

DA LU\*

## The Similarity of its first Socialist Constitution between China and Hungary

Although, there is a long distance between China and Hungary. However, the similar political system and the strong influence of Soviet Union in the socialist period made the Constitution of People's Republic of China and the Hungarian Constitution of 1949 shared a lot of similarities not only in the text and but also in the structure of their first socialist Constitutions.

In this article, the author would like to introduce the similarities in the first Socialist Constitution between China and Hungary. People's Republic of China and Hungarian People's Republic both established in 1949. Nevertheless, the first Socialist Constitution of China was adopted in 1954, five years later the establishment of People's Republic of China,<sup>1</sup> Hungarian Constitution of 1949 was adopted on 18 August of 1949.<sup>2</sup>

### The Background of Adoption of Constitution

In this chapter, the author will introduce the background of the adoption of Constitution between China and Hungary, especially how the legislature in China and Hungary adopted their first Socialist Constitution and its similarity.

Since 1949, Chinese Communist Party established People's Republic of China, and published the first Constitution in 1954.<sup>3</sup> Before the procedure of adopting a socialist

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\* PhD student, University of Szeged Doctoral School of Law and Political Sciences.

<sup>1</sup> The first Socialist Constitution was adopted in September 20 of 1954 by the First National People's Congress of People's Republic of China in its first Session. The English version of Constitution of People's Republic of China in 1954 was available here: <http://e-chaupak.net/database/chicon/1954/1954be.pdf> (2017. 03. 01.)

<sup>2</sup> Before the adoption of the Hungarian Constitution of 1949 or in Hungarian tradition, the Fundamental Law of Hungarian in 1949, Hungarian was ruled by a provisional Constitution "little constitution" (kisalkotmány), however, after the ruling of the Hungarian Working People's Party, the Hungarian adopted a new and Soviet style Constitution in 1949. This Constitution also ensured Hungary is a People's Republic. TRÓCSANYI László: *The Creation of the Basic Law of Hungary*. In: Csink Lóránt – Schanda Balázs – Varga Zs. András (eds.): *The Basic Law of Hungary, a First Commentary*. Clarus Press Ltd, Dublin, 2012. 2-3. See also: ZHELITSKI Béla: *Postwar Hungary, 1944-1946*. In: Naimark, Norman – Gibianskii, Leonid (eds.): *The Establishment of Communist Regimes in Eastern Europe, 1944-1949*. Westview Press, Boulder, 1997. 90.

<sup>3</sup> CHONG-DE, Xu: *中华人民共和国宪法史* [*History of Constitution of People's Republic of China*], Fujian People's Publishing House, Fuzhou, 2003. 249.

Constitution, the country had elected its Deputy of National People's Congress. On 15 September 1954, the first National People's Congress was held in Beijing. 1226 Deputies of National People's Congress were indirectly elected by Chinese people.<sup>4</sup> In the same day, Liu Shaoqi introduced the draft version Constitution to National Peoples' Congress, Deputies read and discussed the new Constitution in the following days and finally passed it with secret ballot on 20 September 1954.<sup>5</sup>

It should be admitted that before the adoption of Constitution of People's Republic of China, this socialist regime ruled this country nearly five year, however, in this new born country there were not an official legislature and Constitution. The provisional legislature was Chinese People's Political Consultative Conference, and the provisional Constitution was "Common Program of The Chinese People's Political Consultative Conference".<sup>6</sup> After five years governing, the majority part of China was organized and peaceful, especially the election of First National People's Congress was strongly support the formation of first Constitution in China. The election for the Deputies of National People's Congress was held in August 1954 in the whole country, and this election elected 1226 deputies in total.<sup>7</sup> Among these Deputies, 668 Deputies were Party member and 558 Deputies were not. The Party member accounts for 54.5 percent of total Deputies of National People's Congress.<sup>8</sup>

In Hungary, after the Second World War, although Hungary was independent, this country was mainly controlled by the Allied Control Council. In Hungary, the Communist Party was one of the most active Parties even though the Communist Party was not big. In 1945 November, the parliamentary election was held, however, the Smallholders Party won this election, it took 245 seats in total.<sup>9</sup> Nevertheless, with the national wide propaganda, the Communist Party of Hungary gradually won the support from people, in the Parliamentary election in 1949 the Hungarian Working People's Party won 285 seats. And it accounts for 70.90 percent of total Parliament members.<sup>10</sup>

Until now, both countries had their own legislature for Constitution, also the majority legislature members were Party member of Communist Party. Therefore, there is no doubt a Socialist Constitution would be adopted in China and Hungary.

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<sup>4</sup> Id. 248. Election of Deputy of People's Congress shall through a very complicated procedure, different level of election has different election procedures, the national level election is not a direct election, the Deputy of National People's Congress shall elected by Provincial People's Congress.

<sup>5</sup> Id. 252-272. There were 1197 Deputies participate the voting and all of them agreed to adopt the Constitution of People's Republic of China (1954).

<sup>6</sup> DA-YUAN, Han: 1954年宪法与新中国宪政 [*Constitution of People's Republic of China in 1954 and the Constitutionalism in New China*], Hunan People Publishing House, Changsha, 2004. 40-41.

<sup>7</sup> Id. 312-313. In China, the election for the Deputies of National People's Congress was indirect, only the deputies of provincial level People's Congress had the right to elect the Deputies for National People's Congress. Also army and oversea Chinese had their own election method to elect the Deputies of National People's Congress. In the election, the army had 60 Deputies, oversea Chinese had 30 Deputies and the provincial level congress elected 1136 Deputies.

<sup>8</sup> Id. 313.

<sup>9</sup> ZHELITSKI, 1997. 76-78.

<sup>10</sup> The Hungarian Working People's Party was formed in 1948 through a merge of the Hungarian Communist Party and the Social Democratic Party. The date of the number of seats of each party in the election was available: [http://www.gutenberg.us/articles/hungarian\\_parliamentary\\_election\\_1949](http://www.gutenberg.us/articles/hungarian_parliamentary_election_1949) (2017. 03. 05.)

#### The Similarity of Regulations in the Constitution

Since People's Republic of China and Hungarian People's Republic had the same political system, and Soviet Union was the first Socialist country in the world. Following the Soviet model became an obviously rule in these new born socialist countries. They were not only "copy" the political system, but also the economic system and legal system. Therefore, it is easy to find how the shadow of 1936 Soviet Union Constitution in Chinese Constitution and Hungarian Constitution.

In Chinese perspective, this is the first Socialist Constitution in China, it consisted of four Chapters and 106 Articles, also just like the communist countries in East European, Constitution of People's Republic of China had a very strong influence by the Stalin Constitution of 1936. Each level of People's Congress and the relationship between People's Congress and Administrative organs in each lever, which followed the Soviet Union's pattern.<sup>11</sup>

The first thing will be noticed in Chinese Constitution was the form of state, in the Constitution Article 2 it stipulated that "All power in the People's Republic of China belongs to the people"<sup>12</sup> it stated that this country is ruled by people.<sup>13</sup> There is a very similar regulation in Hungarian Constitution, in Article 2, Paragraph 2 it stated that "In the Republic of Hungary supreme power is vested in the working people"<sup>14</sup> In 1936 Soviet Constitution, which usually considered as the "mother" of Chinese and Hungarian Constitutions, the regulation on the form of state is more radical, "All power in the U.S.S.R. belongs to the toilers of town and country"<sup>15</sup> it stipulated that only toilers are the ruler of this country.

The big different between Socialist Constitution and Capitalist Constitution is the limitation of free market economy. Chinese Constitution and Hungarian Constitution both were Socialist Constitutions. There were some regulations on limitation of capitalism in both Constitutions. In Chinese Constitution Article 6 it declared that "The state sector of the economy is the socialist sector owned by the whole people. It is the leading force in the national economy and the material basis on which the state carries out socialist transformation. The state ensures priority for the development of the state sector of the economy".<sup>16</sup> This regulation ensured the priority of state sector of the economy. In Article 8 and 10 the Socialist government claimed its attitude to rich-peasant economy and capitalist economy. "The policy of the state towards the rich-peasant economy is to restrict and gradually eliminate it." "and encourages and guides their transformation into various forms of state-capitalist economy, gradually replacing capitalist ownership with ownership by the whole people. The state prohibits capitalists from engaging in any unlawful activities which injure the public interest, disturb the social-economic order, or undermine the

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<sup>11</sup> TEIWES, Frederick C.: *Establishment and Consolidation of the New Regime*. In: Macfarquhar, Roderick – Fairbank, John K. (eds.): *The Cambridge History of China*. Vol. 14, *The People's Republic, Part 1: The Emergence of Revolutionary China 1949-1965*. Cambridge University, Cambridge, 2008, 104.

<sup>12</sup> Id. *Chinese Constitution in 1949*. 9.

<sup>13</sup> It should be noticed that the conception of People in China has different meaning. People refer to working people and peasants. Capitalists and Landlords were considered as enemy for a long time.

<sup>14</sup> *The Constitution of the Republic of Hungary 1949*. <http://lapa.princeton.edu/hosteddocs/hungary/1949%20Hungarian%20constitution.pdf> (2017. 03. 10.) 658.

<sup>15</sup> *The 1936 Soviet Union Constitution*. <https://constitutii.files.wordpress.com/2013/01/1936-en.pdf> (2017. 03. 10.) 3.

<sup>16</sup> Id. *Chinese Constitution in 1949*. 10.

economic plan of the state.”<sup>17</sup> It showed the unwelcome attitude on the development of rich-peasant economy and capitalist economy.

In Hungary, the Constitution also had similar regulations. The Article 4 mainly introduced the policies of economy system in Hungarian People’s Republic, in Paragraph 2 addressed the attitude of Hungarian Socialist government on capitalist economy, “In the H.P.R. the directing force of the people’s economy is the State power of the people. The working class is gradually eliminating the capitalist elements and is consistently building the socialist order of economy.”<sup>18</sup>

In 1936 Soviet Union Constitution, it also stipulated its attitude to the capitalist economy and in consideration of the publishing year of this Constitution.<sup>19</sup> The Chinese Constitution in 1954 and Constitution of Hungarian People’s Republic both had a strong influence by the 1936 Soviet Union Constitution.

For a more detailed examining in the legislature organ, according to the Constitution between China and Hungary, there were also a lot of similar regulations. In the Constitution of People’s Republic of China it regulated “The National People’s Congress of the People’s Republic of China is the highest organ of state power.” and in the next Article it stated “The National People’s Congress is the sole organ exercising the legislative power of the state.”<sup>20</sup> In Hungary the legislature organ is National Assembly, and it also considered as the supreme organ in the state.<sup>21</sup> It is also very interesting that since the Constitution was adopted in China, from 1954 to 1975, the validation period of the first socialist Constitution in China, there were elected 3 sessions of chairman of National People’s Congress of China, and all of the Chairman was member of Chinese Communist Party.<sup>22</sup> In Hungary, from 1949 to 1970s, all of the leader of National Assembly, the Speaker, also was the Party member of Hungary.<sup>23</sup>

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<sup>17</sup> Id. 11.

<sup>18</sup> Id. The Constitution of the Republic of Hungary 1949. 658.

<sup>19</sup> In Article 4, the 1936 Soviet Union Constitution expressed the attitude of Soviet government on capitalist economy, “The economic foundation of the U.S.S.R. is the socialist system of economy and the socialist ownership of the implements and means of production firmly established as a result of the liquidation of the capitalist system of economy, the abolition of private property in the implements and means of production and the abolition of exploitation of man by man.” Id. The 1936 Soviet Union Constitution, 3.

<sup>20</sup> Id. Chinese Constitution in 1949. 17.

<sup>21</sup> Id. The Constitution of the Republic of Hungary 1949. 659.

<sup>22</sup> The List of each session leader of National People’s Congress of People’s Republic of China. <http://politics.people.com.cn/GB/shizheng/252/9667/9685/6586128.html> (2017. 03. 15.)

<sup>23</sup> See Speakers of the National Assembly of Hungary. [http://www.worldlibrary.org/articles/list\\_of\\_speakers\\_of\\_the\\_national\\_assembly\\_of\\_hungary](http://www.worldlibrary.org/articles/list_of_speakers_of_the_national_assembly_of_hungary) (2017. 03. 15.); the membership of Hungarian Workers Party. <https://www.cia.gov/library/readingroom/docs/CIA-RDP80-00809A000600390632-7.pdf> (2017. 03. 15.)

Table 1. Leader of Legislature organ between China and Hungary (1950s–70s)

China	Period	Hungary	Period
Liu Shaoqi	1954-1959	Lajos Drahos	1949-1951
		Imre Dögei	1951-1952
Zhu De	1959-1964	Sándor Rónai	1952-1963
		Erzsébet Metzker Vass	1963-1967
Zhu De	1965-1975	Gyula Kállai	1967-1971
		Antal Apró	1971-1984

Source: Author's edition<sup>24</sup>

The Similarity of the Structure of Constitution

The structure of the first Socialist Constitution in China and Hungary also had a strongly influence by 1936 Soviet Union Constitution.

There were five parts in Constitution of People's Republic of China. They were the Preamble, General Principle, The State Structure, The Fundamental Rights and Duties of Citizens and The National Flag, the National Anthem, the National Emblem, and the Capital.<sup>25</sup> In Hungarian Socialist Constitution, it seems there were much more Chapters than Chinese Constitution, however it can be concluded four parts as above from these Chapters. There were 11 Chapters in Hungarian Socialist Constitution, the first two Chapters was the General Principles, from Chapter 3 to Chapter 7 it stated the Structure of the State, Chapter 8 was the Rights and Duties of Citizens and Chapter 10 was stipulated the Emblem, Flag and Capital of the People's Republic. Chapter 9 is Fundamental Electoral Principles.<sup>26</sup> In 1936 Soviet Union Constitution there was a similar Chapter, which was the Chapter 11, The Electoral System in Soviet Constitution.<sup>27</sup> In Chinese Constitution, there was not special Chapter of election system, however in Article 23, 56, 57, 59 and 86 these Articles regulated the election principles in China.<sup>28</sup>

<sup>24</sup> Recourses:<http://politics.people.com.cn/GB/shizheng/252/9667/9685/6586128.html>, [http://www.worldlibrary.org/articles/list\\_of\\_speakers\\_of\\_the\\_national\\_assembly\\_of\\_hungary](http://www.worldlibrary.org/articles/list_of_speakers_of_the_national_assembly_of_hungary),<https://www.cia.gov/library/readingroom/docs/CIA-RDP80-00809A000600390632-7.pdf> (2017. 03. 15.)

<sup>25</sup> Id. Chinese Constitution in 1949. Content.

<sup>26</sup> Id. The Constitution of the Republic of Hungary 1949. 670-671.

<sup>27</sup> Id. The 1936 Soviet Union Constitution. 15., 28., 29., 39.

<sup>28</sup> Id. Chinese Constitution in 1949. 17.

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(Summary)

People's Republic of China and Hungarian People's Republic were far away in geographical, however the political system and legal system were quite similar since they had the same "teacher", Soviet Union. In this article, the author examined the similarity of first Socialist Constitution between China and Hungary. It can learn how socialism applied in different country with a similar standard, the "Soviet standard". However, in practice, there was still have quite different between Chinese Constitution and Hungarian Constitution. In general, Chinese Constitution was less excised in practice, even though the regulations between these two Constitution shared a lot of similarities.