

The National People's Congress: Functions and Membership

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TWELFTH NATIONAL PEOPLE’S CONGRESS:

Elected March 2013
2,987 members
150 members of the Standing Committee
72 per cent Chinese Communist Party members
23 per cent are female
Meets once a year for approximately two weeks
Chairman: Zhang Dejiang

From time to time, the attention of the media in the United States and around the world turns to China’s National People’s Congress (NPC), typically around the time the NPC meets in March. The NPC is sometimes described as what it is: a “ceremonial” legislature that functions as “rubber stamp” for the Chinese Communist Party.¹ The nature of the NPC and its members, however, is also sometimes misunderstood, or at least not fully explained. The NPC is the highest organ of the state, the national legislature. Delegates are elected by the provinces, autonomous regions and municipalities directly under the central government, and by the armed forces. Delegates are elected for a term of five years and the NPC convenes once a year with the session usually running for between 10 and 14 days in March, in conjunction with the Chinese People’s Political Consultative Congress (CPPCC). The membership of the NPC totals almost 3,000 and meeting only briefly each year means that for most delegates, membership is ceremonial rather than substantial. For most, it is a sign of recognition or appreciation by the national leadership that they have made contributions to society or that they have particular expertise that is required by the NPC. Thus, the NPC does not function as a legislature in the way that it would function in the US Congress or the British Houses of Parliament. Most members cannot be considered as members of the government or as

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¹ See, for example, Mark Magnier, *China Crafts 5-Year Plan for Economy*, Wall St. J. (Oct. 31, 2015); Andrew Jacobs, *Money, Lust and Kung Fu: Shaolin’s ‘C.E.O. Monk’ Is Under Fire*, N.Y. Times (Aug. 5, 2015).

genuine legislators. Those who come closest are the 150 or so members of the Standing Committee that operates between the NPC annual meeting and that has the right to deal with legislative issues, within the guidelines laid out by the NPC, when the full NPC is not in session. The Standing Committee contains the most important group of legislators and, unlike the vast majority of members of the NPC, is actively engaged in law-making and amendments of laws. The remaining members of the NPC are usually only active in the two weeks of the year that the full NPC meets. To a large extent, the appointment of those in this category is ceremonial or a reward for service in a variety of sectors.

With the stress on harmony rather than class conflict the CPPCC provides liaison with other political parties and promotes united front work, providing a discussion forum for some non-party intellectuals and prominent figures in other walks of life with no party affiliation. The CPPCC provides the party and the NPC with expertise that is helpful for policy-making. It acts as an advisory body to the NPC. The meetings are referred to in Chinese as the *liang hui* (literally two meetings). Much of Beijing shuts down while the meetings are taking place, traffic gets even more congested as lanes are blocked for officials and until the crackdown on too much wining and dining, they provided high spending clientele for restaurants and clubs in the city.

To date, there have been 12 national congresses. The Twelfth Congress (March 2013) was attended by 2,987 delegates.

WHAT IS THE NPC SUPPOSED TO DO?

The NPC is a unicameral legislature with additional powers to oversee the work of the government and to elect major officials. The State Constitution vests in the NPC a wide range of powers and functions such as:

- the power to amend the constitution;
- to make laws;
- to supervise the enforcement of constitutional and legal enactments;
- to examine and approve the national economic plan, the state budget and report on its implementation;

- to 'decide on questions of war and peace'; and
- 'to exercise such other functions and powers as the highest organ of state power should exercise'.

Formally it has a significant role in the appointment of senior state officials:

- it elects the president and vice president;
- shall 'decide on the choice of the Premier of the State Council upon the nomination of the President'. The 1978 version of the constitution stated that this be done 'upon the recommendation of the Central Committee of the Chinese Communist Party' (CCP);
- shall 'decide on the choice of vice-premiers (currently 4), state councillors (5) and ministers (25) upon nomination by the Premier'.

Some offices, however, are at the NPC's disposal without such constraints. It is empowered 'to elect':

- the chair of the Central Military Commission;
- the president of the Supreme People's Court and;
- the Procurator General (see figure below).

Furthermore, it has the power to remove from office all those listed above, from the president downwards. To give fiction to the importance of the NPC, the Chair officially ranks as the number-three person in the CCP hierarchy, currently Zhang Dejiang. Previously the Chair had been ranked number two but now in addition to the General Secretary of the CCP, the Premier of the State Council is also ranked higher.

WHAT DOES IT REALLY DO?

At first glance, these powers seem extensive, as indeed they are, but in practice it is not the NPC that actually exerts them. Major decisions and appointments are made by the CCP, usually ratified by the Central Committee before the NPC and passed on to the NPC for its 'consideration'. Within the party, generally the legal and political group of

the Central Committee or a special drafting committee will assess the proposed legislation and present its views to the Central Committee. For those laws that the NPC does play a major role in drafting, the process is covered by the 'Organic Law of the NPC (1982) and the 'Procedural Rules of the NPC' (1989).

From the beginning of its existence, the NPC has lacked the organizational muscle to tell the State Council, ministries or courts what to do. Further, the NPC has too many delegates (2,987 at the 2013 Twelfth Congress) and meets too infrequently to really exercise its powers. Thus, the NPC elects a Standing Committee to act on its behalf when not in session. Because of its smaller size (currently 161 members), it can hold regular meetings with comparative ease. The Chair is also Zhang Dejiang. In addition to retired senior officials, the heads of the eight 'democratic parties' are members. These are not opposition parties in the normal sense of the word but rather legacies from the revolutionary struggle before 1949.

Since 1987, the Standing Committee has met every two months. This body conducts the election of deputies to the NPC and convenes its sessions. The 1982 constitution granted important increases in the powers of the Standing Committee; it has been given legislative power and the power to supervise enforcement of the constitution. When the NPC is not in session, the Standing Committee can examine and approve partial adjustments to the state plan and budget, with the expectation that this will provide the state with flexibility and speed when reacting to problems in the economy. The Standing Committee's power of supervision over state organs has also been enhanced.

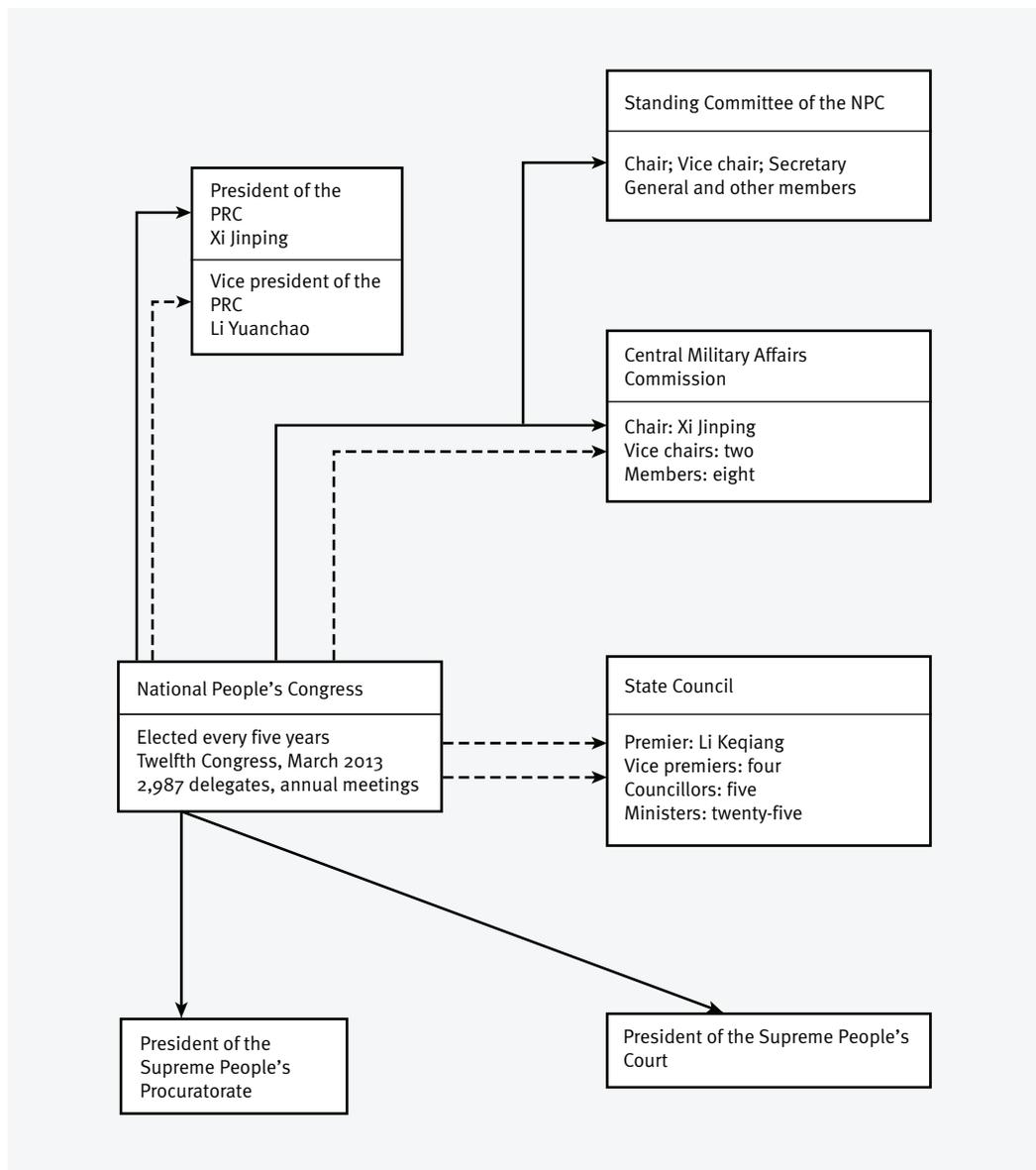
Despite these caveats, it is clear that the NPC has been strengthened as an organization; it has institutionalized and strengthened its input into decision-making in ways that are not an overall threat to party dominance, and its outcomes have become less easy to predict, as seen in the greater number of dissenting votes on legislation and personnel appointments. As with other parts of the political system, the party cannot guarantee absolute support and has accepted a looser form of control than during the Maoist days when the NPC was simply stocked with model workers and peasants, pliant intellectuals and senior party leaders. However, around 70 per cent of delegates are CCP members, 72 per cent of the Twelfth NPC.

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FIGURE

Central Organization of the Chinese Government, March 2015

Note: solid arrows mean 'elects'; pecked arrows mean 'decides on recommendation'.



IS THE NPC ANY MORE THAN A 'RUBBER STAMP'?

The reforms have also breathed a little life into the debates at the NPC meetings, but while challenging its image of being a 'rubber stamp' it is far from functioning as a Western legislature. Four factors have brought limited change.

First, regularization of work.

In February 1991, a Central Committee document outlined that CCP leadership was, henceforth, to be limited to establishing overall policy direction, with the Politburo reviewing and confirming draft laws before they were sent to the NPC for final discussion and approval. It was also acknowledged that most articles would not need detailed review and that certain 'less important' laws might not even need to be reviewed by the Politburo. The document also made subtle changes in the relationship between the NPC and the ministries and agencies under the State Council. Through much of the 1980s the NPC had been reactive, responding to legislation as it was submitted from the State Council system. Now it is required that ministries should report significant political laws they were in the process of drafting to the NPC leadership in advance. In addition, NPC leaders were placed in charge of working out any problems with such legislation with the Politburo or the Secretariat of the CCP.

In a further sign of regularization, the March 2000 session of the NPC passed the 'Legislation Law' that sought to bring some clarity to the question of who could make laws on what and when. Most importantly, the new law made it clear that only the NPC could draft law in areas regarding basic human rights, litigation and taxation. In other areas the State Council, local governments and congresses could still legislate. Second, it endorsed the rights of local legislatures to pass laws when national legislation did not exist. However, once national law is passed, then the legislation must be brought into line. The center had been embarrassed in 1993 when Shenzhen passed its own Company Law after launching China's first stock exchange.

Second, increase in negative votes

Negative votes have become more commonplace and the NPC has also been willing to express its disapproval of candidates for vice-premier positions whom it feels lack com-

petence and are clearly being appointed for factional reasons. As most positions only have one candidate, negative votes can tell much about a candidate's popularity. Wen Jiabao in 2003 had only 19 abstentions or votes against, while Li Keqiang in 2013 had 2,940 positive votes, with only three against and six abstentions. Not surprisingly, Xi Jinping received only one negative vote and three abstentions in the vote for president. By contrast, Li Yuanchao received 80 negative votes and 37 abstentions (96 per cent support). This was better than Zeng Qinghong at the Tenth NPC (87.5 per cent) in the vote for vice president.

Third, legislation blocked or delayed

Very rarely, at the first time of asking, legislation does not get through the NPC. The debate on the Property Law in 2006 was the most recent case of proposed legislation not making it through the NPC as initially expected (the Highway Law in 1999 is another example). The passage or rejection of such laws can become part of the broader political struggles. The postponement of discussion of a new law on property rights that was expected to be passed by the NPC raised concerns that reforms to solidify the market economy further were losing momentum. Leftist groups criticized the law, claiming that the legitimization of private property would provide protection to officials who had been engaged in the theft of state-owned assets. In retrospect, the real reason for the postponement may have been simple vested interests combined with the fact that in China it is very difficult to define what can be called 'property'. The draft had been in the works for 13 years, but in 2007, with the political leadership better prepared, it was passed into law by the NPC.

Fourth, championing law and order

The NPC has found a popular cause with respect to law, order and corruption. It has been highly critical of various reports by the heads of the judiciary and the procuracy, reflecting popular disenchantment with the legal system. At the Ninth NPC (1998), the candidate for chief prosecutor received only 65 per cent of the votes. Many voted against him both because of his age (66) and because they felt that a career as minister of railways was perhaps not the best legal training. In addition, nearly half of the delegates voted against the annual work report of the procurator-general, the largest nega-

tive vote in NPC history. This resulted in greater consideration being given in following years both to the report and the views of the delegates. Support has improved but it is still not unanimous. At the Eleventh NPC (2008), 83 per cent approved the court report and that of the procurator-general. The election of Zhou Qiang as president of the Supreme People's Court at the first session of the Twelfth NPC (2013) seemed to indicate confidence as he received 2,908 votes (98.3 per cent).

How the NPC will develop in the future is, like all things, difficult to predict, but it is the hope of many reformers that the institutional strengthening that has taken place and the professionalization of NPC staff will lead to an even more assertive role in policy-making and implementation, and that it will even begin to hold the party to greater accountability.

WHY BE A DELEGATE?

Essentially, there are two types of delegates to the NPC. The first are those who are professionals engaged in the legislative work described above. This would cover the members of the Standing Committee. To the extent that the NPC functions as anything more than a rubber stamp for the CCP, it is these members of the Standing Committee who wield that power and are therefore in any meaningful sense government officials. The overwhelming number of delegates to the NPC, however, may or may not be considered government officials depending on their other full-time jobs. NPC members in this second category of delegates only attend the once a year 10-day meeting, or perhaps a special meeting if convened. This makes them quite distinct from members of the House of Representatives or Congress in the USA or the Houses of Parliament in the United Kingdom. They are not full-time, paid employees of the government. Indeed some may even pay a fee for the honor of being a member. The role of these member consists mainly of voting on legislation and appointments that originate elsewhere. Some may be members of specialist committees within the NPC that can make suggestions on particular policy areas but their influence is extremely limited.

Given the above, one might well ask why anyone would want to be a member. Four main reasons can be given.

- 1) For those who are not professional politicians, the simple answer is that in a country where political power and economic fortune are so closely linked, membership confers status on members as being an acceptable part of the power elite and important connections are developed through the meetings. Certainly, this helps business people who want to make deals at the local level. Membership provides a 'stamp of approval' that guarantees the political standing of the individual.
- 2) Members are allowed to see an array of internal party and state documents to which the general public does not have access.
- 3) This means that membership allows them to pick up subtle and not so subtle changes in the political winds before they are more generally apparent. This can afford them the time to adjust their public views and practices accordingly to head off any potential criticism. One will get information on new policies and any potential shifts that could affect careers or business.
- 4) It is recognition by the CCP of the value contributed by individuals who are not party members. Thus, one sees that only 72 per cent of the NPC members are from the CCP. The remainder (830 people) are drawn from a range of profession including the arts, sports and especially business.

Of the current members, there are 31 dollar billionaires with a further 52 being members of the CPPCC. Their average wealth is \$3.35 billion. By contrast, there is not a single billionaire in the US House or Senate and the average wealth of the top 83 US law-makers is \$56.4 million. The richest delegate is Zong Qinghou, the Chairman of Hangzhou based drinks company Wahaha.

HOW ARE THEY ELECTED/SELECTED?

The process of election (or rather selection) to the NPC is indirect with candidates put forward by 35 electoral units comprising all the provinces, autonomous regions, the three municipalities (Beijing, Shanghai and Tianjin), the People's Liberation Army, and the delegations from Hong Kong, Macao and Taiwan. There are 110 candidates for each

100 positions available. Of those selected to the Twelfth NPC, 23.4 per cent are female, a percentage that has remained roughly constant since 1975 and an advance on the First NPC (1954) when only 12 per cent were female. Representation from 'national minorities' has also remained constant between 13 and 14 per cent (13.7 per cent at the Twelfth), with each ethnic group guaranteed a minimum of one delegate. There are 55 recognized ethnic minorities in China. The PLA is the largest delegation with around 9 per cent of the members. The return of Hong Kong and Macao to Chinese sovereignty as Special Administrative Regions led to a change in representation. From 1975, they had been represented within the Guangdong provincial congress delegation. For Hong Kong, from the Ninth NPC (1998) it had its own delegation elected via an electoral college, and for Macao this was introduced at the Tenth NPC (2003). Since 1975, a Taiwan delegation has been included but it was drawn from those who had fled Taiwan after 1947. With most of that generation now having passed away, the Taiwan delegation is elected by a 'Consultative Electoral Conference' and the delegates are drawn from the children and grandchildren of those who had fled to the Mainland. There is actually only one Taiwanese delegate who was born in Taiwan.

Membership of both the NPC and the CPPCC is highly prized, and those who are members of the latter body and can afford it pay a handsome voluntary contribution for the privilege.

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In conclusion, while the NPC may have become more active in recent years, to a large extent it remains a rubber stamp organization that votes on legislation or appointments that are decided elsewhere. While it might be able to delay legislation, ultimately if the Chinese Communist Party wants something passed into law, it will happen. Of the delegates, those who are members of the Standing Committee play a greater role, while the other delegates may only engage for 10 days a year and play a minimal role in law-making.



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