Frontiers of Law in China
-Selected Publications from Chinese Universities
Vol. 17, No. 4 December 2022 457–463
DOI 10.3868/s050-011-022-0042-1

Worldview and Methodology of Advancing the Construction of the Rule of Law in China

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Abstract This work discusses a worldview and a methodology concerning ideological approaches by which Marxists can understand and transform the world, based on well-defined value truth, theory and philosophy. The work builds on the Report to the 20th National Congress of the Communist Party of China (CPC), which highlights the following priorities to which XI Jinping Thought on Socialism with Chinese Characteristics for a New Era must adhere: putting the people first, maintaining self-confidence and self-reliance, upholding fundamental principles and breaking new ground, adopting a problem-oriented approach, applying system thinking, and maintaining a global vision. Furthermore, this work argues that these priorities should be applied to promote the rule of law in China's new journey. As the starting points of analysis and understanding, the meta-theory and "six must-dos" follow the general principles of Marxism in interpreting and promoting socialist concepts, theory, law-based path and legal system in the New Era with Chinese characteristics. The metatheory and the "six must-dos" provide the logical foundations and fundamental compliance with XI Jinping Thought on the Rule of Law. Only by applying these "six must-dos" well can we understand and implement XI Jinping Thought on the Rule of Law, enhance the rationality, initiative, foresight and creativity of our work in comprehensively promoting the rule of law in China.

Keywords XI Jinping Thought on the Rule of Law, promotion of the rule of law in China, overall law-based national governance, six must-dos

Chinese President XI Jinping demanded in his "Report to the 20th National Congress of the Communist Party of China (CPC)" that we must gain a good command of the worldview and methodology of socialism with Chinese characteristics for a New Era and adhere to and make good use of its stances, viewpoints and methods. We must put the people first; we must maintain self-confidence and self-reliance; we must uphold fundamental principles and break new ground; we must adopt a problem-oriented

Translated from 行政法学研究 (*Administrative Law Review*), 2023 (1): 9–12.

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approach; we must apply systems thinking; and we must maintain a global vision, opening up a new frontier in adapting Marxism to the Chinese context and the needs of the times.[1] These "six must-dos" are the spiritual core of XI Jinping Thought on the Rule of Law. On the new journey of building a modern socialist country, we should thoroughly study and implement the concept of the rule of law, and accurately understand both the worldview and the methodology. We should maintain and make good use of the related stances, viewpoints and methods, and implement them in the whole process of exercising law-based governance on all fronts and advancing the rule of law in China.

Firstly, we must put the people first. "The people, only the people, are the driving force for making world history." [2] Historical materialism has revealed the general law of the historical development of human society, and has indicated that the people are the main actors of social practice and social history. To advance the rule of law in China, putting the people first is not mere rhetoric, but an all-encompassing principle and purpose with rich connotations. The people's stance is always the foundation of the rule of law, and the people are always the main actors and basic force in the construction of the rule of law in China. To exercise law-based governance on all fronts in China, we must respect the people's primary position, maximize their originality, and rely on their eventual decisive force in the "profound revolution in China's governance." Putting the people first, in particular, how to treat the people's approval or disapproval, and pleasure or displeasure, are the important yardsticks for measurement of the effectiveness of construction of the rule of law. The primacy of the people is also a value standpoint that we must always follow in comprehensive law-based national governance. Furthermore, President XI noted, "The fundamental goal of promoting law-based governance is to protect the people's rights and interests." [3] This statement on the rule of law clearly answers the fundamental questions of whom to serve, whom to defend, and whom to benefit. Exercising law-based governance on all fronts and advancing the rule of law in China is not only a major strategic choice made on the basis of in-depth summarization of both the positive and negative experiences since the founding of the People's Republic of China in 1949, but also meets the people's increasing demands for democracy, the rule of law, fairness, justice and security in the New Era. Putting the people first, in the field of the rule of law, requires us to actively respond to the people's new demands and expectations,

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[1] See 中国共产党第二十次全国代表大会关于十九届中央委员会报告的决议 (The Resolution on the 19th CPC Central Committee Report Adopted at the 20th CPC National Congress).

[2] MAO Zedong, 毛泽东选集 (*Selected Works of MAO Zedong*), Vol. 3, People's Publishing House (Beijing), at 1031 (1991).

[3] XI Jinping, 坚定不移走中国特色社会主义法治道路 为全面建设社会主义现代化国家提供有力法治保障 (Unswervingly Follow the Socialist Road of Rule of Law with Chinese Characteristics, and Provide a Strong Guarantee of Rule of Law for Building a Socialist Modernized Country in an All-Round Way), 5 求是 (*Qiushi*), 3 (2021).

and to systematically study, plan and resolve outstanding problems strongly felt by the people. Moreover, putting the people first is to constantly enhance the people's sense of fulfillment, happiness and security, and to implement the whole-process and all-field law-based national governance for people's interests, people's wishes, people's rights and interests and people's wellbeing.

Secondly, we must maintain self-confidence and self-reliance. Since the 18th CPC National Congress held in 2012, the CPC has led the people, with unremitting efforts, in constructing an all-round the rule of law. Ten years on, a comprehensive framework for law-based governance has taken shape in China.[4] There has never been an instruction manual or ready-made solution for the Chinese people and the Chinese nation to turn to in the construction of the rule of law. "We in China must think with our own minds and decide what we can grow in our own soil." [5] Only by strengthening our self-confidence and self-reliance, and dealing with our own issues in light of the Chinese context, can we blaze the path to success. We must remain firm in our conviction in Marxism and socialism with Chinese characteristics. China's socialist the rule of law has gone from "crossing the river by feeling the stones" in the early stage of the reform and opening up campaign to "having secured historic achievements and seen historic changes" after the 18th CPC National Congress, so that "a comprehensive framework for law-based governance has taken shape." History and reality have fully shown that only by maintaining socialism with Chinese characteristics with self-confidence and self-reliance, unswervingly following the path of the socialist rule of law with Chinese characteristics and implementing the theory of the socialist rule of law, can we continue building a socialist country under the rule of law and opening up new prospects in building China under the rule of law. Why should we maintain self-confidence and self-reliance? This is because we are building on the great achievements and sufficient experience in establishing the socialist rule of law. One factor is that the path of socialist rule of law with Chinese characteristics is neither limited by the template envisioned by Karl Marx nor a copy offered by other socialist states. Rather, it is a great achievement made by the people under the leadership of the CPC through untold hardships and at great cost, and we must proceed confidently and independently. A second consideration is that theory of the socialist rule of law with Chinese characteristics is the product of the combination of the Marxist rule of law theory with China's actual conditions. We must be self-confident and self-reliant, and neither stick to conventional rules, be closed and rigid, nor copy or reject foreign practices. It is necessary to continuously enrich and develop the socialist theory

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[4] See XI Jinping, 高举中国特色社会主义伟大旗帜 为全面建设社会主义现代化国家而团结奋斗——在中国共产党第二十次全国代表大会上的报告 (Hold High the Great Banner of Socialism with Chinese Characteristics and Strive in Unity to Build a Modern Socialist Country in All Respects—The Report to the 20th National Congress of the CPC) (Oct. 16, 2022), 人民日报 (*People's Daily*), Oct. 26, 2022.

[5] MAO, fn. 2 at 192.

of the rule of law that conforms to China's reality, embodies Chinese characteristics and profoundly reveals the philosophical foundations of the development of the rule of law. As an additional factor, socialism and the legal system with Chinese characteristics are a great creation formed through long-term practice and exploration under the leadership of the CPC and the people. They are scientific systems that suit China's national conditions, are effective and have won the heartfelt support of the people. We must uphold and consolidate the fundamental, basic and important systems that have been tested in practice, and build a modern socialist country on the path of the rule of law.

Thirdly, we must uphold fundamental principles and break new ground, consistently with the traditional wisdom of the Chinese nation, with the distinctive characteristics of Marxist political parties, and with a methodology for understanding and transforming the world. On the one hand, "upholding fundamental principles" requires that the road of the rule of law, the theory of the rule of law, and the legal system, should not deviate from the direction of socialism with Chinese characteristics. However, "upholding fundamental principles" does not mean following the old ways. Furthermore, both theory and practice must advance and keep pace with the times. Otherwise, this kind of "upholding fundamental principles" is rigid, obsolete and outdated. On the other hand, "breaking new ground" requires the promotion of the rule of law to conform to the development of practice, to keep pace with the times, and to innovate and develop. However, in "breaking new ground" we cannot forget our history and make things out of nothing. We should move ahead on the right path and follow the truth, focus on locality and on the world, and do not sell ourselves short or blindly follow others' opinions. Otherwise, this kind of "breaking new ground" will be blind, empty and narrow. Therefore, on the premise of adhering to, developing and implementing the socialism with Chinese characteristics' road of the rule of law, theory of the rule of law, and legal system, which have been tested in practice, we must proceed from China's national conditions and continue to strengthen theoretical and institutional innovation. President XI stressed: "Marxism is an open and developing theory and always stands at the forefront of the times." [6] When the theory of the rule of law cannot reflect reality and adapt to development, it is easy to explain or even "cut out" the innovation of the rule of law, which is clearly not the attitude of Marxism; when the legal system cannot respond to the reality and meet the needs in a timely manner, it is easy for the development of practice to become blocked and even for new contradictions to emerge. In short, being honest and innovative is the dialectical unity of inheritance and development. It requires us not to forget the original, absorb foreign states and face the future. We can neither shake nor give up the foundation of our rule of law, but we can

[6] XI Jinping, 在纪念马克思诞辰 200 周年大会上的讲话 (*Speech at the Ceremony Commemorating the Bicentenary of the Birth of Karl Marx* [*May 4, 2018*]), People's Publishing House (Beijing), at 9 (2018).

constantly promote the innovative development of the rule of law theory, legal system and practice, and constantly consolidate the rule of law foundation of the great rejuvenation of the Chinese nation.

Fourthly, we must adopt a problem-oriented approach, which "is a distinctive feature of Marxism." [7] The concept of the rule of law has a distinctive problem-oriented character. Since the 18th CPC National Congress, the CPC Central Committee with President XI as the core has applied the problem orientation approach, and answered "why we should exercise law-based governance on all fronts and advance the rule of law in China in the new era, and how we should promote the comprehensive rule of law." The answers to these fundamental questions have become the spiritual core of XI Jinping Thought. President XI noted: "In the process of understanding and transforming the world, old problems are solved, new problems will arise, and the system needs to be constantly improved." [8] Therefore, as Marx once said, "The main difficulty is not the answer, but the problem." [9] If we cannot accurately understand China, the world, the people and the times, we cannot accurately understand the law of historical development, let alone locate the correct answers for China's road ahead based on China's principles. Therefore, "The problem is the starting point of innovation and the power source of innovation." [10] Since the reform and opening up policy introduced in 1978 in China, our legal system promotion policy and the rule of law promotion have achieved a historic transformation from "there are laws to go by, the laws are observed and are strictly enforced, and law-breakers are be prosecuted" to "sound legislation, strict law enforcement, impartial administration of justice, and society-wide observance of the law." Such a transformation has deeply reflected the CPC problem-oriented philosophy. Promoting the rule of law in an all-round way is itself a process of constantly discovering, screening, studying and resolving problems. Only by strengthening problem awareness and applying problem orientation can we constantly create a new situation. The "Report to the 20th CPC National Congress" called for advancing the socialist legal system with Chinese characteristics with the Constitution as the core, strictly promoting the administration of law, impartially enforcing the law, and advancing law-based social governance.[11] Therefore, we should continue to target the new requirements of the comprehensive the rule of law, respond to the people's new expectations in the promotion of the rule of law in China, and make efforts

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[7] XI Jinping, 在哲学社会科学工作座谈会上的讲话 (Speech at the Seminar on Philosophy and Social Sciences [May 17, 2016]), People's Publishing House (Beijing), at 14 (2016).

[8] XI Jinping, 关于《中共中央关于全面深化改革若干重大问题的决定》的说明 (Explanatory Notes to the "Resolution of the CPC Central Committee on Some Major Issues Concerning Comprehensively the Reform"), 人民日报 (*People's Daily*), Nov. 16, 2013.

[9] Karl Marx & Engels, 马克思恩格斯全集 (*Complete Works of Marx and Engels*), Vol. 40, People's Publishing House (Beijing), at 289 (1982).

[10] XI, fn. 7 at 14.

[11] See XI, fn. 1.

to comprehensively promote the legalization of all aspects of national work with higher standards and stricter requirements.

Fifthly, we must apply systems thinking. Since China introduced the reform and opening up policy in 1978, a series of important arguments about the promotion of the rule of law are formulated. However, these arguments are aimed at responding to problems in a specific period of time or to a specific factor, and have not formed a systematic and complete theoretical system. Since the 18th CPC National Congress in 2012, the CPC has stood at the overall strategic height of the great rejuvenation of the Chinese nation, promoted and enforced the rule of law, raised a series of new concepts, new ideas and new strategies for comprehensive law-based national governance. The XI Jinping Thought on the Rule of Law covers all aspects of legislation, enforcement, justice and observation, involving various fields such as economy, politics, society, culture and ecology, as well as internal affairs, national defense, foreign affairs, reform, development and stability. In brief, it covers and the governance of the CPC, state and army. It has also profoundly revealed a series of important relations between politics and the rule of law, reform and the rule of law, development and security, the rule of law and rule of virtue, law-based national governance and CPC governance. It has systematically discussed the overall structure of rule of law system of socialism with Chinese characteristics. It has comprehensively explained the requirements of the rule of law promotion in various fields such as ruling the country by law, ruling the army by law, and ruling the network by law. It has linked history with reality, and has made overall plans for domestic and international affairs. XI Jinping Thought on the Rule of Law always applies systems thinking, locates the rule of law with the viewpoint of universal connection, enforces the rule of law with a comprehensive and systematic viewpoint, and builds the rule of law for development and change. Neither the coverage nor depth of comprehensive law-based national governance and reform were seen before the CPC 18th National Congress; indeed, the new situation of the development of the rule of law had never been seen before. All of these features are due to our application of systems thinking, and we must persist in this, make efforts to "jointly promote" the law-based governance, law-based exercise of state power, and law-based government administration, and make efforts to integrate law-based governance of the country, government and society, so as to continue strengthening systematic, holistic, and coordinated progress under the rule of law.

Sixthly, we must maintain a global vision, opening up a new frontier in adapting Marxism to the Chinese context and the needs of the times. The CPC is a firm believer in the Marxist theory of human liberation, and is also a loyal successor to the Chinese excellent traditional culture of "pursuing common good for all." It is the innate quality of the CPC to keep the world in mind, which it consistently does in practice. It requires us to be open-minded and inclusive in the promotion of the rule of law in China, to learn

from and absorb the exceptional achievements of human civilizations in the rule of law, to innovate the socialist rule of law theory with Chinese characteristics, to speed up strategic deployment of foreign-related rule of law, to promote domestic rule of law and foreign-related rule of law as a whole, to enhance China's voice and influence in international legal affairs and international governance, and to promote the construction of community of shared future for mankind by the rule of law. Maintaining global vision,we should not only present a beautiful picture of promoting the rule of law in China, but should also promote the development of global governance in a more just and reasonable fashion, working with other countries to carry forward the common values of all mankind, such as peace, development, fairness, justice, democracy and freedom, and jointly responding to various global challenges for new contributions to human civilization.