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“Rule of law” in a Party-state – A conceptual interpretive framework of the constitutional reality of China

This talk introduces a “dual normative system” as a conceptual framework for the interpretation of the structural features of the Party-state and the constitutional reality of China. This framework has four components: 1) structural integration of the Party and the state; 2) reserved delegation of authority to the state; 3) bifurcation of state decision-making processes and 4) cohabitation of two normative systems: one of the Party and one of the state. This article demonstrates that the political reforms in China since 1980s have not separated the power of the Party and the state but have created an increasingly institutionalized dual normative system that is more complex, compared with the previous fused system, yet more pliable to adjustments and more open to different interpretations, including to that of the “Party-state constitutionalism”, which interprets the “rule of law” as compatible with the rule of the Party.


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