, since the emergence of political party politics, the process of political modernization in the countries of the maritime law system has developed relatively early, as well as the fastest. Because of the influence of the institutional environment, the political system has become more resistant to political transformation in the countries of the civil law system. For example, in the United States and the United Kingdom, during the process of political modernization, the concepts of democracy and rule of law are more easily accepted in the countries of the maritime law system, while the civil law system needs a long struggle. Second, political modernization is constantly changing and developing in order to adapt to economic modernization. Countries that can meet the needs of economic development have a better economic development and become an inevitable learning necessity for less developed countries. Because of its insufficient development of political modernization and insufficient understanding of democracy and the rule of law, it is inevitable to strengthen the guidance of party politics by legislation. Third, there is a close relationship among the state system, the political system and the national culture, political tradition, customs, religion and so on. Countries should not blindly learn from developed countries in the process of political modernization, but to adapt to their special national conditions. It is inevitable to ensure the smooth development of political activities through legislation. Although the legislative activities of political parties in foreign countries show certain commonness, what they emphasize deliberately and which can play a central role in national political life is often the particularity of each country and the specific needs of the governing authorities.

**3. The concept of party legislation and party law should be clarified, and there is a fundamental difference between them**

The difference between the party legislation and party law lies in the position of political parties in the process of legislation, so the relationship between political parties and political power must be discussed. It is absurd to discuss the issue of party legislation by ignoring the relationship between political power and political party in the political operation of the country. The political practice of various countries is not unified. The relationship between political party and political power is the fundamental difference of party legislation.

There are mainly two kinds of relations between political parties and political power. One is that political parties, only as the tools of national political democratization and the participants in political power, are in the next place in the national political power; the other one is that the political parties are the organizer, leader and director. Political authority of the state power is the way for the political parties to achieve its political goal. Party legislation reflects the specific requirements of political parties and their activities in the context of specific historical conditions and environments. In general, the legislative activities and forms of political parties in various countries in the world will be further adjusted with the development of the situation, but the characteristics of highlighting individuality and practicality will not change.

Party legislation includes two situations. In the first case, as participants of national politics, the Party establishes intra-party laws and guides national power to legislate or participate in national legislation. In this regard, political parties, as the main body of political participation, intervene in legislative activities. The second situation refers to the legislation of political parties. Political parties is the object of political activities. The state power manages and restricts the political parties involved in political activities in order to realize the stable operation of the democratic politics mainly involving political parties.

Party political participation has become the reference standard for the degree of democratization of modern politics. In order to ensure the effective political participation of political parties, party legislation has become a common phenomenon in the process of political development of political parties. The background mixed with ideological factors shows the appeal and demonstration of the system and law of developed countries.

**4. The rule of law by political parties cannot be regarded as the criterion for judging the degree of the state's legal system**

The level of party rule by law will not directly affect the degree of national legal system. The legislation of a political party itself may make it a well-organized organization with a high degree of rule of law. However, the level of legalization of a political party will not have a direct impact on the degree of national legal system. The degree of national legal system is the comprehensive influence of national law,

political system, social rule of law and so on. Political parties are only the part of national politics, and cannot play a decisive role in the level of national legal system. But for a long time, the ruling party's rule of law will play an important role in the state's legal system.

The level of party rule by law and the level of social rule by law are mutually affected. Political parties are socialized organizations and can never exist independently without the social foundation for a long time. Therefore, the organization and ideology of political parties are influenced by the society. The consciousness of ruling by law of members of political parties and the consciousness of ruling by law of social members are mutually influenced. The level of rule by law of political parties is not necessarily higher than that of the rule of law in society, but a political party tends to improve the consciousness of rule of law and the ability of ruling by law. Then the level of rule by law of political parties will be raised, and the level of social rule of law will be affected.

Party legislation is neither the standard to measure the level of a country's legal system, nor an inevitable choice for the development of political party politics; it cannot be used to judge the development of a country's political civilization. Up to now, some developed countries have not promulgated special laws on political parties, which does not affect the development of party politics and the leading role of political parties in national political life. On the contrary, in some countries where party legislation is active and laws are sound, party politics is not necessarily mature and orderly, and even party legislative activities themselves will become a "trigger" for intensifying party disputes and creating chaos, and democratic politics will not be possible. It is worth noting that some of the haphazard developments of National party legislation is very common, involving the purpose of showing the democratic image of the ruling authorities, reducing external pressure and other pragmatic considerations. The legislative activities of these political parties make the process of ruling by law more functional, practical and even "dramatic". In one country, party legislation has never been a purely legal activity, but always a strong political character, which can be used to restrain party disputes and promote the healthy development of party politics. It can also be a political tool for strong political parties and governing authorities to maintain a dominant position. The progressive significance of party legislation is beyond doubt, but on the other hand, one of the main functions of party politics is to be the political pillar for the regime and the rulers. Party legislation is also the administrative tool for the ruling authorities to promote the ruling process, suppress anti-institutional behavior, and maintain their own status.

##### **5. The legalization of political party politics is the guarantee of democratic politics, but it cannot be equated with the legalization of party politics**

Democracy and rule of law, as the symbol and basis of political modernization, play an important role in the political development of a country. In the process of political modernization, political parties play an irreplaceable part in the process of national democratization and rule of law, especially in countries with mature

political development. Party politics become the spokesmen of democracy politics. The process of the rule of law in the country is also advanced by the constant efforts of the political parties. The legalization of party politics can guarantee the development of democratic politics and ensure the order and stability of democracy. However, compared with the rule of law by political parties, the legalization of party politics has more extensive connotations and more powerful constraints.

Party rule by law is an important manifestation of party politics rule by law and an aspect of party politics rule by law. The legalization of political parties is only a link in party politics. As the main body of party politics, it need to solve the problems that how to make political parties play a better role in a link between the masses of the people and the state power, how to collect, screen, express and reflect public opinion better, and how to play a better role in political participation and so on. The legalization of political parties is only to restrict the activities of political parties, or political activities directly related to the activities of political parties. However, party politics is not only political party activities. The legalization of party politics is much more complicated than that of party rule by law.

There is not the necessary relation between party legislation and party rule by law. The relationship between the legislation of political parties and the legalization of political parties is not a positive correlation. Political parties are important carriers of democratic politics. Due to their economic and social development, the developed countries export their mature democracy and the rule of law to the rest of the world. However, the way to realize political modernization through democracy and rule of law is not only according to the mature political development model of developed countries, but also because democracy and rule of law do not accord with the reality of their own country, which will result in political instability and so on. Therefore, political modernization requires more participation of political parties in democracy, it is necessary to combine the reality of our country, according to the basic conditions and requirements of political development, to follow the law of the development of political democratization, so as to construct a modern political system.

### **Acknowledgments**

**Foundation Project:** Special Project of the Ministry of Education on Humanities and Social Sciences (Research on the Theoretical System of Socialism with Chinese characteristics) (17JD710044) "A Study on Xi Jinping's Thought of the Party's Governance by Law"

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