

# The Form of Chinese State Structure Reflected in the Basic Laws

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## I. Issue Raised

Correct handling of the relationship between the Central Government and the Special Administrative Regions (SARs) is an important issue for China to implement the principles of “One Country, Two Systems”, “Hong Kong people ruling Hong Kong”, “Macao people ruling Macao” and a high degree of autonomy. It is necessary here to return to the issue of the form of the state structure of China, which includes three questions as follows: (1) Why is China a country with a unified state structure system? (2) How is the form of a unified state structure of China reflected in the *Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China* (hereinafter as “the Hong Kong Basic Law”) and the *Basic Law of the Macao Special Administrative Region of the People’s Republic of China* (hereinafter as “the Macao Basic Law”)? (3) How do the Hong Kong Basic Law and the Macao Basic Law deal with the problem of “residual powers” in division of the administrative functions and powers between the Central Authorities and the local SAR Authorities? There is another view that was put forward like this, “if it is a unified system, the position of Hong Kong and Macao is obviously above the state position in a federal country. If it is a federal system, all the provinces of China except Hong Kong and Macao do not enjoy the position of a state in the federal country.”<sup>1</sup> This raises a question: “Is there a contradiction between the ‘One Country, Two Systems’ principle and the form of the unified state structure of China? Do they oppose each other? This article tries to answer the above-mentioned three questions by combing and clarifying the Hong Kong Basic Law and the Macao Basic Law and further demonstrate the in-depth reflection of the unified state structure of China in the two Basic Laws.

## II. The Form of Chinese State Structure

The state structure referred to in Chinese Constitution originated from the constitutional theory of the former Soviet Union. It refers to “the mutual relations between the whole and the part of the State.”<sup>2</sup> Karl Marx once used the term of “state structure” and called the form of a centralized state structure as the centralized system in contrast to the federal system.<sup>3</sup> Marx pointed out in June 1848 when he commented the programme of Frankfurt Radical Social Democratic Party and the

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Frankfurt Left that: In Germany, the conflict between the centralized system and the federal system is the conflict between modern civilization and feudalism. The development of capitalism had forced Germany to adopt the strict centralized system. It is incredible for Germany to adopt the federal system as its state structure. This is the first time that a Marxist classic author used the term of “state structure”. However, the Chinese translation of this term in the 5<sup>th</sup> volume of the first edition of the *Complete Works of Karl Marx and Frederick Engels* fails to use the constitutional term. Instead, it is translated as “state organization”. Therefore it has long failed to attract the adequate attention of the academic circles because of this translation mistake. Lenin definitely used the concept of “state structure” in his book *The State and the Revolution*. But, this concept contained the meanings of state institutions and state structure at that time.<sup>4</sup> *The 1936 Stalin Constitution* has established the connotation of what we now refer to as the form of the state structure. The Western theoretical circle, the British and American scholars in particular, rarely use the concept of “state structure”. Rather they would use “relations between governments” or use the term of “federal system” (federalism) and “unified system”.

China’s constitutional theory holds that unified system and federal system are two basic state structures in the current world.

A country or state with a unified system refers to the fact that the country/state itself is a unified whole. It is a country with only one unified constitution and a unified legal system, a country with only a unified set of legislative, executive and judicial system, and a country whose citizens have a unified nationality. The local administrative area itself under a unified country/state is not an independent political entity but a territorial division to facilitate the administration by the state. The unified system characteristic is the concentration of power. Local powers are granted by the Central Authorities as the representative of the state and therefore are not inherent. The local areas and local authorities have no right at all to withdraw from the state. The state has power to annul any local administrative area and establish any new administrative area.

The federal system refers to a composite sovereign state composed of two or more political entities. The federal system refers to a federal country composed of many states. Federal and state both have sovereignty, and are thus called a composite sovereign state. The federal has its own constitution and laws while the states also have their own constitutions and laws. The states have existed earlier than the federal. When the states form or join a federal, they transfer part of their own sovereign rights to the federal and retain part of the sovereign rights.

A federal country/state must normally and expressly recognize in its constitution that it is a federal country/state. But a unified state does not recognize it. Only a few unified states expressly recognize in their constitutions that they are states with a unified structure.<sup>5</sup> The vast majority of the countries with the form of a unified state structure do not have a clear definition on the form of their state structures. It can only be judged from the original constitutional intent, the constitutional spirit and the relevant provisions of the Constitution.<sup>6</sup>

With regard to the state structure of China, Liu Shaoqi made a relatively clear explanation on it in 1954 in his *Report on the Draft Constitution of the People’s Republic of China*:

“The basic task of the Constitution is to stipulate the social system and the state system in the form of laws. It is not a necessary task for the Constitution to describe the specific boundaries of the country. However, in the Constitution of a federal state, it is necessary to list all the units of the federal state. But China is not such a federal state. In a unified state, if it is considered necessary to fix the division of the current administrative regions, it is of course appropriate to list all the

administrative regions and areas. However, China is now just starting its economic construction and domestic division of administrative regions cannot be said to have been completely fixed. For example, the Central People's Government just decided not long ago to combine the administrative units of a number of provinces. Therefore, it is not appropriate for the Constitution to enumerate the names of the administrative regions according to their status. Of course, administrative regions should not be changed easily and lightly. Therefore, the Draft Constitution has provided that only the National People's Congress has the power to approve the geographic division of the provinces, autonomous regions and municipalities directly under the Central Government whereas the geographic division of autonomous prefectures, counties, autonomous counties and cities shall be approved by the State Council."<sup>7</sup>

The meaning of this passage is clear. That is, China is a unified state rather than a federal state. However, viewed from the articles of the *Constitution of the People's Republic of China* (hereinafter as "the Constitution"), No term of "unified system" obviously appears in the Constitution. Therefore, whether China is a state with a unified structure system should be studied and explored from the various provisions of the Constitution, from the relationship between the Central Government organs and the local government organs in particular, in addition from the original constitutional meaning of Liu Shaoqi's Report.

The form of a country with a unified state structure can find profound expressions from the 1982 Constitution of China:

(1) The division of functions and powers between the central and local state organs is guided by the principle of giving full play to the initiative and enthusiasm of the local authorities under the unified leadership of the central authorities. (Paragraph 4, Article 3 of the Constitution). (2) The National People's Congress (NPC) has the power to approve the establishment of provinces, autonomous regions, and municipalities directly under the Central Government. The State Council has the power to approve the geographic division of provinces, autonomous regions and municipalities directly under the Central Government, and to approve the establishment and geographic division of autonomous prefectures, counties, autonomous counties and cities. (Article 31 of the Constitution; Items 12 and 13, Article 62 of the Constitution; and Item 15, Article 89 of the Constitution). (3) The NPC has the power to annul local regulations and decisions formulated by the local state administrative organs of the provinces, autonomous regions and municipalities directly under the Central Government that contravene the constitution, national laws and administrative regulations. The State Council has the power to alter or annul inappropriate decisions and orders issued by local organs of state administration at different levels. (Item 8, Article 62 of the Constitution; and Item 14, Article 89 of the Constitution). (4) The State Council has the power to exercise unified leadership over the work of local organs of state administration at different levels throughout the country, and to lay down the detailed division of functions and powers between the Central Government and the organs of state administration of provinces, autonomous regions and municipalities directly under the Central Government; Local people's governments at different levels throughout the country are state administrative organs under the unified leadership of the State Council and are subordinate to it. (Item 4, Article 89 of the Constitution; and Article 110 of the Constitution).

These provisions show that China itself is a unified whole in sovereignty and is divided into several administrative regional units in order to facilitate the administration. These administrative regional units are established by the Central Authorities, which means that they can also be

annulled by it. The Central Authorities has the right to re-divide the administrative regions across the country. The establishment of the administrative regions and areas itself means that their powers are established. That is, they are authorized by the Central Authorities. The establisher is the authorizer. The Central Authorities as the authorizer has the right to supervise the operation of the administrative powers of these administrative regions and areas. China is a state with a unified state structure. There is no doubt about this point.

The establishment of the form of a state structure depends on multiple factors, such as historical tradition, ethnic composition and distribution, the economic development level, the political and culture influence, etc. Of them, the historical and ethnic factors play a vital role. If an ancient country had long pursued the feudal autocratic and authoritarian monarchy in history, it usually establishes a state with a unified state structure after entering into the modern society. New emerging countries often establish federal states, especially the colonial countries, which usually establish federal states because of the various internal and colonial relations after departing from the colonial control of the sovereign state. A single-race nation usually establishes a unified state structure. If it is a multi-national country where the geographical scope of various ethnic groups inhabited exhibits almost no gap, their political and economic forces are roughly the same and no core nation has appeared to play a dominant role, then it normally will establish a federal state. If it is a multi-national country where they live together or mix with one another in harmony, and the inhabited nations have failed to form independent political entities, it will usually establish a country with a unified state structure.

China has been implementing a unified politically centralized state system since the Qin and Han dynasties and has never witnessed the occurrence of any state structure of composite system, which has appeared in modern times of the Western countries. As early as the Spring and Autumn Period, Mencius proposed “set at one” thought. Modi (*Mozi*) put forward the political ideal of “identifying oneself with one’s superior from lower level to higher level until with the emperor in the end”. He advocated that the sage should be selected to be the emperor of the world or (the son of the heaven). Then the emperor “will be righteous to everyone under the heaven” and “issue a unified constitution and orders to the public over the world. The ancient Chinese theorists and statesmen unanimously held that it was necessary to establish a unified and powerful monarchy. Qin Shihuang established the first national centralized state in Chinese history “with county as the administrative unit and unified constitution and laws throughout the country”. Since then until the end of the feudal society, the Chinese state administrative structure with the unified feudal monarchy as the foundation had become orthodox ideas without any objection.<sup>8</sup> This is the historical background for China to establish a unified state structure under the present Constitution.

Although many countries with multiple nations have established federal states, the 56 Chinese ethnic groups have exhibited such distribution characteristics of settlement in the Chinese territory as “widespread distribution, small concentration, extensive mixture and small settlement”. No autonomous region in China has only one single ethnic group living in it except the Tibetan Autonomous Region. This kind of ethnic distribution has determined that China cannot adopt the former Soviet Republic form to resolve the problem of the state structure. Although China is a country with multiple ethnic groups, “its feature is that the Han nationality occupies the great majority of the population.” “The national minorities include Mongolian, Hui, Tibetan, Uygur, Miao, Yizu, Gaoshan, etc. Their total population is less than 10% of the population.”<sup>9</sup> Therefore, China has solved the ethnic problem under the unified state structure. This is the regional autonomy

of ethnic minorities. China's ethnic policy is based on autonomy as the goal, which, however, cannot exceed the limit of autonomy. "The name of our country is called the People's Republic of China, instead of a federal republic."<sup>10</sup>

The common Chinese state structure is called "province". China started to establish "the Central Secretariat" in the Wei and Jin Dynasties to manage the government affairs, which evolved in later dynasties. The Tang Dynasty established such three ministries/departments as "the general secretariat, the ministry of state affairs and the ministry of chancellery" in joint administration of the state affairs. By the Yuan Dynasty, the General Secretariat had taken over the functions and powers of the ministry of the state affairs and it was stipulated that the Ministry of State Affairs took over the administrative duties over the roads, local offices and the states in the vicinity of the capital, which was known as the area directly under the jurisdiction of the Ministry of State Affairs. Other areas and regions of the Yuan Dynasty were under the respective jurisdiction of the Ministry of State Affairs in charge of different trades and industries, briefly known as "trade or industrial departments", later also briefly known as "department". The origin of "department/ministry" fully shows that the power of the "department" comes from the central administration. This is the form of a state structure for a unified country instead of a federal country.

### **III. The Reflection of the Unified State Structure Principle in the Basic Laws**

China is a country with a unified state structure. However, the issue of the country's state structure has aroused much discussion since the handovers of Hong Kong and Macao in 1997 and 1999 respectively. This is because the Hong Kong SAR and the Macao SAR established by the Central Authorities enjoy a high degree of autonomy. The powers they enjoy far exceed those enjoyed by China's other provinces, autonomous regions of national minorities and municipalities directly under the Central Government and they also exceed the powers enjoyed by the states of a federal country in many respects.

Chinese traditional textbooks on Constitution have summarized the characteristics of a unified state structure in the following four points: (1) Viewed from the perspective of the legal system, the country has only one constitution. A unified central legislature enacts other laws in accordance with the constitution. (2) Viewed from the perspective of the state agencies, the state has only one supreme legislature, a central government and a complete set of the judicial system. (3) Viewed from the perspective of the power division between the Central authorities and the local authorities, the local authorities accept the unified leadership of the Central authorities. The powers of the local government are authorized by the Central Government. The local administrative units and the autonomous regional units have no power to withdraw from the Central Authorities for independence. (4) Viewed from the perspective of foreign relations, the state is an independent body and the citizens have a uniform nationality.<sup>11</sup>

Chinese traditional textbooks on the Constitution have summarized the characteristics of a federal state structure in the following few points: (1) Viewed from the perspective of the state legal system, each state of the federal country has a constitution in addition to the constitution of the federal country. (2) Viewed from the perspective of the state agencies, in addition to the federal legislative, executive and judicial systems, each member state of the federal country has its own legislative, executive and judicial systems. (3) Viewed from the perspective of the divisions of

functions and powers between the federal country and the member states, the division of their functions and powers shall be stipulated by the federal constitution generally or specifically. And the so-called residual powers are clearly specified to belong to which side. (4) Viewed from the perspective of foreign relations, some of the member states of the federal country are permitted to enjoy certain power for foreign relations. The citizens of a federal country have both federal nationality and member state nationality.<sup>12</sup>

Since China is a unified country, it had to prepare the Hong Kong Basic Law in accordance with the unified state structure system rather than the federal state structure system and establish the relation between the Central Authorities and the SAR. Ji Pengfei pointed out in his explanation to the NPC about the Hong Kong Basic Law (Draft) and its other documents, “The relation between the Central Authorities and the Hong Kong Special Administrative Region is one of the basic contents of the Basic Law. It is involved not only in Chapter II, but also in Chapters I, VII, VIII and other chapters as well.”<sup>13</sup> The Hong Kong Basic Law and the Macao Basic Law have made special provisions on the relation between the Central Authorities and the SARs in Chapter II. In addition, they have made many provisions on it in Chapters I, VI, VIII and other chapters. Those provisions are made on the basis of the unified constitutional principle established by the Constitution.

The unified state structure is profoundly reflected in the Hong Kong Basic Law and the Macao Basic Law.

(1) Although the two Basic Laws have similar structure and revision procedures with those of the Constitution, they are known as the Basic Laws rather than “the Constitution”.

(2) Although in the English version, both are translated as “General Principles”, the Chinese wordings for the title of Chapter one of the Basic Laws is called the “*Zongze*” (總則), they are not equal to the term “*Zonggang*” (總綱) used for Chapter I of the Constitution.

(3) The title of Chapter III is “Fundamental Rights and Duties of the Residents” rather than “Fundamental Rights and Duties of the Citizens”.

(4) The Basic Laws are prepared by the NPC rather than by the SARs themselves. And the power of amendment of the Basic Laws shall also be vested in the NPC rather than in the SARs. (Article 159 of the Hong Kong Basic Law and Article 144 of the Macao Basic Law)

(5) “An inalienable part of the People’s Republic of China” (Article 1 of the Hong Kong Basic Law and the Macao Basic Law) refers to the fact that the SARs do not have the right to withdraw from the PRC as a state may do under a federal republic. Just like an autonomous region of the national minorities in the mainland, the SARs are parts of the composite parts of a country with a unified state structure system.

(6) The SARs’ power for a high degree of autonomy originates from the authorization of the Central Authorities. (Article 2 of the Hong Kong Basic Law and the Macao Basic Law)

(7) “Local administrative regions” (Article 12 of the Hong Kong Basic Law and the Macao Basic Law)

(8) The SAR regional flag and regional emblem are not designed by the SAR itself, but are determined by the NPC in the Basic Laws. (Article 10 of the Hong Kong Basic Law and the Macao Basic Law)

(9) The map of the administrative division of the Hong Kong SAR will be published by the State Council rather than divided by the state of a federal country itself.

(10) The Central Authorities exercises the power to supervise the local legislation. The laws

enacted by the SAR Legislative Council must be reported to the NPC for record. And the NPC has the power to return and invalidate any such enacted laws. (Article 17 of the Hong Kong Basic Law and the Macao Basic Law)

(11) The Chief Executive of the Hong Kong SAR shall be selected by election or through consultations held locally and be appointed by the Central Government. The Chief Executive is accountable to the Central Government. The Chief Executive shall nominate and report the SAR principal officials to the Central Government for appointment. (Article 43 of the Hong Kong Basic Law and Article 45 of the Macao Basic Law; Item 5 of Article 48 of the Hong Kong Basic Law and Item 6 of Article 50 of the Macao Basic Law)

(12) The SAR Chief Executive shall be the head (首長) of the SAR and the SAR Government, rather than the head of state (元首). (Articles 43 and 60 of the Hong Kong Basic Law and Articles 50 and 62 of the Macao Basic Law)

(13) The highest level in the legal court system can only be called the Court of Final Appeal rather than the Supreme Court. (Article 81 of the Hong Kong Basic Law and Article 84 of the Macao Basic Law)

All these aspects show that this is a relationship between the Central Authorities and the local authorities in a country with a unified state structure system through avoiding the use of the constitutional terms of a federal republic or the constitutional terms at the state level. Some aspects show that this is a country with a unified state structure system through the substantial power configuration.

#### **IV. The So-Called "Residual Powers" Issue**

At the stage when the Hong Kong Basic Law was being prepared, the issue on residual powers aroused much discussion. At that time, there were several views as follows:

(1) Since Hong Kong enjoys the power for a high degree of autonomy, the Central Authorities should hand over all the residual powers except foreign affairs and defense to Hong Kong. But they shall be written in the Hong Kong Basic Law in a proper way.

(2) Although Hong Kong is no longer a member of the Commonwealth countries, it still has residual powers, such as special amnesty. It shall be stipulated who will exercise the "residual powers".

(3) "Residual powers" must be enumerated clearly. The Central Authorities exercise the powers on defense and foreign affairs. The Hong Kong SAR shall administer the SAR affairs in accordance with the Hong Kong Basic Law as the only law so as to attain the purpose of a high degree of autonomy.

(4) We are different from federal republics in residual powers. The SAR power to exercise a high degree of autonomy is granted by the Central Authorities. If the residual powers must be written in the Hong Kong Basic Law, they belong to the Central Authorities.

(5) Since Chapter II of the Hong Kong Basic Law has clearly divided the powers between the Central Authorities and the SAR, there is no need for the Hong Kong Basic Law to write about the "residual powers".<sup>14</sup>

The Drafting Committee mainly adopted the 4<sup>th</sup> and 5<sup>th</sup> opinions later. Article 20 of the Hong Kong Basic Law provides that the Hong Kong SAR may enjoy other powers granted to it by the

NPC, the Standing Committee of the NPC or the Central Government. Later, the Macao Basic Law altered the wording slightly: “The Macao Special Administrative Region may enjoy other powers granted to it by the National People’s Congress, the Standing Committee of the National People’s Congress or the Central People’s Government.”

The concept of residual powers originated back from Article 10 of the *Amendment to the United States Constitution*, also known as “residual powers of the states”. “The powers that the Constitution does not grant the United States or does not prohibit the states to exercise shall be retained to the states or the people.” This shows that all the residual powers not enumerated unless the *United States Constitution* expressly prohibits states from exercising, for example, they shall not conclude treaties nor issue currency, are reserved for the states. These powers are mainly powers to deal with affairs within the scope of the state and island, such as taxation in the name of the state, credit loan to the state, management of industry, commerce and labor issues, maintenance of public order, dealing with civil and criminal matters, establishment of education, roads and transport, etc.

If we discuss the concept of the residual powers, we must return to the constitutional theory of the federal system. The formation of a federal country has two channels: One is that the federal country/state is composed of many states: the separate states come together to form a unified federal country and the disperse powers become unified. The other is that the powers turn from unity to disperse powers. A country originally with a unified state structure system is introduced with a federal state structure system to solve problems in its operation. It has become a federal country from a country with a unified state structure. The vast majority of the federal countries come from the first channel. Only a few come from the second channel in formation.

No matter whether the powers come from disperse to unity or from unity to disperse, when the state transfers its powers to the federal country, there must be some powers that are not transferred and retained in its own hands. These un-transferred powers are what the *United States Constitution* calls the “residual powers of the states”. They are also what the Chinese Constitution generally calls the residual powers.

Residual powers have another meaning in the federal country. That is, in many federal countries, the federal constitution not only enumerates the powers of the federal country, but also the powers of the states. This results in some powers un-enumerated, the so-called the residual powers. These residual powers, the federal constitution may stipulate as belonging to the federal country or belonging to the states. Most federal countries stipulate them as belonging to the states while a few of them stipulate them as belonging to the federal country. For example, the *Constitution of Canada* has stipulated the residual powers as belonging to the federal country. The *Constitution of India* has stipulated that the interpretation of the residual powers must be favorable to the federal country. In other words, the federal constitution has three ways to divide the residual powers between the federal country and the states: (1) mere enumeration of the federal powers and the un-enumerated powers belong to the states; (2) the enumeration of both the federal powers and the state powers; the un-enumerated powers belong to the states; (3) enumeration of both the federal powers and the state powers and the un-enumerated powers belong to the federal country.

So, the residual powers that the Constitution refers to are used in the following two meanings: (1) The residual powers refer to the powers “left over” after the state has transferred the powers, that is, what the *United States Constitution* calls the “residual powers of the state”. (2) The residual powers refer to the powers “left over” after the federal constitution has enumerated both the powers

of the federal country and the powers of the state. These residual powers may belong either to the federal country or to the states.

These two meanings are associated with the theoretical system of the federal country. However, in a country with a unified state structure, there is only one unified sovereign state and the powers are derived from it. Even if there may be cases where the division of the powers between the Central Authorities and the local authorities may be unclear, these unclearly divided powers still belong to the Central Authorities. Therefore, the Hong Kong Basic Law and the Macao Basic Law cannot apply the concept of residual powers. The SARs do not have the residual powers that exist in a federal country.

In a strict legal sense, the power configuration of a country with a unified state structure belongs to the Central Authorities completely. Local powers come from the authorization of the Central Authorities. Simply because of this, a country with a unified state structure has stipulated the functions and powers of the central authorities and the local authorities in accordance with the constitutional principle. The constitution normally only stipulates the principle to divide the powers between the Central Authorities and the local authorities or only stipulates the rough scope of the functions and powers that the local authorities may exercise. It no longer specifically enumerates the functions and powers of the Central Authorities and the local authorities. Only a few countries with a unified state structure system, such as Italy, expressly enumerate the functions and powers of the Central Authorities and the local authorities.

There are a small number of unitary countries have similar provisions. From the point of view of legislative technique, when the constitution of a country with a unified state structure enumerates the specific functions and powers of the central authorities and the local authorities, it may have failed to enumerate all of them. A few countries with a unified state structure have similar provisions on it. For example, the Philippines and Spain are generally regarded as countries with a unified state structure system. Article 16, Chapter X of the *Constitution of the Philippines*: "General Principle for Local Government" has stipulated: "the powers, functions and duties that this Constitution has not granted to the autonomous regions shall belong to the Central Government." Paragraph 3, Article 149 of the *Spanish Constitution* has stipulated that "the functions and powers that this Constitution has not expressly granted may be exercised by the autonomous regions in accordance with their rules and regulations. The functions and powers that the autonomous regional rules and regulations have not taken up shall be exercised by the country. In case there should arise any conflict, the country prevails over the autonomous region in any functions and powers un-enumerated. Under any circumstance, the state power always complements the powers of the autonomous regions." Even if the *Constitution of the Philippines* and the *Spanish Constitution* have made no such stipulations, these un-enumerated powers belong only to the Central Authorities in a country with a unified state structure because only sovereignty can yield other powers. This is determined by the special characteristics of the country with a unified state structure system.

Article 20 of the Hong Kong Basic Law and the Macao Basic Law has stipulated that the SARs may enjoy other powers granted by the NPC, the Standing Committee of the NPC or the Central Government. This means that the powers the SARs have enjoyed may not be limited by those expressed enumerated in the Basic Laws, but there is a premise that they are granted by the Central Authorities. This article has further stipulated that all SARs' powers are granted by the Central Authorities. This has in theory: (1) solved the problem that the residual powers under the federal system does not apply to the SARs; (2) further illustrated that China is a country with a

unified state structure system; (3) provided a legal basis for the SARs to accept the re-authorization of the powers by the Central Authorities and properly resolved the relevant dispute arising in the course of drafting the Basic Laws.

The other powers that the Central Authorities continue to grant to the SARs are determined by the unified state structure system of China. Therefore, even if there was no article 20 of the Hong Kong Basic Law and the Macao Basic Law, the Central Authorities could still grant other powers to the SARs. Therefore, people should not think that if there were no such stipulations, it would mean that the Central Authorities would not grant other powers to the SARs and the SARs would not accept the re-authorizations of the other powers from them.

## Notes:

- <sup>1</sup> Li Yahong (1998). Problems with the Construction of Legislative Institutions in China. *21st Century*. No. 47, June 1998.
- <sup>2</sup> See “state structure” entry contained in the *Encyclopedia of China (Law Volumes)* (2003). Beijing: Encyclopedia of China Publishing House. 162.
- <sup>3</sup> Zhang Muliang (2010). *Lenin’s Two Centralized Systems are the Same Thing*. In the website of the Central Compilation and Translation Bureau: [http://www.cctb.net/zjxz/expertarticle/201004/t20100427\\_21640.htm](http://www.cctb.net/zjxz/expertarticle/201004/t20100427_21640.htm).
- <sup>4</sup> Li Buyun (Ed.) (1998). *A Comparative Study of Constitutional Law*. Beijing: China Law Press. 592-593.
- <sup>5</sup> Such as in the constitutions of France, Italy, Portugal and Indonesia.
- <sup>6</sup> Zhang Qingfu (Ed.) (1999). *The Basic Theory of the Constitution*. Beijing: Social Sciences Academic Press. 397.
- <sup>7</sup> Liu Shaoqi (1954). *Report on the Draft Constitution of the People’s Republic of China*. Addressing the 1<sup>st</sup> Session of the 1<sup>st</sup> NPC on 15<sup>th</sup> September 1954.
- <sup>8</sup> Zhang Qingfu (Ed.) (1999). *The Basic Theory of the Constitution*. Beijing: Social Sciences Academic Press. 410-413.
- <sup>9</sup> Zhou Enlai (1984). *Selected Works of Zhou Enlai on United Front*. Beijing: People’s Publishing House. 139-140.
- <sup>10</sup> *Ibid.*
- <sup>11</sup> Wei Dingren (Ed.) (1999). *Constitutional Law*. Beijing: Peking University Press. 132. Hu Jingguang and Han Dayuan (Eds.) (2004). *Chinese Constitutional Development Study (1982-2002)*. Beijing: China Law Press. 102. Li Yuanqi (Ed.) (2009). *Chinese Constitution Thematic Studies*. Beijing: Renmin University of China Press. 143.
- <sup>12</sup> Wei Dingren (Ed.) (1999). *Constitutional Law*. Beijing: Peking University Press. 133. Li Yuanqi (Ed.) (2009). *Chinese Constitution Thematic Studies*. Beijing: Renmin University of China Press. 143.
- <sup>13</sup> Ji Pengfei (1990). *Explanations on “the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China (Draft)” and Its Related Documents*. Addressing the 3<sup>rd</sup> Session of the 7<sup>th</sup> NPC on 28<sup>th</sup> March 1990.
- <sup>14</sup> *Draft Structure of the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China* was adopted by the second plenary meeting of the Drafting Committee of the Hong Kong SAR Basic Law of the PRC on 22<sup>nd</sup> April 1986 and its Appendix: *Opinions of part of the drafters of the Basic Law Structure (Draft)*.