

# The Implementation Basis and Value Identity of the Constitution and Constitutional Governance

Zhaolun Wang

School of Southwest Petroleum University, Chengdu 610500, China

---

## ABSTRACT

The Constitution is at the forefront of the national legal system and has the highest legal effect. The implementation of constitutional governance is not only to visualise the values and objectives pursued by the Constitution, but also a powerful means to realise the national governance strategy. This paper discusses and analyses the constitution and constitutional governance, and comes up with some thoughts on the basis of the implementation of the constitution and constitutional governance.

## KEYWORDS

Constitution (of a country); Rule by statute; Implemente

---

## 1. BASIC CONCEPTS OF THE CONSTITUTION AND CONSTITUTIONAL GOVERNANCE

Ruling the country in accordance with the Constitution is the focus and key to the implementation of the rule of law, and is an inherent requirement for the construction of a China governed by the rule of law. Constitutional rule requires a constitution. The Constitution is a prerequisite for constitutional rule, which is the core of the rule of law. A country with a constitution does not necessarily mean that it has constitutional rule. If a country does not have constitutional rule, it is difficult to call it a country governed by the rule of law. To achieve the goal of constitutional rule, it is necessary to promote the rule of law by constitutional rule, and to implement constitutional rule by the rule of law, so that coordination and unity, not only focus on the form, but also take into account the substance. The first of the rule of law is the constitutional rule, the key to governing is to follow the constitution [1]. Constitutional governance as a top-level design, is a major test of the national governance system and governance capacity. The law of a country needs to be made in accordance with the constitution, the people of a country must be constitutional in word and deed. Within a country, both citizens and the government, the Constitution as the highest code of conduct.

## 2. CONSTITUTIONAL VALUES AND THE ELEMENTS OF THEIR OCCURRENCE

The value of the Constitution is an evaluation shared by the dominant values of society, which is both a macroscopic summary of what constitutes the fundamental interests of a country and an outline of its laws. The value of the constitution is reflected in the fact that it creates some kind of order in the midst of chaos, which enables the state machinery to run smoothly, the people to live and work in peace and contentment, and the law of necessity to be better implemented.

If the life of the constitution lies in its implementation, then the value of the constitution will also be embodied in the process of implementing the constitution. There are a number of elements that need to be fulfilled in order for constitutional values to be realised.

## **2.1. The Constitution is Good Law**

A good constitution is a good policy for ruling the country and securing the state, and democratic politics in keeping with the pace of the times and the reality is what the country needs and what the people want. When Dr Sun Yat-sen established the five-power constitution, he learnt about democratic politics from the West and refined China's old political system, which was in line with the world's trend externally and adapted to the traditional national conditions internally. He identified the direction of political development for the new China and explored the source of good laws for a democratic constitutional system. If it is not a good law, its implementation will be fraught with problems and will easily lead to bad results.

## **2.2. The Constitution Combines Justice and Efficiency**

The Constitution, as the guarantor of citizens' rights, is the greatest legal guarantee of citizens' participation in the life of society. How to define the value standards of the Constitution is a matter of weighing and trade-offs within the confines of the legal system. In the face of the problem of reconciling freedom and order, we must not endeavour to whitewash in order to pursue superficial peace, leaving justice in the dark corners, nor should we neglect efficiency in the pursuit of justice, leaving it always on the way to being late.

## **2.3. Society has the Basis for Realising the Values of Constitutional Governance**

The Constitution, as the public contract of the citizens of the country, should have the highest priority, which is reflected in the fact that when the Constitution needs to be advanced for implementation, it should be done in a smooth and fluid manner. To better realise the value of constitutional governance, there needs to be a good social foundation, i.e. the possibility of realising its value. This requires an in-depth integration of the characteristics of the times, the social climate, the quality of citizens, state institutions, laws and regulations, etc., in order to respond to the needs of the Constitution and to make constitutional governance more appropriate and reasonable, thus realising the value of the Constitution in the true sense.

### **2.3.1. Orderliness**

Human beings, as social beings, are not incompatible with their individual free will. The collision of free wills can lead to social instability, so people try to avoid this risk by establishing a universally binding system, in order to obtain a better living environment and create a good order for social activities. The constitution is necessary for the establishment of the ruling order of the state as well as for the maintenance of the functioning of the state. The establishment of a constitution requires the approval of public opinion. A constitution without public opinion is soulless and difficult to be truly implemented. The process of establishing a constitution is the process of reaching a consensus among public opinion, a general agreement among different individuals, nationals and the government to reach a certain order. In analysing and discussing the constitution and constitutional governance, a specific system is indispensable. The construction of the system should firstly be based on the reality of the country, based on the local history and culture, and can also learn from the experience of other countries. In general, only when the constitution and constitutional governance are in line with the national situation can they be in line with the public consensus and gain a public opinion basis for implementation.

### 2.3.2. Democratic

The laws of modernisation and development show that democratisation and modernisation go hand in hand, being both a prerequisite for and one of the missions of modernisation, and both a means and one of the purposes of developing modernisation. In leading and promoting modernisation, the CPC has always held high the banner of people's democracy, firmly believing that there can be no socialism without democracy, no modernisation of socialism, and no great rejuvenation of the Chinese nation, and has constantly deepened its understanding of the laws of Communist Party rule, socialist construction and human social development in practice, actively exploring the development of socialist modernisation and people's democracy in China. They have successfully embarked on a Chinese-style path of modernisation, pioneered people's democracy throughout the entire process, and opened up new horizons for the development of human civilisation.

### 2.3.3. Keep Abreast of the Times

Today's Constitution, specifically in a particular area, is a solid rut formed by the constant passing of the wheels of history. In the long course of history, the establishment of a new order often represents the reshuffling of new forces. We should always learn from history. Looking at the political and legal history of ancient China and the West, the 'law' in the West is mainly 'the art of kindness and justice', which is the link between the nationals and the members of the society for the defence of rights and the promotion of social harmony and amity, whereas the 'law' in China focuses on the norms of punishment. In China, 'law' focuses on penal norms, and it is like an axe hanging over the head of the citizens, a tool used by those in power to kill or take away. Because in the view of the West, people are rational independent individuals, and in the view of the Chinese ancients, people are 'waiting to feed the baby or Chi Chi to teach the hooligans', the two peoples of the different 'view of man' leading to their respective laws are born with different roles in the West on the identification of the law of this difference almost determines the direction of the subsequent development of Chinese and Western law. Subsequent generations continued to learn from and improve on the ideas of their predecessors, and the Constitution thus evolved and adapted to new forms of political economy.

## **3. CONSTITUTIONS AND CONSTITUTIONAL GOVERNANCE NEED TO BE ADAPTED TO NATIONAL CIRCUMSTANCES**

'A country's legal system, valuable to have roots, valuable to the reality', the law should not only be future-oriented, but also to learn from the traditional Chinese culture, carry forward the spirit of the fine tradition, we may not be able to grasp from the traditional Chinese legal system to solve all the problems of the modern world, but we can trace back to the source, to explore the formation of the legal system of the historical and cultural causes We may not be able to grasp the solutions to all modern problems from the traditional Chinese legal system, but we can trace the origin of each legal system back to its historical and cultural causes, and find out why a certain system needs to be retained and certain dregs need to be eliminated, so that we can constantly adjust the Chinese legal system to form a set of legal systems that are most suitable for China's national culture and the Chinese national conditions.

In 1940, Mao Zedong pointed out in his speech 'The Constitutionalism of New Democracy' that socialist constitutionalism was a very good constitutional model, but it was not feasible in China at that time, therefore, only a constitutional model that suited the domestic political, economic and cultural foundations at that time and was more readily accepted by the people could be chosen. It was what China needed at that time, and it was a new democratic constitutional model suitable for China's national conditions[2]. In terms of historical development, Mao Zedong preferred the people's democratic dictatorship, only that at that particular historical period, the people's life was not optimistic, let alone choosing the best among the best. The times gave the state and the government

some tasks and requirements, so it had to choose a way to develop that was more suitable to China's national conditions.

#### **4. THE CONSTITUTION PROVIDES THE BASIS FOR CONSTITUTIONAL GOVERNANCE**

The Constitution is the guarantor of the rights of citizens, which takes the fundamental interests of the people as its starting and ending point and provides important legal support for the implementation of constitutional rule as a modern and civilised form of national governance.

When talking about constitutional rule, it is impossible to avoid talking about the rule of man and the rule of law. The rule of man has occupied most of the time in history, but it does not mean that the rule of man is superior to it. Compared with the rule of man, the rule of law is institutionalised, arbitrary and predictable, and is a progressive product of a certain stage of historical development. The law has a corresponding system, divided into different sectors and content, different industries and fields to make detailed provisions, is a specific and practical regulatory system. As a tool of the ruling class, law is a highly recognised and effective tool. Laws are developed, endorsed and followed by citizens who want to create a stable environment, with a high degree of autonomy to regulate their own behaviour, anticipate patterns of behaviour and prevent or encourage them. A constitution, unlike a law, is a construction of law, a systematisation of the legal system. It constrains the scale of regulation of the law, sets out the principles and direction for its implementation, and the constitution is the law of the law. The rule of law is more with the help of the law to maintain the interests of the ruling group, the realization of the ruler's will for class rule, the constitutional rule is closely around the protection of civil rights, the restraint of public power as the centre of gravity to govern the country. Constitutional rule is based on the Constitution, without which there is no constitutional rule of the country.

#### **5. REALISTIC POSSIBILITIES FOR CONSTITUTIONAL GOVERNANCE**

##### **5.1. The Value System Already Established in the Constitution is A Reflection of the Public Will**

The constitution embodies the common will of the ruling class of a country, and the value system it establishes has the common value goals of the members of the political community. In a country where constitutional rule is practised, the basic values pursued are the realisation of the rule of law, the rule of the road, the rule of law, the rule of law, the rule of law, the rule of law, the rule of law, the rule of law, the rule of law, the rule of law, the rule of law, the rule of law and the rule of law. As a tool of governance, whether it is through its limitation of public rights or protection of private rights, the Constitution provides guidance for the operation of a country's institutions from a high level, thus providing the possibility of constitutional rule.

##### **5.2. Certain Political and Economic Conditions Are Met in Societies Where Constitutional Rule is Practised**

If a country or a society wants to implement constitutional governance, it needs to fulfil certain political, economic and cultural conditions. Only when a country's politics can provide a guarantee for the implementation of the Constitution, and there is enough coercive force to ensure the implementation, the implementation of constitutional governance will not be just a castle in the air, and can be truly implemented on the ground. With the development of social productive forces and the continuous upgrading of the market economy, the ideological level and humanistic concepts of social subjects will also change accordingly, which not only helps to promote the social development

into a benign cycle, but also helps to provide a solid political and economic foundation for the implementation of constitutional rule.

### **5.3. The State has a Legal System That Can Support Constitutionalism**

Constitutional governance is meaningful only if the values of fairness, justice, freedom and efficiency embedded in the legal system are truly implemented. But this also means that, if there is no sufficiently rich and perfect legal system as a carrier for the implementation of constitutional governance, then the pursuit of social values as the common will of the people to aspire to is no more than a bubble at the tip of the finger. In order to truly realise constitutional rule, we must formulate a series of strict constitutional legal system of constitution-making and constitution-executing, as the basis and content of constitutional rule, and in this way to promote the process of rule of law [3]. A systematic law can provide resources for the implementation of constitutional rule, the more complete the legal information, the smoother the implementation of constitutional rule.

## **REFERENCES**

- [1] Xigen Wang. The rule of law is preceded by constitutional rule and The key to governance is constitutionalism [J]. *Law and Social Development*, 2015, 21(02):2.
- [2] Mingjun Zhang. From Constitution to Constitutional Governance: The Political Logic of the Construction of China under the Rule of Law--From Mao Zedong's Constitutionalism of New Democracy [J]. 2015, 47(05):81-91. DOI:10.19862/j.cnki.xsyk.2015.05.012.
- [3] Junyi You. Constitutionalism Advancing the rule of law [J]. *People's Congress studying*, 2000(09): 4-8. DOI:10.13755/j.cnki.rdyj.2000.09.002.