DOI 10.3868/s050-012-023-0019-3

Promoting Chinese Modernization of the Rule of Law and a New Form of Human Advancement of the Rule of Law—Interpretation of the Essence of the Rule of Law of the Report to the 20th National Congress of Communist Party of China*

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Abstract One of the significant theoretical contributions of the Report to the 20th National Congress of the Communist Party of China (CPC) is a well-conceived systematic Chinese modernization theory, which is developed based on the profound summarization of the successful experience of Chinese modernization, and on the modernization theories of China and other countries. Chinese modernization of the rule of law, a section of the law-based Chinese modernization, focuses on the subject of rule of law. Breaking the myth of Western centralism, it creates a new model of modernization of the rule of law and produces a revolutionary effect on the modernization of the rule of law modernization in the world. It presents distinctive Chinese features and Chinese vision. Led by the CPC, it is an independent exploration, people-centered, organized, and planned, and has lofty value goals. Driven by modern science and technology for world peace and development, the principal task of Chinese modernization of the rule of law is to create a system of socialist rule of law with Chinese characteristics and a new form of human advancement of the rule of law. Its great mission is to build China into a modern socialist country in all respects under the rule of law, ensuring that the rule of law runs through all areas and aspects of national governance and construction, so that building China into a great modern socialist country with the high-quality rule of law can be guaranteed.

Keywords Chinese modernization, Chinese modernization of the rule of law, socialist rule of law system with Chinese characteristics, the rule of law in China, new form of human advancement of the rule of law

Since the industrial revolution in the 18th century, modernization has been fast-moving worldwide, and realizing modernization has become the common aspiration of people all over the world. In the first wave of world modernization, the

* This paper is translated from 中国法学 (*China Legal Science*), 2022 (6): 5–26.

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Chinese nation was a feudal autocracy, and finally missed out this historic opportunity. In the second wave of world modernization, many Chinese people with lofty ideals looked up to the outside world, and attempted to realize Chinese modernization by introducing Western technology, industry, framework and culture, but all end in failure. In the third wave of world modernization, the Communist Party of China (CPC) steps onto the historical stage, follows the guidance of Marxism, and leads the Chinese people to successfully embark on the new road of Chinese modernization, realizing the historic transformation from standing up, becoming prosperous and becoming strong, and resulting in the massive changes in the East that rewrite the world modernization landscape.

Chinese modernization of the rule of law is not only a section of the law-based Chinese modernization, but also a powerful guarantee for Chinese modernization. Since the founding of the People's Republic of China in 1949, particularly after the breakthrough has been made in the theory and practice of the rule of law in the new era of the most recent ten years, the CPC has led the Chinese people to open up new grounds and a new road for Chinese modernization of the rule of law, and to score remarkable achievements. A remarkable contribution Chinese modernization of the rule of law makes to the world is ending the myth of Western centralism, creating a new model of modernization of the rule of law, and dramatically impacting the theories and practices of modernization of the rule of law in the world. These influences include at least the following aspects: (1) On the guiding ideology of the modernization of the rule of law, we have always followed the guidance of Marxist rule of law, maintained the rationality, stability and continuity of the guiding ideology, advanced the modernization of Marxist rule of law with the times, kept the guiding ideology innovative and vigorous, and led the rule of law construction in China to advance smoothly in the right direction. This has overcome the vacillation and conflicts of Western countries and other developing countries in the modernization process because they have multiple and changeable guiding ideologies in the rule of law construction. We have also avoided stagnation and even reversing in the rule of law construction some developing countries have experienced because their guiding ideologies for the rule of law construction are rigid and conservative. (2) In the mode of advancing the modernization of the rule of law, we uphold the socialist rule of law with Chinese characteristics under the leadership of the CPC, follow the people-centered approach, and create a new mode that combines centralized and unified leadership with division of responsibilities, practice both top-down and bottom-up administration, exercise both the rule of law and the rule of virtue, and implement law-based governance of the country and rule-based governance over the Party, and make the best of both institutional and sci-tech advantages. This promotion mode has surpassed the spontaneous and evolutionary path of the Western modernization of the rule of law, solved the problems of various forces going their own way and constraining each other; thus we have stayed away from severe internal

friction, and avoided the tendency of elitism and privilege in the Western modernization of the rule of law. (3) With regard to the goal orientation of the rule of law modernization, we insist on systematic integration and overall planning, put forward the overall goal of building a system of socialist rule of law with Chinese characteristics and building a socialist rule of law country, and make a long-term, systematic and strategic rule of law construction plan, which surpasses the decentralized and fragmented pattern of Western rule of law modernization. (4) In the overall layout of the modernization of the rule of law, we follow the coordinated nationwide development plan for the modernization of the rule of law along with economic modernization, political modernization, cultural modernization, social modernization, etc., put the whole-process rule of law in every area and every aspect in state governance and development, build a modern socialist country in all respects under the rule of law, and lead and guarantee the socialist modernization with the modernization of the rule of law, which fully demonstrates the powerful effectiveness of the rule of law. This has solved the problem that the modernization of the rule of law and other aspects of modernization are disjointed, separated, and contradictory because the western theory and practice of the rule of law overemphasize the formality, independence, and autonomy of the rule of law.

A major theoretical contribution of the Report to the 20th CPC National Congress (the Report) is the profound summarization of the successful experience of China's modernization, leveraging the achievements of modernization theories from both home and abroad, incisively discussing the Chinese features, essential requirements, strategic plans and measures, and major principles of Chinese modernization, putting forward a well-conceived and systematic Chinese modernization theory. Although the Report does not explicitly use the category of "Chinese modernization of the rule of law," yet it does outline a strategic plan for comprehensively advancing law-based governance in the new era and new journey, comprehensively introduce the Chinese modernization theory, systematically put forward the task book and construction drawings of Chinese modernization of the rule of law in the new era and new journey, clearly describe the new vision and new blueprint of the future development of Chinese civilization of the rule of law, and presents an agenda for building a new form of human advancement of the rule of law. Following the Chinese modernization theory deliberated in the Report, this paper summarizes and highlights the essences of the rule of law theory, practice, and systems by targeting four major issues relating to Chinese modernization of the rule of law: new stage, distinctive features, principal task, and great mission.

I A Brand-New Stage of Chinese Modernization of the Rule of Law

As the cause of our socialism with Chinese characteristics enters a new era and new journey, our modernization of rule of law

with Chinese characteristics has embraced a new stage. The 20th CPC National Congress, proceeding from a global vision and China's historical context, thoroughly analyzes the profound changes in the current international and domestic situation and makes a series of significant judgments, such as "Our world, our times, and history are changing in ways like never before," and "Our country has entered a period of development in which strategic opportunities, risks, and challenges are concurrent and uncertainties and unforeseen factors are rising." It makes it clear the new orientation and new stage of Chinese modernization of the rule of law. Specifically, it can be summarized as six "historicities."

A | Historic Transition of the Two Centennial Goals

Currently, China has achieved the first centenary goal of building a moderately prosperous society in all respects, and has begun a new journey towards the second centenary goal of building a modern socialist country in all respects, thus having made a historic transition between the two centenary goals. The Report states, "From this day forward, the central task of the CPC will be to lead the Chinese people of all ethnic groups in a concerted effort to realize the Second Centenary Goal of building China into a great modern socialist country in all respects and to advance the rejuvenation of the Chinese nation on all fronts through a Chinese path to modernization."[1] This Report expounds the strategic arrangement and major principles of building a modern socialist country in all respects, and systematically outlines the new mission and task on our reform, development and stability, on our domestic affairs, foreign affairs, and national defense, and on our governance of the Party, the state, and the armed forces.

Facing the changes of Chinese modernization campaign, Chinese modernization of the rule of law should promptly respond to various emerging issues of the rule of law relating to the new journey in the new era, and further promote theoretical innovation, practical innovation and institutional innovation of the rule of law, so as to provide a strong guarantee for building a modern socialist country in all respects. For example, to achieve common prosperity for all the people, it is necessary to innovate and improve legal systems such as civil and commercial law, economic law, and social law. These legal systems should provide sufficient legal tools for the justice of the three income-distribution stages, and promote a coordinated and mutually complementary institutional framework for preliminary, secondary, and tertiary distribution. Developing the whole-process people's democracy requires updating the legal system of democratic election, democratic consultation, democratic decision-making, democratic management and democratic oversight, promoting the institutionalization, standardization and procedure of democratic politics, and building a socialist democracy that covers all aspects of the democratic process and all

1 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: Report to the 20th National Congress of the CPC*), Oct. 16, 2022, 人民出版社 (People's Publishing House), at 21 (2022).

sectors of society.[2] To promote the Party's self-reform, it is necessary to improve the systems and regulations for the Party's self-reform, and advance the great project of Party building by rules in the new era, so as to reinforce the Party's capability to carry out self-purification, self-improvement, self-innovation and self-cultivation.

B | Historic Change of Principal Contradictions Facing Chinese Society

At the 19th CPC National Congress, the CPC Central Committee followed the people-centered development vision and made a major judgment about the principal contradiction facing Chinese society, which has changed from the contradiction between the people's ever-growing material and cultural needs and backward social production to the contradiction between unbalanced and inadequate development and the people's ever-growing needs for a better life. Because of this historic change, the Report focuses on the historic transformation of the overall relationship, from addressing backward social production issues to tackling imbalanced and inadequate development, from eradicating absolute poverty to achieving common prosperity, from seeking material abundance to seeking cultural-ethical enrichment, and from pursuing all-around material abundance to pursuing well-rounded human development. All of these aim to move China's economic and social development to a higher level.

The shift of principal contradictions facing Chinese society requires Chinese modernization of the rule of law to focus on the people's needs for a better life, to introduce institutional measures to free people's worries, protect people's interests, safeguard people's rights, benefit people's livelihood and ensure people's safety, and to enhance people's sense of gains, happiness and security with good laws and governance. In terms of fairness and justice, it is necessary to meet the people's needs for a higher level of fairness and justice, and fairness, justice and openness must be promoted in every aspect throughout the whole process of legislation, enforcement and justice, and work to ensure that the people feel fairness and justice prevails in every law, every law enforcement decision, and every judicial case. In terms of protection of human rights, "We will meet their growing demand for rights in all respects. We will ensure coordinated development of economy, democracy and the rule of law, ethics, culture, fairness, justice, social governance, and environmental protection. We will ensure all-round improvements in employment, income distribution, education, social security, health care, housing, old-age care, and childcare. We will strengthen human rights protection in the process of advancing material, political, cultural, ethical, social and eco-environment progress."[3] In terms of safety and security, the Chinese approach to the rule of law should continuously meet the higher expectations of the people for personal safety. Efforts should be

2 See MO Jihong, 在法治轨道上有序推进"全过程人民民主" (Promoting the Whole-Process People's Democracy Under the Rule of Law), 6 中国法学 (*China Legal Science*), 6 (2021).

3 XI Jinping, 坚定不移走中国人权发展道路, 更好推动我国人权事业发展 (Steadfastly Following the Chinese Path to Promote Further Progress in Human Rights), 12 求是 (*Qiushi*), 7 (2022).

made to accelerate the formulation of a national security rule of law system, effectively address prominent issues such as food safety, workplace safety, personal information security, and transportation safety, and build a safer China at a higher level. In terms of environmental protection, it is important to respond to the people's demand for more beautiful and cleaner eco-environment. The construction of eco-civilization and the rule of law should be strengthened, and the strictest possible institutions and legislation should be adopted to protect the eco-environment, bringing us bluer sky, greener mountains, cleaner water, and fresher air.

C | Historic Transformation of China's Development Model

The Party regards sound development as its top priority in governance, and puts forward different versions of development theory in different historical periods. In the new era, the CPC Central Committee with Chinese President XI Jinping as the core well understands the new situation and new tasks of China's development and systematically puts forward a series of new categories and new theories such as new development stage, new development philosophy, new development pattern, and high-quality development, thus creating a new frontier of world development theory in the 21st century and promoting the historic transformation of China's development model. The Report has established high-quality development as the primary task of comprehensively building a modern socialist country. This statement serves as the strategic plan to implement the new development philosophy, build a new development, and promote high-quality development, setting China's new development up to be increasingly promising.

Facing the transformation of China's development model, Chinese modernization of the rule of law should accelerate the supply-side structural reform of the rule of law, comprehensively improve the quality of legislation, enforcement, and justice, and promote high-quality development through high-quality rule of law. High-quality development is innovative development, which requires accelerating the establishment of a property rights rule of law protection system, improving the mechanism for protecting the legitimate rights and interests of entrepreneurs, increasing the law enforcement and judicial protection of intellectual property rights, creating a fair, transparent, and predictable rule of law business environment, and using the rule of law to stimulate the entrepreneurial and innovative vitality of the whole society. High-quality development is coordinated development, which requires strengthening the rule of law construction for coordinated development between regions, improving the relevant laws and regulations for rural revitalization strategy, and prompting the legal system for supporting new urbanization, in order to ensure the law-based coordinated development between regions and between urban and rural areas. High-quality development is green development, which requires accelerating the establishment of an eco-environment protection legal system, improving the

system of environmental public interest litigation, and constructing a system of eco-environment protection and restoration responsibilities, in order to safeguard the blue skies, green mountains, and clean waters through the rule of law. High-quality development is open development, which requires accelerating the construction of the legal system for foreign-related laws and regulations, deepening the institutional opening-up, and creating a market-oriented, law-based, and international first-class business environment, in order to promote a comprehensive pattern of opening-up through the rule of law. High-quality development is sharing development, which requires strengthening legislation in the fields of people's livelihood security and social construction, improving the system of social fairness and justice, and strengthening the protection of rights and punishment of crimes in the field of people's livelihood, in order to enhance the well-being of the people through the rule of law.

D | Historic Change of Modern Science and Technology

The latest global revolution in science and technology is exerting a disruptive force far beyond previous revolutions, profoundly changing human production methods, lifestyles, and modes of communication, reshaping the global innovation landscape, restructuring the global economic mix, and rebuilding the global industrial system. The 20th CPC National Congress places innovation at the heart of China's modernization drive, calls for modernizing China's industrial system, and for developing strategic emerging industries and cultivating new growth engines such as next-generation information technology, artificial intelligence, biotechnology, new energy, new materials, high-end equipment, and green industry. All of these aim to boost China's strength in manufacturing, product quality, aerospace, transportation, cyberspace, and digital development.

Facing this new round of scientific and technological revolution and the Fourth Industrial Revolution, Chinese modernization of the rule of law should seize this historic opportunity, respond to the emerging legal requirement in time, accelerate the application of science and technology in the field of rule of law, transform the great power of science and technology into the great power of rule of law, and create a new form of rule of law civilization by digital, networked and intelligent development. In terms of legal supply, we should adapt to the swift progress of science and technology such as life science, gene editing, brain science, autonomous driving, unmanned aerial vehicles, service robots, etc., fill in the legal gaps in time, fix the shortcomings of the system, and keep the ethical bottom line of science and technology with legal rationality and virtue. In the application of science and technology, with the continuous maturity of mobile Internet, Internet of Things, big data, artificial intelligence, blockchain and other technologies, we should pay close attention to the application of modern scientific and technological tools to solve various problems and dilemmas in the development of the rule of law, turn the

unknown into the knowable, turn the impossible into the possible, turn the inaction into the feasible, and open up a better future rule of law landscape. In terms of theoretical innovation, with the development of virtual reality, digital twins, metaverse and other technologies, the virtual world is accelerating to be embedded in the real world, involving changes to the distribution of interests and power, to game rules and to operation rules of the real world, and promoting the redefinition of basic concepts and systems such as legal time, space, relationship, structure, justice, rights and power, which requires accelerating the innovation of the category system, discourse system and theoretical system of the rule of law, and enhancing the explanatory power, foresight and transformation power of the rule of law theory.

E | Global Changes of a Magnitude Unseen in a Century

At present, global changes of a magnitude unseen in a century are accelerating across the world, the once-in-a-century pandemic has had far-reaching effects, a backlash against globalization is rising, and unilateralism and protectionism are mounting. The global economic recovery is sluggish, regional conflicts and disturbances are frequent, and global issues are becoming more acute. The world has entered a new period of turbulence and change, and the world has once again reached a crossroads in history. The global once-in-a-century changes have extended to the field of rule of law, which has brought many new legal problems to all countries in the world. First, Some Western powers, increasingly adopt the hegemonic, high-handed, and bullying acts of using strength to intimidate the weak, taking from others by force and subterfuge, and playing zero-sum games under the guise of the rule of law and under the cloak of law. These countries frequently intervene in the internal affairs of other nations through legislative means such as parliamentary bills, and take measures such as "long-arm jurisdiction" to suppress foreign rising enterprises. These practices force many countries to carry out foreign-related legal struggles by means of legislation, law enforcement and justice while promoting international legal cooperation, so as to effectively safeguard national sovereignty, dignity and core interests. Second, the deficit in peace, development, security, and governance is growing, and global public issues such as global climate change, resource and energy security, armed conflict, combating terrorism, space development and utilization, and preventing major infectious diseases have become increasingly prominent. All of these are posing unprecedented challenges for human society. Third, the global development of the rule of law today is in a period of significant changes with multi-competition and iterative updating. The competition for international rule of law leadership is more intense, and countries are vying for the right to make international rules, the dominance of international organizations and the market share of international legal services. Fourth, some once fast-growing countries have fallen into various development "traps"

in recent years, resulting in stagnation or even retrogression of economic and social development. This requires countries to share their experiences in the development of the rule of law, address the issues of rule of law versus individual rule, and escape the historical cycle of rise and fall.

Facing the global changes of a magnitude unseen in a century, the Report indicates that "We should expand our global vision and develop keen insight into the trends of human development and progress, respond to the general concerns of people of all countries, and play our part in resolving the common issues facing humankind. With an open mind, we should draw inspiration from all of human civilization's outstanding achievements and work to build an even better world."[4] Therefore, Chinese modernization of the rule of law should take world history and global vision into account, respond to the global rule of law problems brought about by the global changes, share China's experience for the modernization of rule of law with other developing countries, present China's proposition for the development of world civilization pattern of rule of law, provide China's wisdom to the progress of human political civilization, and contribute China's strength to the reform of global governance system.

F | Historic Leap of Socialist Rule of Law

Since the founding of the People's Republic of China, the Party has led the Chinese people in advancing Chinese modernization of the rule of law, has scored the epic accomplishments in rule of law development, and has made remarkable achievements. All of these effectively enhance our pride, confidence, and assurance in building a socialist rule of law country. These achievements include: keeping adapting Marxism to the Chinese context and the needs of our times, marking three historic steps in adapting Marxism to Chinese context, giving rise to MAO Zedong Thought on the Rule of Law Theory, the Theory of Socialist Rule of Law with Chinese Characteristics, and XI Jinping Thought on the Rule of Law;[5] expanding the path of socialist rule of law with Chinese features, and leading the Chinese rule of law building toward that of a socialist rule of law country; improving the socialist legal system with Chinese characteristics with the Constitution at its core, leading the modernization of national governance to advance smoothly under the rule of law; forming a relatively comprehensive system of Party regulations, effectively promoting the institutionalization, legalization, and standardization of the Party's leadership and building.; giving better play to the role of the rule of law in consolidating foundations, ensuring stable expectations, and delivering long-term benefits, promoting significant miracles such as rapid economic growth, enduring social stability, and eliminating the absolute poverty.

4 See XI, fn. 1 at 21.

5 See WANG Chen, 习近平法治思想是马克思主义法治理论中国化的新发展新飞跃 (XI Jinping Thought on the Rule of Law Is the Latest Development and Progress of Marxist Rule of Law Theory of Rule of Law in China), 2 中国法学 (*China Legal Science*), 8–11 (2021).

In the new era and on the new journey, the rule of law with Chinese characteristics has entered a new stage of systematic promotion, overcoming difficulties, and improving quality and efficiency. The legislative requirements are not only a question of whether there is more or less, but also a question of whether it is good, whether it works, and whether it is ineffective. It is imperative to improve the quality and efficiency of legislation. The requirements in law enforcement are no longer limited to strict and fair enforcement, but also strive for civilized, flexible, and humane law enforcement. In the judicial field, the requirements are no longer limited to procedural and substantive justice, but also seek justice that is more accessible, transparent, perceptible, and empathetic. The requirements in law compliance are no longer limited to behaving in accordance with legal provisions, but also encompass the aspiration to respect the law, trust the law, observe the law, apply the law, and defend the law. In terms of public legal services, the requirement is no longer just to have people providing legal services, but to provide higher-quality, more convenient, and more accurate legal services. To promote Chinese modernization of the rule of law, it is necessary to plan a grand blueprint, adopt a broad perspective, and develop a comprehensive strategy. We should accelerate the construction of a socialist rule of law system with Chinese characteristics, build a higher level of rule of law in China, and enhance the core competitiveness of the country.

II Distinctive Features of Chinese Modernization of the Rule of Law

Understanding and extracting the distinctive characteristics of China's rule of law modernization, as a model for the modernization of rule of law in an Eastern major country, has always been an important issue for the legal community to discuss. China's rule of law modernization not only follows the universal laws and common features of rule of law modernization worldwide but also incorporates China's national conditions and cultural traditions, showcasing Chinese characteristics and style. Professor ZHANG Wenxian once said from the perspective of the new road to the modernization of the rule of law, "The new road to Chinese modernization of the rule of law is a socialist road to the modernization of the rule of law, a Chinese road to the modernization of the rule of law, and a new road to human civilization under the rule of law. It has a profound logical foundation, distinctive characteristics of the times and a broad global vision."[6] Professor GONG Pixiang once made the point from the perspective of the new pattern of modernization of the rule of law that Chinese modernization of the rule of law embodies the distinct socialist nature, highlights the fundamental position of putting the people first, contains profound historical details, and constitutes an important content of building a socialist

6 ZHANG Wenxian, 论中国式法治现代化新道路 (On the New Road to Chinese Modernization of the Rule of Law), 1 中国法学 (*China Legal Science*), 9–10 (2022).

modernization power in all respects.[7] The theory of Chinese modernization put forward at the 20th CPC National Congress provides a well-defined world outlook and methodology for deeply understanding and explaining the distinctive features of Chinese modernization of the rule of law.

Chinese modernization of the rule of law is the modernization of rule of law led by the CPC. For the modernization of China, as a developing country, the strong Party leadership is the key to the ultimate success.[8] The leadership by the CPC is the defining feature and clear advantage of Chinese modernization. The Report emphasizes that Chinese modernization is the socialist modernization led by the CPC,[9] and that upholding and strengthening the Party's overall leadership is the first and foremost principle of building a modern socialist country in all respects. The leadership of the Party is the core of Chinese modernization of the rule of law and fundamentally guarantees the Chinese rule of law to succeed. Chinese President XI Jinping stresses that in China, the leadership of the Party is the soul of socialist rule of law, the most fundamental guarantee of socialist rule of law, and the biggest difference between the rule of law in China and the rule of law in Western capitalist countries. The decisive role of the Party's leadership in Chinese modernization of the rule of law is reflected in the following aspects: First, it plays a leading role, that is, it leads the people to unswervingly follow the road of socialist rule of law with Chinese characteristics and ensures that Chinese modernization of the rule of law does not make directional or fatal mistakes. The second is the role of top-level planning, that is, to study and formulate major policies and measures for Chinese modernization of the rule of law, and to establish the general blueprint, roadmap and construction drawing for Chinese modernization of the rule of law. The third is the overall coordination, that is, coordinating all kinds of resources of the rule of law, solving the sensitive, painful and bottleneck problems of Chinese modernization of the rule of law, and promoting Chinese modernization of the rule of law to progress by meeting one challenge after another in an uphill battle. The fourth is to examine the role of rectification, that is, to strengthen the oversight and inspection of the rule of law, address shortcomings in time, shore up points of weaknesses, make up for disadvantages, and pursue accountability.

Chinese modernization of the rule of law is an independent exploration. Chinese modernization is promoted under unique and complicated national conditions. There can be no textbooks that provide ready-made answers, nor is there a "know-it-all" mentor who can provide guidance. It can only be explored by the Chinese people themselves, for the following reasons. (1) A huge population. "China is working to achieve modernization for more than 1.4 billion

7 See GONG Pixiang, 推进和拓展中国式法治现代化 (Promoting and Expanding Chinese Modernization of the Rule of Law), 5 法制与社会发展 (*Law and Social Development*), 1 (2022).

8 See LIN Shangli, 政党与现代化：中国共产党的历史实践与现实发展 (Political Parties and Modernization: The CPC's Historical Practice and Realistic Development), 3 政治学研究 (*Political Studies*), 3 (2001).

9 See XI, fn. 1 at 22.

people, a number larger than the combined population of all developed countries in the world today. This is a task of unparalleled difficulty and complexity; it inevitably means that our pathways of development and methods of advancement will be unique."[10] (2) A long history of civilization. As an ancient civilization that has lasted for 5,000 years without interruption, China is now heading toward modernization. It has a wealth of traditional and excellent cultural resources that can be utilized, but also has many feudal remnants that need to be discarded. "With a history stretching back to antiquity, China's fine traditional culture is extensive and profound; it is the crystallization of the wisdom of Chinese civilization. Our traditional culture espouses many important principles and concepts, including pursuing common good for all; regarding the people as the foundation of the state; governing by virtue; discarding the outdated in favor of the new; selecting officials on the basis of merit; promoting harmony between humanity and nature; ceaselessly pursuing self-improvement; embracing the world with virtue; acting in good faith and being friendly to others; and fostering neighborliness. These maxims, which have taken shape over centuries of work and life, reflect the Chinese people's way of viewing the universe, the world, society, and morality and are highly consistent with the values and propositions of scientific socialism."[11] (3) Rapid development. Over the past 40 years of reform and opening up, China's economic growth rate has been more than three times the world average. This rapid development compresses the time and space of completing many tasks that took Western countries hundreds of years to complete in a sequential manner during their modernization process. It demands that we complete these tasks synchronously and in parallel within a few decades. (4) A big socialist country. As the largest socialist country in the world today, China is faced with the fierce contest between two social systems and two ideologies, and the containment and extreme pressure from external hostile forces. The Report highlights that "The Party has led the people in independently blazing the path to success over the past century by Chinese Communists through our own endeavors,"[12] and that "We must keep to our path and not sway in our commitment. We must not return to the isolation and rigidity of the past, or veer off course by changing our nature or abandoning our system."[13] The new road of Chinese modernization of the rule of law, namely the road of socialist rule of law with Chinese features, is independently developed and expanded by the Party leading the Chinese people. President XI emphasizes that "in the drive to advance law-based governance, under no circumstances should we try to duplicate the models and practices of other countries or adopt such Western models as "constitutionalism," "separation of powers," and "judicial independence."[14] "Never should anyone defer to the Western

10 See XI, fn. 1 at 22.
11 See XI, fn. 1 at 18.
12 See XI, fn. 1 at 19.
13 See XI, fn. 1 at 27.
14 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 (Uphold Socialist Rule of Law with Chinese Characteristics to Provide Sound Legal Guarantees for Socialist Modernization), 5 求是 (*Qiushi*), 8 (2021).

legal system or copy Western practices in the name of reform."[15]

Chinese modernization of the rule of law is people-centered. Unlike Western modernization with capital as the center, Chinese modernization upholds putting the people as the center. The Report elaborates on the essence of people-centered modernization, "We must protect the people's fundamental interests, improve their well-being, and work tirelessly to ensure that development is for the people and by the people and that its fruits are shared by the people. We must do a better job of seeing that the gains of modernization benefit all our people fairly."[16] Placing the people at the center is the fundamental value criterion of China's model of modernizing the rule of law and the core logic of socialist rule of law. President XI emphasizes, "The people make up the broadest and deepest foundation for comprehensively advancing law-based governance."[17] "To uphold the principal position of the people, we must develop the rule of law for the people and rely on them, and it must benefit the people and protect them. Moreover, we must integrate representing people's interests, reflecting their wishes, protecting their rights, and improving their well-being into the whole process of our law-based governance."[18] The basic characteristics of this people-centered modernization of the rule of law can be briefly described from five dimensions: democracy, public opinion, civil rights, people's livelihood and public sentiment. From the perspective of democracy, it is important to uphold that the people are the main body and the source of strength in the rule of law. This principle should be integrated into the entire process of legislation, law enforcement, judiciary, and compliance. It is necessary to explore a whole-process people's democracy in the rule of law, making the people the most important subject in the implementation of the rule of law. From the perspective of public opinion, it is imperative to uphold the supremacy of the people's will, ensure that the legislation, law enforcement, judicial practice and rule of law oversight work fully draws on public opinion and pools the wisdom of the people, so that the people can become the final decider of the rule of law. From the perspective of civil rights, it is essential to uphold the fundamental purpose of the rule of law, which is to protect the rights of the people. It is necessary to ensure the rights of the people in a wider scope, higher standards, stronger measures, and more effective ways in accordance with the law. This will enable the people to be the broadest beneficiaries of human rights and the rule of law. From the perspective of people's livelihood, it is crucial to prioritize the enhancement of people's well-being as the starting point. Efforts should be made to address prominent issues in the field of the rule of law that are strongly reflected by the

15 XI Jinping, 坚持走中国特色社会主义法治道路, 更好推进中国特色社会主义法治体系建设 (Stick to the Rule of Law in Socialism with Chinese Characteristics and Better Promote the Construction of the Rule of Law System in Socialism with Chinese Characteristics), 4 求是 (*Qiushi*), 9 (2022).

16 See XI, fn. 1 at 27.

17 XI Jinping, 以科学理论指导全面依法治国各项工作 (Advance the All Rule of Law Work with the Party's Theories), Nov. 16, 2020, in 论坚持全面依法治国 (*Advancing Law-Based Governance*), 中央文献出版社 (Central Party Literature Press), at 2 (2020).

18 See XI, fn. 15 at 6.

people. This will enhance the people's sense of gain, happiness, and security, making them the greatest beneficiaries of the rule of law. From the perspective of public sentiment, it is crucial to follow the goal of winning the hearts and minds of the people and making it a direction of effort. The satisfaction or dissatisfaction of the people should be regarded as the fundamental criterion for evaluating the effectiveness of the rule of law. This will make the people the ultimate judges of the rule of law.

Chinese modernization of the rule of law is an organized and planned process. It is led by a political party with strong political appeal, social mobilization capacity, and decision-making and implementation capabilities. It is guided by the scientific principles of Marxism with Chinese characteristics. Chinese modernization is not a spontaneous and evolutionary process, but a planned and guided modernization. From the "Three Strategic Goals for Achieving Socialist Modernization in China" put forward at the 13th CPC National Congress, to the "Two Centenary Goals" put forward at the 15th CPC National Congress, and then to the "Two-Step Approach to Building China into A Strong and Modern Socialist Country by The Middle of The Century" strategy put forward by the 19th CPC National Congress, the CPC highly values the strategic planning of modernization. The 20th CPC National Congress upholds and improves the "Two-Step Approach to Building China into A Strong and Modern Socialist Country by The Middle of The Century" strategy established at the 19th CPC National Congress, and made systematic plans for Chinese modernization in the next 30 years. The organizational and planning nature of Chinese modernization of the rule of law mainly manifests as follows: (1) Comprehensively planning Chinese modernization of the rule of law as a systematic project. President XI indicates, "The comprehensive advancement of the rule of law in China represents a systematic undertaking of monumental proportions. In carrying out this undertaking, therefore, we must take various factors into consideration, maintain a solid grasp of our priorities, and formulate integrated plans. We must focus our energy on moving initiatives forward in a coordinated fashion, and devote our efforts to achieving the integrated development of a law-based country, government, and society."[19] President XI has put forward a series of new ideas and strategies to systematically promote Chinese modernization of the rule of law, including promoting a combination of rule of law and rule of virtue, and a combination of law-based governance of the country and rule-based governance over the Party, coordinating progress in law-based governance, the exercise of state power, and government administration, and develop integrated rule of law for the country, government, and society, advancing the development of the system of laws and regulations, the system for enforcing the rule of law, the system for overseeing the

19 XI Jinping, 在中央全面依法治国委员会第一次会议上的讲话 (Speech at the First Meeting of the Commission for Law-Based Governance Under the CPC Central Committee), Aug. 24, 2018, in 论坚持全面依法治国 (*Advancing Law-Based Governance*), 中央文献出版社 (Central Party Literature Press), at 29 (2020).

rule of law, the system for guaranteeing the rule of law, and the system of Party rules and regulations, and taking a well-designed approach to legislation, enforce the law strictly, administer justice impartially, and ensure that everyone abides by the law. (2) Developing step-by-step strategic plans for the modernization of rule of law. In fact, the 20th CPC National Congress adopts the strategic plan of applying "Two-Step Approach to Building China into a Strong and Modern Socialist Country by the Middle of the Century" for the modernization of rule of law in China, that is, by 2035, we should have basically established a rule of law country, government and society; by the middle of this century, we should have comprehensively built a rule of law country, government, and society. (3) Introducing a series of plans for the construction of the rule of law. In recent years, the Party's Central Committee and the State Council have released The Implementation Outline for Building a Law-Based Government (2020–2025) and The Plan on Developing the Rule of Law in China (2020–2025), and The Outline for Building a Law-Based Government (2021–2025). This indicates that building China under the rule of law has entered a "planning era."[20]

Chinese modernization of the rule of law has a set of lofty value goals. As a Marxist political party, the CPC always upholds noble goals and lofty ideals since its founding. While pursuing happiness for the Chinese people and rejuvenation of the Chinese nation, the Party has also contributed to human progress and world harmony. The Report put forward a broader and higher-level set of value goals for China's modernization in the new era, such as achieving high-quality development, promoting whole-process people's democracy, enriching the people culturally and ethically, achieving common prosperity for all, promoting harmony between humanity and nature, and building a community with a shared future for humankind. These value goals cover various fields of value, from material to culturally and ethically, from economy to politics, from the nation to the world, and from interpersonal relationships to the relationship between humanity and nature. Moreover, these value goals propose lofty value ideals that go beyond the Western model of modernization. Influenced by these values, Chinese modernization of the rule of law accommodates more diverse legal value goals and pursues higher-level legal value ideals. In terms of the breadth of values, Chinese modernization of the rule of law goes beyond the Western legal value system and puts forward new value goals such as the enriching the people culturally and ethically, promoting well-rounded human development and common prosperity for everyone, and a community with a shared future for humankind. In terms of the meanings of values, Chinese modernization of the rule of law promotes the continuous elevation of legal value standards from lower to higher levels. This includes transitioning from protecting private property rights to promoting common prosperity for all, from guaranteeing electoral democracy

20 See MA Huaide, 迈向 "规划" 时代的法治中国建设 (Running a Law-Based China in the Era of "Planning"), 3 中国法学 (*China Legal Science*), (2021).

to ensuring whole-process people's democracy, from safeguarding the material rights and interests of individuals to safeguarding their cultural and ethical rights and interests, and from safeguarding national independence and sovereignty to building a community with a shared future for humankind.

Chinese modernization of the rule of law is driven by modern science and technology. In the 18th and 19th centuries, the Chinese nation out missed the historic opportunity of the first and second scientific and technological revolutions. After the founding of the People's Republic of China, the CPC incorporated the modernization of science and technology into the "four modernizations of China," and successively introduced the strategy of rejuvenating the country through science and education, strengthening the country through talents and innovation-driven development, so as to stay abreast with the pace of world science and technology progress. In the face of a new round of scientific and technological revolution, the Report has a chapter dedicated to education, science and technology, and talents, and makes systematic plans for accelerating the construction of a powerful country in education, science and technology, and talents. "Science and technology and the rule of law are Archimedes fulcrum of social modernization. The deep integration of the rule of law with science and technology is the life logic of the future rule of law in China and the only viable path to Chinese modernization of the rule of law."[21] Since the 18th CPC National Congress, China's rule of law construction combines institutional advantages with sci-tech advantages, accelerating the application of modern technology in the field of the rule of law. It is opening up new areas and new arenas in development and steadily foster new growth drivers and new strengths. China has taken a leading position in areas such as internet judiciary, smart policing, and digital prosecution. Chinese modernization of the rule of law launches a new landscape of networked, digitalized, and intelligent rule of law in the future. (1) The network of the rule of law operation. With activities such as legislation, law enforcement, judiciary, dispute resolution, legal services, and legal education shifting from offline physical spaces to online virtual spaces, communication and interaction among legal actors are achieved in a zero-distance, ubiquitous, and real-time manner. (2) Digitization of legal information. By using digital technology, all kinds of legal information in the real world can be transformed into legal data that can be recognized, processed, stored, transmitted and restored by computers, so that the real legal world can be modeled as a digital legal world in which everything can be copied, calculated and shared. (3) The intelligentization of the rule of law operation. With the research, development, and application of high-performance intelligent machine systems for multi-scenario and multi-application rule of law operations, an increasing number of rule of law tasks can be accomplished through intelligent perception, intelligent

21 See ZHANG, fn. 6 at 29.

acquisition, intelligent identification, intelligent analysis, and intelligent decision-making. This allows limited judicial human resources to be freed from mechanical and programmatic work that can be replaced by intelligent machine systems.

Chinese modernization of the rule of law promotes world peace and development. Since ancient times, Chinese civilization has long upheld ideals such as "world peace," "global harmony," "good neighborliness," envisioning a world where "a just cause should be pursued for the common good." The Report indicates that "Chinese modernization is the modernization of peaceful development. In pursuing modernization, China will not tread the old path of war, colonization, and plunder taken by some countries. That brutal and blood-stained path of enrichment at the expense of others caused great suffering for the people of developing countries."[22] Chinese modernization of the rule of law is committed to promoting world peace and development in various means. First of all, Chinese modernization of the rule of law follow the path of equal treatment, mutual learning, and common progress with other countries. In the process of Western rule of law modernization, some Western countries are fervent about legal colonialism and hegemonism, imposing their values and legal systems as universal values and systems on other countries, and forcing other countries to grant various forms of extraterritorial privileges. Chinese modernization of the rule of law firmly opposes legal colonialism and hegemonism. It neither blindly copies the legal systems of other countries nor forcibly exports its own legal system. Furthermore, Chinese modernization of the rule of law upholds the worldview of promoting the democratization, rule of law, and rationalization of international relations, and maintains international fairness and justice. Promoting the democratization of international relations means that all countries, regardless of their size, wealth, or strength, are equal members of the international community. "All countries are entitled to shape the future of the world, making international rules, managing global affairs and sharing the fruits of development."[23] Promoting the rule of law in international relations means upholding universally applicable rules to tell right from wrong and settle disputes, rejecting the law of the jungle in which the strong do what they will and the weak suffer what they must, and opposing legal pragmatism that follows the principle of "use what is useful and discard what is not." Promoting the rationalization of international relations means accelerating the transformation of the unjust and unreasonable arrangements in the global governance system, striving to promote a global governance system that better reflects the profound changes in the international landscape and reflects the will of the entire international community in a more balanced manner.

22 See XI, fn. 1 at 23.

23 XI Jinping, 共同构建人类命运共同体——在联合国日内瓦总部的演讲 (Towards a Community of Shared Future for Mankind: Speech at the United Nations Office at Geneva), 人民日报 (*People's Daily*), p. 2, Jan. 20, 2017.

III Principal Task of Chinese Modernization of the Rule of Law

Developing a socialist rule of law system with Chinese characteristics is the key and the principal task of Chinese modernization of the rule of law. The Report repeatedly mentions the category of establishing "a socialist rule of law system with Chinese characteristics." When summarizing the historic achievements of the past decade, it calls for "speeding up work on developing the socialist rule of law system with Chinese characteristics." When outlining the blueprint for the next five years, it advocates "improving the socialist rule of law system with Chinese characteristics." While announcing plans and measures in advancing comprehensive rule of law construction, it stresses "to build a socialist rule of law system with Chinese characteristics," highlighting the dominant role of the rule of law system in Chinese modernization of the rule of law. The socialist rule of law system with Chinese characteristics consists of five subsystems: the system of laws and regulations, the system for enforcing the rule of law, the system for overseeing the rule of law, the system for guaranteeing the rule of law, and the system of Party rules and regulations. It is an integral whole that covers everything from national laws to intra-Party regulations, from the formulation of laws to their implementation, and from law oversight to law guarantees. Although the Report only mentioned the improvement of the socialist legal system with Chinese characteristics and the improvement of the intra-Party regulatory system, it actually provides the strategic plans and measures directly or indirectly for the construction of these five major subsystems. It proposes a roadmap and blueprint for building a new human rule of law civilization.

A | Improving the System of the Rule of Law

Legislation precedes the rule of law, and good laws are a prerequisite for good governance. Although the socialist rule of law system with Chinese characteristics has been put in place, it still needs to update to address changes of the times. The Report stresses legislation precedes reform, and clearly puts forward theories and measures to improve the socialist rule of law system with Chinese features, and to promote the rule of law system to be more sound, complete, unified and authoritative, so that good laws are made to promote development and ensure good governance.

Firstly, we should make laws in a well-conceived and democratic way and in accordance with the law for improving the quality and efficiency of legislation. Persisting in well-conceived legislation means respecting and reflecting the objective rules that govern reality, respecting China's actual conditions, and ensuring that the laws made are logical, reasonable and legal. Persisting in democratic legislation means a law is made for the people, relying on the people, observing the people's feelings, incorporating public opinions and leveraging the people's wisdom throughout the whole-process legislation, so that legislation can reflect the people's will, gain the people's support and

be observed by the people, and resolutely overcome the tendency of departmental, localized and selfish legislation. Persisting in developing legislation according to law means legislating according to legal authority and procedures, paying attention to the coordination and systematization between laws and regulations, and earnestly safeguarding the unity of socialist rule of law.

Secondly, we should step up legislation in key, emerging and foreign-related fields, fill up gaps and shore up weak points of the rule of law system. Strengthening legislation in key fields means accelerating the vital legislation that is urgently needed for national governance and necessary for the people's well-being. It aims to ensure the modernization of national governance and to enhance the people's sense of gain, happiness, and security through the rule of law. Strengthening legislation in emerging fields is to adapt to the new round of scientific and technological revolution and industrial transformation, speed up legislation in new technologies, industries, formats and models, and lead the healthy development of these emerging fields with legal rationality and virtue. Enhancing the legislation in fields related to foreign affairs is to adapt to the new situation and new tasks of the rule of law in foreign-related cooperation and strive to address the shortcomings of legislation related to foreign affairs, improve laws and regulations against sanctions, interference and "long-arm jurisdiction," improve the system of foreign-related laws and regulations, and enrich the tools of the foreign-related rule of law.

Thirdly, we should coordinate steps to enact, revise, abolish, interpret, and codify laws, and we should ensure that legislative work is more systematic, holistic, coordinated, and responsive. "Enact" refers to the formulation of a new law, that is, focusing on the shortcomings and deficiencies of the pre-existing legal system, actively planning and promoting the introduction of important laws and regulations that are urgently needed for national governance. "Revise" refers to the revision law, that is, the legal provisions that are not in line with reality and do not meet the needs are changed in a timely manner, which can be individual revision of a single law or packaged revision of multiple laws. "Abolish" means abolishing the old laws, that is, terminating the effectiveness of those laws that are outdated and even have become "stumbling blocks" in social development in time, and realizing the metabolism within the legal system. "Interpret" refers to legislative interpretation, that is, a specific explanation of the meaning of legal provisions, so that the law can adapt to economic and social development and changes in a timely manner on the premise of maintaining stability. "Codify" refers to the compilation of codes, that is, summing up the successful experience of compiling civil codes, promoting the compilation of codes in mature legal fields in a timely manner, and creating more legal documents of China that pool the wisdom of both domestic and foreign laws, and leading the trend of world rule of law advancement.

Fourthly, improvements should be made to the record and review system for normative documents to preserve

the unity of law in China. Recording and reviewing normative documents is an important mechanism to prevent and reduce contradictions and conflicts within the legal system. Strengthening the coordination and communication among the Party committees, People's Congresses, and governments involved in the record and review process will enhance the overall effectiveness of this process. It is necessary to improve the mechanisms and methods for proactive record and review and to establish a sound system for special reviews.

B | Improving the System of the Rule of Law Implementation

The implementation of laws is a key and challenging aspect of the construction of the rule of law, and improving the system for law implementation is also a key and challenging aspect of building a system of socialist rule of law with Chinese characteristics in China. In Section 7, the Report provides the systematic plans and measures on how to improve the system for law implementation from four aspects: strengthening oversight to ensure compliance with the Constitution, steadily advancing law-based government administration, ensuring strict and impartial administration of justice, and ensuring society-wide observance of the law.

Firstly, we should strengthen oversight to ensure compliance with the Constitution. Comprehensively implementing the Constitution is the primary task for governing the country in accordance with the law and building China into a socialist country under the rule of law. The Report stresses, "Law-based governance and law-based exercise of state power begin with compliance with the Constitution. We must remain firmly committed to leadership of the Party, to the state system of people's democratic dictatorship, and to the political system of people's congresses, all of which are mandated by the Constitution."[24] The Report put forward three key tasks: (1) Improving the systems for ensuring full compliance with the Constitution. We should improve the systems of constitutional decision-making, interpretation and review, and ensure the implementation of the Constitution with a well-conceived, effective and systematic system to raise the implementation of the Constitution to the next level. (2) Giving better play to the Constitution's important role in China's governance. We should uphold treating the Constitution as the fundamental principle for governing the country, strictly implement and follow the various systems and rules stipulated by the Constitution, and transform the constitutional system into a powerful force for governing the country and ensuring national security. (3) Upholding its authority. We should strictly implement the systems of constitutional oath-taking, National Constitution Day, constitutional publicity and education, promote and enrich the spirit of the Constitution, and safeguard the authority of the Constitution.

Secondly, we should steadily advance law-based government administration. Administrative law enforcement is the key step in transforming laws on paper

24 See XI, fn. 1 at 41.

into laws in daily life. The Report puts forward four key tasks. (1) Ensuring that administrative law enforcement is strict, procedure-based, impartial, and civil across the board. Upholding the principles of being law-based, convincing people with reason, and touching with emotions, we aim to combine strict and standardized law enforcement with just and civilized law enforcement, creating a balance between strictness and empathy in the enforcement process. (2) Intensifying administrative law enforcement in key areas involving the people's immediate interests. We should strengthen law enforcement in key areas such as food and drug, public health, natural resources, ecological environment, production safety, labor protection, urban management, transportation, financial services, education and training, and use the rule of law to safeguard the safety of people's lives and property. (3) Improving administrative law enforcement procedures. We should improve the implementation of administrative law enforcement publicity, whole-process record keeping, service of enforcement documents, oversight and restraint of enforcement powers, and the remedy of rights for individuals, in order to have sound procedures that regulate the arbitrary exercise of administrative power. (4) Strictly implement the administrative law enforcement responsibility system and accountability systems. Acts of law enforcement inaction, misconduct, and excessive use of force should be strictly investigated and held accountable for both the individuals directly responsible and the leaders in charge, in accordance with the law.

Thirdly, ensuring strict and impartial administration of justice. An impartial judiciary is the last line of defense for social fairness and justice. The Report puts forward four key tasks: (1) Deepening comprehensive and integrated reform of the judicial system. The comprehensive and integrated reform of judicial system is an original concept put forward by the CPC Central Committee with President XI Jinping as the core, and it is a new approach and new paradigm of judicial reform in China. The Report indicates, "An impartial judiciary is the last line of defense for social fairness and justice. We will deepen comprehensive and integrated reform of the judicial system, fully and faithfully enforce judicial accountability, and accelerate the development of a fair, efficient, and authoritative socialist judicial system. We will see that the people feel justice has been served in each and every judicial case."[25] (2) Optimizing the distribution of judicial functions and powers. We should improve the institutions and mechanisms for public security bodies, procuratorial bodies, judicial organs, and judicial administrative organs to perform their own functions, to cooperate and to check each other. We should improve judicial quality, efficiency, and public trust, and effectively prevent and control the risks of wrongful criminal cases. (3) Enhancing checks and oversight on judicial activities. We should accelerate the improvement of the mechanism for judicial power checks and oversight, and put the exercise of judicial power within the confines of the system, firmly preventing

25 See XI, fn. 1 at 42.

leniency, injustice, and corruption in the judiciary. (4) Procuratorial bodies stepping up legal oversight. We should implement the constitutional role of the procuratorial bodies as the legal supervisory authority, strengthen the supervisory role of the procuratorial bodies over law enforcement, judicial activities, and law compliance, and create a legal oversight framework dealing with criminal, civil, administrative, and public interest litigation as its pillars.

Fourthly, ensuring society-wide observance of the law. Law observance by all is the basic form of law implementation. The Report puts forward three key tasks. (1) Carrying out intensive legal service activities to raise public awareness of the rule of law. We should strengthen the promotion and education of the Constitution, and innovate the methods and approaches of legal education and publicity. Leading officials should play an exemplary role and work hard to make respecting, learning about, observing, and applying the law common practice throughout society. (2) Developing a modern public legal service system that covers both urban and rural populations. We should accelerate the integration of legal service resources, such as law firms, notaries, judicial appraisal, arbitration, judicial offices, and people's mediation offices, and establish a legal service network that covers all areas and time periods, so that the people can have any easy and convenient access to these professional legal advisors. (3) Building a culture of socialist rule of law. "We will promote socialist rule of law and carry forward fine traditional Chinese legal culture, and we will encourage all our people to truly revere, readily observe, and firmly defend socialist rule of law."[26]

C | Improving the System of the Rule of Law Oversight

The system of rule of law oversight consists of mechanisms such as intra-Party oversight, people's congress oversight, democratic oversight, supervisory oversight, administrative oversight, judicial oversight, and audit oversight. It is to prevent and correct misconduct in the operation of the rule of law, and to check and oversight misconduct in the exercise of power. Although the Report to the 20th National Congress does not elaborate the concept of the rule of law oversight system, yet it does mention it in Sections 6, 7, and 15 regarding the construction of the rule of law oversight system, clarifying the goals and tasks of improving the rule of law oversight system.

Firstly, we should improve the total-coverage, authoritative, and highly effective oversight system under the Party's unified leadership. The Report emphasizes, "We will improve the total-coverage, authoritative, and highly effective oversight system under the Party's unified leadership and refine the mechanisms for overseeing power and keeping it in check. We will generate synergy between various forms of oversight with intra-Party oversight serving as the mainstay, and we will ensure that power is exercised in broad daylight."[27] (1) Strengthen intra-Party oversight. Inner-Party oversight is the first form of oversight in the

26 See XI, fn. 1 at 42.
27 See XI, fn. 1 at 66.

supervision system of the Party and the country. "We will conduct concrete, targeted, and regular political oversight and keep leadership teams and their heads under effective oversight. We will see that political inspections serve as a powerful tool and that follow-up rectifications are made accordingly and their results are put to practical use. We will work to ensure that political responsibility for full and rigorous Party self-governance is fulfilled and that accountability mechanisms have real teeth."[28] (2) Improving the system of oversight by people's congresses. The oversight by the people's congress plays a leading role in the oversight of state organs. "We will improve the system under which people's congresses conduct oversight of administrative, supervisory, adjudicatory, and procuratorial bodies, and we will uphold the unity, sanctity, and authority of the law."[29] (3) Improving the mechanism of democratic oversight by the Chinese People's Political Consultative Conference (CPPCC). The democratic oversight channels, forms and procedures for the CPPCC should be improved for better leveraging their supervisory role in the operation of the rule of law. (4) Strengthening procuratorial oversight. Procuratorial bodies should step up their legal oversight to better leverage their essential role in ensuring the unified and correct implementation of national laws. (5) Creating synergy between various forms of oversight. Upholding the leadership of intra-Party oversight, we should coordinate and integrate oversight mechanisms such as oversight by the people's congress, democratic oversight, administrative oversight, judicial oversight, auditing oversight, financial and accounting oversight, statistical oversight, public oversight, and media oversight, forming a powerful synergy.

Secondly, we should strengthen checks and oversight on law enforcement and judicial activities. Enforcement and judiciary are the main parties to implement the law, yet they are also prone to power abuse and corruption. Therefore, checking and overseeing law enforcement and judicial activities are is a key task of rule of law supervision. Specifically, the Report puts forward two key tasks: (1) Enhancing oversight mechanisms and oversight capacity. The system of checks and balances on administrative power should be strengthened, and the standardized and transparent operation of administrative power should be promoted, for firmly preventing inaction and misconduct in law enforcement. (2) Enhancing checks and oversight on judicial activities. The system of checks and oversight on judicial power should be strengthened for minimizing opportunities of personal rent-seeking and public power not straying beyond the proper boundaries.

Thirdly, stepping up efforts to combat corruption. Anti-corruption is the most thorough self-reform of the Party and the principal task main of developing the oversight system of the rule of law. The Report makes important plans and measures for resolutely winning the tough and protracted battle against corruption. (1) Enhancing anti-corruption

28 See XI, fn. 1 at 66.
29 See XI, fn. 1 at 38.

work in key areas of financial interests. We should investigate and deal with corruption that involves both political and economic elements, resolutely prevent leading officials from acting for any interest group or power group, and crack down on any collusion between officials and business people that undermines the political ecosystem or economic development. There must be no mercy for corruption. We should intensify efforts to uproot corruption in sectors with a high concentration of power, funds, and resources. Firm action will be taken to swat "flies," or corrupt low-ranking officials, whose misconduct directly affects people's lives. We should strictly investigate and handle cases of corruption where leading officials' spouses, children, children's spouses, other relatives, or staff use their influence to seek personal gain.[30] (2) Establishing an integrated mechanism for pursuing fugitives, preventing escape, and retrieving stolen assets. We should improve the centralized, unified, efficient and smooth institution and mechanism for pursuing fugitives, preventing escape, and retrieving stolen assets, develop bilateral and multilateral anti-corruption law enforcement cooperation mechanisms, and promote the cooperation mechanisms for freezing, confiscating and returning stolen assets. (3) Advancing national anti-corruption legislation. We should further improve the anti-corruption system in laws such as the Criminal Law and the Criminal Procedure Law, explore the formulation of a comprehensive anti-corruption law, and promote the institutionalization of anti-corruption legal norms.

D | Improving the System of the Rule of Law Guarantee

The rule of law guarantee system consists of political, organizational, teams and talents, science and technology, facilities and other relevant elements. It is the basic and strategic support for law-based governance. Although the Report does not specifically elaborate the Party's leadership, or the development of the rule of law organizations, or the cultivation of the rule of law teams and talents, or the scientific and technological innovation of the rule of law, or the construction of rule of law infrastructure, it does have systematic arrangements for upholding and strengthening the Party's overall leadership, the strategy of rejuvenating the country through science and education, the strategy of strengthening the country through talents, the strategy of innovation-driven development, and the construction of national infrastructure. These major arrangements are also applicable to the development of the rule of law guarantee system, which provides a strong support for promoting Chinese modernization of the rule of law.

Firstly, strengthening guarantee of politics and organizations. This means fully implementing the requirements of the 20th National Congress arrangements regarding upholding and strengthening the Party's overall leadership, resolutely safeguarding the authority and centralized unified leadership of the Party Central Committee, improving the institutional mechanisms for

30 See XI, fn. 1 at 69.

the Party's leadership in law-based governance, ensuring that the Party's leadership is implemented in every aspect throughout the entire process of law-based governance, and ensuring the correct direction of modernizing the rule of law in China.

Secondly, strengthening the guarantee of teams and talents. This means fully implementing the requirements of the 20th National Congress arrangements regarding thoroughly implementing the strategy for invigorating China through science and education, the strategy on developing a quality work force, cultivating talent for the Party and the country. Furthermore, we should move faster to develop the world-class training system with China characteristics for cultivating a large workforce of high-quality rule of law talent who have both integrity and professional competence, and develop a socialist rule of law workforce loyal to the Party, the country, the people and the law.

Thirdly, strengthening science and technology and information security. This means fully implementing the requirements of the 20th National Congress arrangements regarding implementing a strategy of innovation-driven development, focusing on world-level cutting-edge technologies, the main rule of law fields, the people's law-based rights and interests, gather the strength of the legal and sci-tech communities to conduct original and innovative scientific and technological breakthroughs over various bottlenecks in the rule of law field, and make China a global leader in the rule of law science and technology.

E | Improving the System of Intra-Party Rules and Regulations

Incorporating the party's internal rules and regulations into the national rule of law system, and combining law-based governance of the country and rule-based governance over the Party, are defining characteristics of socialist rule of law with Chinese features. After a century of continuous development, the CPC has established a relatively complete framework of internal rules and regulations, including organizational regulations, leadership regulations, self-improvement regulations, and oversight and guarantee regulations, demonstrating the vision, wisdom, and governance methods of the world's largest political party.[31] The 20th CPC National Congress places massive importance to the development of the Party's internal rules and regulations. It has made significant amendments to the Party Constitution and made important arrangements to improve the framework of internal rules and regulations.

At the 20th National Congress, the revised CPC Constitution was passed, which incorporated the most recent developments of XI Jinping Thought on Socialism with Chinese Characteristics for a New Era since the 19th CPC National Congress, the new theories developed by the Party Central Committee, the major innovations and latest experiences in governing the Party with strict discipline, as well as major ideas, perspectives,

31 See SONG Gongde, 党内法规的百年演进与治理之道 (The Centennial Governance Evolution of the Intra-Party Regulations), 5 中国法学 (*China Legal Science*), (2021).

visions, and measures put forward at the 20th CPC National Congress into the Party Constitution. This better plays the fundamental role of the Party Constitution in governing the Party.[32] It is worth noting that the revision of the Party Constitution incorporates, "We must follow a path and develop a socialist rule of law system with Chinese features" into the Party Constitution, which is conducive to strengthening the confidence of the entire Party and society in the path of socialist rule of law with Chinese characteristics and promoting the Chinese modernization of the rule of law along the broad road.

In terms of updating the Party's organizational rules and regulations, the Report indicates that Central Committee would improve decision-making, deliberative, and coordinating institutions, so as to strengthen its centralized, unified leadership over major initiatives. We should guide community-level governance through Party building, keep working to strengthen weak and lax Party organizations at the primary level, and see that primary-level Party organizations play a key role in ensuring the exercise of the Party's leadership. Party building should be advanced in public institutions. Party building will also be stepped up in mixed-ownership and non-public enterprises. The management systems for Party building in trade associations, academic societies, and chambers of commerce will be improved. To improve the Party's organizational rules and regulations means to accelerate the establishment of regulations and frameworks regarding the formation, powers, and responsibilities of various levels and types of Party organizations. This is aimed at promoting the development of a comprehensive and tight organizational framework for the Party.

In terms of updating the Party's leadership rules and regulations, the Report indicates that Party will improve the leadership systems for the Party to exercise overall leadership and to coordinate the efforts of all sides and to refine the mechanisms through which the Party Central Committee's major decisions and plans are implemented. Furthermore, the Party will continue to conduct sound, democratic, and law-based governance, practice democratic centralism, and develop new and improved ways of exercising leadership. To improve the Party's leadership rules and regulations means to accelerate the establishment of regulations and frameworks that strengthen the Party's leadership over various aspects of work, especially those that uphold and strengthen the Party Central Committee's centralized and unified leadership. This is aimed at providing institutional guarantee for the Party to exercise overall leadership and to coordinate the efforts of all sides.

In terms of updating the Party's self-improvement rules and regulations, the Report indicates that in strengthening the Party politically, the Party will enforce strict political discipline and rules, ensure that Party committees (leading Party members groups) at all levels fully assume

32 For revision details of the CPC Constitution, please refer to 中国共产党第二十次全国代表大会秘书处负责人就党的二十大通过的中国共产党章程（修正案）答记者问 (Answers to Questions from the Press Regarding the CPC Constitution [Amendment] Adopted by the 20th CPC National Congress), 人民日报 (*People's Daily*), p. 6, Oct. 27, 2022.

their principal responsibilities. Arming the Party members, the Party will continue to use the XI Jinping Thought on Socialism with Chinese Characteristics for a New Era to achieve unity in thinking, will, and action. The Party will launch programs for Party members to study the Party's new theory and build the Party into a Marxist party of learning. The Party will steadfastly implement the central Party leadership's eight-point guidelines on improving conduct, continue to tackle formalism, bureaucracy, hedonism, and extravagance, and make consistent and sustained efforts to tackle prevalent and recurrent problems. The Party must make all-around efforts to tighten Party discipline, and urge leading officials, especially high-ranking ones, to be strict with themselves, earnestly fulfill their responsibilities, and conduct rigorous management within their jurisdictions. To enhance the Party's self-improvement rules and regulations means to move faster to update the regulations and frameworks in areas to see the Party's political building enhanced, its theory strengthened, its organizations consolidated, its conduct improved. This is aimed at enhancing the Party's creativity, cohesiveness, and capacity.

In terms of updating the Party's oversight and guarantee rules and regulations, the Report indicates that the Party will conduct concrete, targeted, and regular political oversight and keep leadership teams and their heads under effective oversight. The Party will improve the system for assessing officials' performance, and the Party will improve the regular working mechanisms for training and selecting promising young officials. The Party will implement the systems for intra-Party democracy, protect Party members' rights, and motivate them to become role models. At the same time, we must earnestly and prudently handle Party members who do not measure up to standards so as to preserve our Party membership's advanced nature and integrity. The Party will continue to take simultaneous, coordinated, and comprehensive steps to ensure that officials do not have the audacity, opportunity, or desire to be corrupt. To improve the regulations and frameworks for Party oversight and guarantee, means to refine and implement regulations and frameworks for the oversight, assessment, rewards and punishments, and guaranteeing of the Party organizations' work, activities, and the behavior of Party members. This is to ensure the proper exercise of power authorized by the Party and the people.

IV Great Mission of Chinese Modernization of the Rule of Law

Leading, standardizing and guaranteeing socialist modernization with socialist rule of law is a lofty mission and a remarkable advantage of Chinese modernization of the rule of law. Unlike modernization of the rule of law of other countries, Chinese modernization of the rule of law is deeply rooted in every aspect of national governance and building, completely taps into the strength of the rule of law, fully releases the advantages of socialist rule of law, and guarantees the sound governance

of China with the China system, thus creating a successful model of rule of law and of national development practice. President XI notes, "Over the seven decades since the founding of the People's Republic of China, our country has maintained rapid economic growth and lasting social stability, an achievement remarkable by any standards. This is closely related to our ongoing efforts to advance socialist rule of law."[33] "The sound development of China presents an outstanding development situation; this is primarily because China's national political system and legal system have clear advantages and strong vitality."[34] Starting from the broad perspective and lofty realm of governing the country and ensuring its security, the Report puts forward, "The comprehensive advancement of law-based governance has been a profound revolution in China's governance. Law-based governance is important for the Party's success in governing and rejuvenating the country, for the well-being of the people, and for the long-term stability of the Party and the country. We must give better play to the role of the rule of law in consolidating foundations, ensuring stable expectations, and delivering long-term benefits, and we must strive to build a modern socialist country in all respects under the rule of law."[35] To this end, the rule of law must run through all aspects of national governance and building, build a new form of rule of law that covers all aspects of the democratic process and all sectors of society, and guarantee the construction of a great modern socialist country with high-quality rule of law.

A | Running the Party, State and Army Under the Rule of Law

As the leading party, the CPC not only governs the Party itself but also governs the country, administers the military, and undertakes the task of building and governing the armed forces. A distinctive feature of China's governance system and discourse is the parallel emphasis on governing the Party, governing the country, and governing the military. The CPC exercises the rule of law into every field of Party governance, national governance, and military governance. It has successively put forward the categories and theories of governing the country by law, governing the military by law, and governing the Party by rules, bringing party governance, national governance, and military governance into the orbit of the rule of law. The Report to the 19th CPC National Congress provides the strategic plans and measures for governing the Party by rules, governing the country by law, and governing the military by law.

Governing the Party by rules is the fundamental method for the CPC to govern the Party. President XI originally puts forward the category of "governing the Party by rigorous rules" and systematically discusses the theory of governing the Party by rigorous rules. The Report puts forward, "We will continue to run the Party with

33 See XI, fn. 14 at 10.

34 XI Jinping, 坚持、完善和发展中国特色社会主义国家制度与法律制度 (Upholding, Improving and Developing Socialist State System and Legal System with Chinese Characteristics), Sep. 24, 2019, in 论坚持全面依法治国 (*Advancing Law-Based Governance*), 中央文献出版社 (Central Party Literature Press), at 265 (2020).

35 See XI, fn. 1 at 40.

systems and regulations. We should take the Party Constitution as our fundamental guide and give full play to the core role of democratic centralism in order to improve the framework of Party regulations, increase their authority, and fully enforce them. We will put in place mechanisms for upholding truth, correcting errors, uncovering problems, and remedying failings."[36] This equates to put forward a series of important tasks such as improving the system of laws and regulations within the Party. (1) We should take the Party Constitution as our fundamental guide. The Party Constitution should always be regarded as the fundamental basis for the whole Party to formulate rules and regulations and run the Party, and the Party Constitution's requirements should be implemented in all aspects of the whole process of strictly administering the Party in all respects, so as to encourage all Party members and officials to hold the Party Constitution in esteem and take a more proactive approach to the implementation of the Party Constitution. (2) We should improve the quality of making rules and regulations within the Party. To improve the framework of the Party regulations and create work mechanisms, it is necessary to ensure sound and democratic formulation of rules and regulations, and ensure that every rule and regulation system can work, succeed and win public support.[37] (3) We should enhance the authority of the Party regulations and fully enforce them. We should improve the mechanism for implementing the Party regulations, strengthen the implementation of the responsibility system for implementing intra-Party regulations, and ensure that these regulations are followed, strictly enforced, and violations are held accountable.

We should uphold the rule of law as a fundamental principle by which the Party leads the people in running the country. Law-based governance of China has rich theoretical content, including the requirements of the Party and the government exercising law-based governance, upholding "One Country, Two Systems" policy according to law and promoting national reunification. The Report makes a series of arrangements for upholding "One country, Two systems" policy and promoting national reunification according to law. This includes: taking steps to ensure law-based governance in Hong Kong and Macao, maintaining constitutional order as outlined in the Constitution and the basic laws; upholding and improving the "One Country, Two Systems" policy; supporting the chief executives and governments of the two regions in exercising law-based administration, enhancing their overall governance and management capacity, and improving their judicial and legal systems; ensuring the implementation of the laws and enforcement mechanisms for the two regions to safeguard national security; taking resolute action to prevent and stop interference in the affairs of Hong Kong and Macao by external forces; advancing our integrated development in all fields,

36 See XI, fn. 1 at 65–66.

37 See the Law Bureau, General Office, CPC Central Committee, 坚持依规治党、加强党内法规制度建设的行动指南 (Action Guide for Upholding Governing the Party by Rules and Strengthening the Promotion of the Intra-Party Laws and Regulations), 2 民主与法制 (*Democracy and Legal System*), (2022).

and improving systems and policies that contribute to the well-being of our Taiwan compatriots.

Running the armed forces in accordance with law and with strict discipline is the fundamental method of China in building and governing the armed forces. "A modern military must be a law-based military."[38] In the new era, the Party has incorporated the rule of law in the military affairs into the overall framework of comprehensive law-based governance and has systematically put forward the theory of governing the military by law. The Report emphasizes the deepening of the implementation of the strategy of governing the military by law and has made significant plans and measures for building a military legal system with Chinese characteristics. (1) We should strengthen mechanisms and strategic planning for running the armed forces in accordance with the law. This means focusing on fully enhancing the revolutionary nature of the armed forces and ensuring that they are modern and follow standard procedures in all operations, strengthening the role of rule of law in enhancing national defense and military capabilities, and strengthening mechanisms and strategic planning for running the armed forces in accordance with the law. (2) We should improve the Chinese system for law-based administration of military affairs. This means deepening military legislation work, ensuring the effective implementation of laws and regulations, strengthening oversight of law enforcement, and enhancing the law-based military governance related to foreign affairs.[39]

B | Promoting National Governance, Government Governance and Social Governance Under the Rule of Law

As the ruling party, the CPC leads the people in national governance, government governance and social governance. From the strategic perspective of national governance, President XI clearly puts forward the important idea of building a rule of law country, government, and have integrated the rule of law into every aspect of national governance, government governance, and social governance. "A law-based country, government, and society complement and reinforce each other. A law-based country is the goal of law-based development, a law-based government is the focus of building a law-based country, and a law-based society is the foundation for building a law-based country."[40] The Report makes important arrangements for the building of a law-based country, government, and society, aiming to vigorously promote the modernization of national governance, government

38 XI Jinping, 提高国防和军队建设法治化水平 (Strengthening the Role of Rule of Law in Enhancing National Defense and Military Capabilities), Dec. 26, 2014, in 论坚持全面依法治国 (*Advancing Law-Based Governance*), 中央文献出版社 (Central Party Literature Press), at 130 (2020).

39 See 习近平在出席解放军和武警部队代表团全体会议时强调贯彻依法治军战略，提高国防和军队建设法治化水平 (XI Jinping Emphasized the Implementation of the Strategy of Running the Armed Forces in Accordance with the Law for Strengthening the Role of Rule of Law in Enhancing National Defense and Military Capabilities, When Attending a Joint Group Session of National Committee Deputies to National People's Congress and National Committee Members of Chinese People's Political Consultative Conference from the Delegations of the People's Liberation Army and the Armed Police Force), 人民日报 (*People's Daily*), p. 1, Mar. 8, 2022.

40 See XI, fn. 14 at 9.

governance and social governance.

Building a law-based country is an inevitable requirement for the modernization of national governance. "A modern country must be a law-based country."[41] The Report requests that all work of the state should be carried out under the law-based. This requires the improvement of legal systems in every aspect of national governance, and the comprehensive advancement of the law-based in areas such as the economy, politics, culture, education, public health, ecological environment, judiciary, national defense, and diplomacy. The goal is to build a law-based country with good laws and governance.

Building a law-based government is integral to modernization of government governance. The Report emphasizes, "Building a law-based government is a key task and major part of comprehensively advancing law-based governance."[42] (1) Transforming government functions. "We will transform government functions, improve the government responsibility system and organizational structure, and establish legal footing for government institutions, functions, powers, procedures, and responsibilities, so as to enhance the efficiency and credibility of government administration."[43] (2) Advancing structural reform with regard to administrative law enforcement. We should continue to reform the comprehensive administrative law enforcement system, improve the administrative law enforcement system and mechanism with clear roles and responsibilities, smooth operation, strong guarantee, honesty and high efficiency, and improve the execution and authority of law enforcement. (3) Enhancing oversight mechanisms and oversight capacity with regard to administrative law enforcement. We should ensure that the right must be held responsible, and the failure must be held accountable. It is necessary to improve the entire process of administrative law enforcement and establish seamless oversight mechanisms to ensure that administrative power is exercised in an open and transparent manner.

Building a law-based society is a principal task for the modernization of social governance. In Sections 7 and 11, the Report made important arrangements and an action guide for the building of a law-based society. (1) We should improve the social governance system based on collaboration, participation, and shared benefits. "We will boost public participation in crime prevention and control and create an atmosphere that honors individuals who rise to the occasion during emergencies. This will foster a community of social governance in which everyone fulfills their responsibilities and shares in the benefits."[44] (2) Advancing law-based governance at multiple levels and in multiple areas. It is necessary to improve the normative system for social governance, advance law-based governance at multiple levels and in multiple areas and enhance the law-based in social governance. We should work faster to modernize and enhance social governance in cities. (3) Improving the mechanism for

41 See XI, fn. 38 at 130.
42 See XI, fn. 1 at 41.
43 See XI, fn. 1 at 41.
44 See XI, fn. 1 at 54.

preventing and resolving social disputes and problems. "We will apply and further develop the 'Fengqiao model' for promoting community-level governance in the new era, and we will improve the mechanisms for appropriately addressing disputes between members of the public under the new circumstances. We will improve our work in handling public complaints and maintain open and regular channels for learning about people's concerns, handling their claims, and protecting their rights and interests. Primary-level social governance platforms featuring grid-based management, meticulous services, and IT support will be improved to strengthen urban and rural community governance. We should see that problems are resolved as they emerge at the community level."[45] (4) Maintaining law and order through comprehensive measures. We should take a holistic approach to ensuring law and order, we should consistently combat and root out organized crime, and we will lawfully crack down on various illegal and criminal activities that cause grave public concern, creating safer and more peaceful urban and rural areas, and ensuring the well-being of the people.

C | Promoting Economic, Political, Cultural, Social and Ecological Civilization Progress Under the Rule of Law

The "five in one all-round plan" for promoting economic, political, cultural, social and ecological civilization progress is the strategic pattern of socialist modernization. Building a modern socialist country in all respects under the law-based requires application of law-based thinking and approaches in implementing the "five in one all-round plan," and advancing economic, political, cultural, social and ecological civilization progress under the law-based. Moreover, it requires engaging in high-quality development and whole-process people's democracy. In addition, it requires developing a strong socialist culture, building a harmonious socialist society, and building a beautiful China, which highlights the prominent position of ecological civilization construction and integrating it into all aspects and the entire process of economic, political, cultural, and social development.

Firstly, the law-based shall be applied to guarantee high-quality development. "The socialist market economy is a credit economy and an economy ruled by law."[46] Starting from the law-based's role of support and guarantee in economic development, the Report provides the systematic plans and measures for ensuring high-quality development with high-quality law-based. (1) Putting in a high-standard market system. "We will improve the modern corporate system with distinctive Chinese features," "We will refine the systems underpinning the market economy, such as those for property rights protection, market access, fair competition, and social credit, in order to improve the business environment."[47] This requires enhancing the legal systems of civil and commercial law, economic law and

45 See XI, fn. 1 at 54.
46 XI Jinping, 在企业家座谈会上的讲话 (Speech at a Forum with Entrepreneurs), 人民日报 (*People's Daily*), p. 2, Jul. 22, 2020.
47 See XI, fn. 1 at 29.

social law, and prompting the legal system of market economy. (2) Intensifying efforts to transform government functions. This requires furthering reform to streamline administration and delegate power, improve regulation, and upgrade services. That is to say that "We will intensify reforms to streamline government administration, delegate power, improve regulation, and upgrade services." (3) Protecting the property rights of private enterprises and the rights and interests of entrepreneurs according to law. "We will provide an enabling environment for private enterprises, protect their property rights and the rights and interests of entrepreneurs in accordance with the law, and facilitate the growth of the private sector."[48] (4) Strengthening the legal protection of intellectual property rights. "We will strengthen the legal protection of intellectual property rights, in order to establish a foundational system for all-round innovation." (5) Strengthening anti-monopoly and anti-unfair competition law enforcement. "We will take stronger action against monopolies and unfair competition, break local protectionism and administrative monopolies, and conduct law-based regulation and guidance to promote the healthy development of capital."[49] (6) Preventing and controlling financial risks according to law. "We will deepen structural reform in the financial sector, modernize the central bank system, and strengthen and refine modern financial regulation. We will reinforce the systems that safeguard financial stability, place all types of financial activities under regulation according to the law, and ensure no systemic risks arise."[50] (7) Protecting the lawful rights and interests of farmers according to law. "We will refine the mechanisms for ensuring the incomes of grain growers and for compensating major grain-producing areas." "We will advance reform of the rural land system and grant farmers more adequate property rights and interests. We will safeguard the lawful land rights and interests of rural residents who have moved to urban areas and obtained permanent residency, and we will encourage law-based, voluntary, and paid transfers of such rights and interests."[51] (8) Fostering a world-class business environment that is market-oriented, law-based, and internationalized Create a first-class business environment characterized by marketization, law-based and internationalization. "We will make appropriate reductions to the negative list for foreign investment, protect the rights and interests of foreign investors in accordance with the law, and foster a world-class business environment that is market-oriented, law-based, and internationalized."[52]

Secondly, the law-based shall be applied to guarantee the whole-process people's democracy. The whole-process people's democracy is a new type of democratic system that goes beyond the fragmented, populist, and formalized democracy of the West. It requires the institutionalization, legalization, and proceduralization of people's democracy in

48 See XI, fn. 1 at 29.
49 See XI, fn. 1 at 30.
50 See XI, fn. 1 at 29–30.
51 See XI, fn. 1 at 31.
52 See XI, fn. 1 at 33.

all areas and aspects. "In order to develop people's democracy, we must persist in governing the country according to law, safeguard the authority of the Constitution and law, institutionalize and legalize democracy, so that this system and law will not change as a result of changes in leaders' views and attention."[53] Focusing on the close relationship between democracy and the law-based, and between the whole-process people's democracy and the comprehensive law-based, the Report puts forward major measures to promote the democracy institutionalization, legalization, and proceduralization and to advance the formulation of a new democratic system featuring the whole-process people's democracy. (1) Ensuring that the people exercise their rights as the masters of the country. "We will improve the system of institutions through which the people run the country. We will encourage the people's orderly participation in political affairs and guarantee their ability to engage in democratic elections, consultations, decision-making, management, and oversight in accordance with the law," "We must uphold and improve our country's foundational, basic, and important political systems, expand democratic channels, and diversify the forms of democracy, so as to ensure that people participate in various ways in the management of state, economic, cultural, and social affairs in accordance with the law."[54] (2) Ensuring that the National People's Congress and its standing committees exercise their functions and powers. The system of the people's congresses is an important institutional carrier for realizing the whole-process people's democracy in China. "We will support and ensure that people's congresses and their standing committees lawfully exercise the powers of enacting laws, conducting oversight, making decisions, and appointing and removing officials. We will improve the system under which people's congresses conduct oversight of administrative, supervisory, adjudicatory, and procuratorial bodies, and we will uphold the unity, sanctity, and authority of the law."[55] (3) Advancing consultative democracy. Consultative democracy is an important method by which whole-process people's democracy is practiced. "We will uphold and improve the system of CPC-led multiparty cooperation and political consultation." "We will give play to the CPPCC's role as a specialized consultative body and see that it coordinates efforts to promote democracy and unity." "Efforts will be also made to improve the systems and mechanisms through which CPPCC committees conduct democratic oversight and their members stay engaged with people from various sectors."[56] (4) Ensuring that the people manage public affairs and run public-interest programs at the primary level in accordance with the law. Primary-level democracy is an important manifestation of whole-process people's democracy. We should improve

53 XI Jinping, 在庆祝全国人民代表大会成立六十周年大会上的讲话 (Speech at the Celebration of the 60th Anniversary of the Founding of the National People's Congress), Sep. 5, 2014, in 论坚持全面依法治国 (*Advancing Law-Based Governance*), 中央文献出版社 (Central Party Literature Press), at 72 (2020).

54 See XI, fn. 1 at 37–38.

55 See XI, fn. 1 at 38.

56 See XI, fn. 1 at 38–39.

the mechanism for community-level self-governance under the leadership of primary-level Party organizations. We should increase transparency in government affairs, improve the system of democratic management in enterprises and public institutions, which takes basic shape in the form of workers' congresses.

Thirdly, the law-based shall be applied to guarantee the development of a strong culture in China. Chinese modernization of the law-based is the modernization of material and cultural-ethical advancement. The Report attaches great importance to the important role of the law-based in cultural construction, and provides the important plans and measures for ensuring the construction of a strong cultural country based on the law-based. (1) We should uphold the foundational system for ensuring the guiding role of Marxism in the ideological domain. The responsibility system for ideological work is fully implemented. We should refine the working systems for arming Party members, educating the people, and guiding our practice with the Party's new theories. We should improve the system for conducting comprehensive cyberspace management. (2) Ensure that the core socialist values are incorporated into efforts to advance the law-based. "We will uphold both the law-based and the rule of virtue and see that the core socialist values are incorporated into efforts to advance the law-based, into social development, and into the people's daily lives."[57] (3) Enhancing civility throughout society. "The system and working mechanisms for volunteer services will be improved. We will promote integrity and credibility in society and work to perfect relevant long-term mechanisms."[58]

Fourthly, the law-based shall be applied to guarantee the building of a harmonious socialist society. "A harmonious society should be a law-based society."[59] It is built on the foundation of the law-based, characterized by equity and justice, guaranteeing rights, honesty and fraternity, vigor and vitality, stability and order. The Report emphasizes the use of law-based thinking and practice to address the urgent and difficult issues that concern the well-being of the people. It aims to use the law-based to enhance people's livelihoods and social harmony. (1) Keeping income distribution well-regulated. "We will enhance the roles of taxation, social security, and transfer payments in regulating income distribution. We will improve the personal income tax system and keep income distribution and the means of accumulating wealth well-regulated. We will protect lawful income, adjust excessive income, and prohibit illicit income."[60] (2) Ensuring the right to fair employment in accordance with the law. "We will remove institutional and policy barriers that impede the flow of labor and talent, and eliminate unjustified restrictions and discrimination that undermine equal employment. In this way, we will ensure that everyone has the opportunity to pursue

57 See XI, fn. 1 at 44.
58 See XI, fn. 1 at 45.
59 XI Jinping, 密织法律之网，强化法治之力 (Promoting Law Network to Strengthen the Rule of Law), Oct. 23, 2014, in 论坚持全面依法治国 (*Advancing Law-Based Governance*), 中央文献出版社 (Central Party Literature Press), at 103 (2020).
60 See XI, fn. 1 at 47.

a career through hard work."[61] (3) Improve the protection system for workers' rights and interests. "We will improve labor laws and regulations, the mechanisms for labor relation consultations and mediation, and the systems for safeguarding workers' rights and interests, and we will do more to protect the rights and interests of those in flexible employment and new forms of employment."[62] (4) Improving the social security system. We should improve the unified national management system for basic old-age insurance funds. The statutory retirement age should be gradually raised. We should improve the mechanisms for financing and adjusting benefits for basic old-age insurance and basic medical insurance. We should improve major disease insurance and medical assistance schemes, and see that medical expenses are settled where they are incurred. We should institute an insurance system to support long-term care and vigorously develop commercial medical insurance. (5) Taking care of disadvantaged groups. The multi-tiered and categorized social assistance system will be improved. We should protect the lawful rights and interests of women and children. For people with disabilities, we should improve the social security and service systems. (6) Advancing the Healthy China Initiative. We should develop new mechanisms for enhancing collaboration and integration between hospitals and institutions for disease prevention and control. We should also improve the public health system, and strengthen the systems for epidemic prevention, control, and treatment as well as our emergency response capacity. (7) Improving the national security system. We must uphold the Central Committee's centralized, unified leadership over national security work and make sure that our leadership system for national security is high-performing and authoritative. Improvements will be made in the legal, strategy, and policy systems for national security as well as the risk monitoring and early warning systems and the national emergency management system.

Fifthly, the law-based shall be applied to guarantee the building of a Beautiful China initiative in accordance with law. A notable feature of Chinese modernization of the law-based with Chinese characteristics is to place the eco-civilization construction law-based in a more important position and to promote the harmony between humanity and nature. The Report emphasizes the strictest and most rigorous law-based to safeguard the building a beautiful China initiative, and provides the important plans and measures for the eco-civilization construction and the law-based. (1) Intensifying pollution prevention and control in accordance with the law. We should continue to control pollution in a lawful way. The pollutant discharge permit system will be implemented across the board. We should strengthen central government environmental inspections, and more will be done to modernize the environmental governance system. (2) Enhancing diversity in our ecosystems in accordance with the law. Reform of collective forest tenure will be deepened;

61 See XI, fn. 1 at 47.
62 See XI, fn. 1 at 48.

the system of fallowing and crop rotation will be improved; and the compensation system for ecological conservation will be improved. (3) Working actively and prudently toward the goals of reaching peak carbon emissions and carbon neutrality in accordance with the law. We should transition gradually toward controlling both the amount and intensity of carbon emissions. We should improve the statistics and accounting system and the cap-and-trade system for carbon emissions.

D | Promoting Domestic Governance and International Governance Under the Rule of Law

In the era of globalization, domestic governance and international governance are closely interconnected, influenced and constrained. The CPC upholds the basic principle of coordinating the overall domestic and international situations in governing the country. It emphasizes the need to coordinate and comprehensively utilize both domestic and international markets, resources, and rules. Maintaining a global vision, President XI clearly puts forward significant ideas such as promoting the domestic law-based and foreign-related law-based, and building the international law-based, and promoting the law-based to cover all fields of domestic governance and international governance. The Report emphasizes the need to coordinate and promote the law-based domestically and internationally. In Sections 4, 11, and 14, the Report presents the important plans and measures to advance the law-based in international affairs and to build the international law-based.

Strengthening the international law-based is an inevitable choice for safeguarding national sovereignty, security and development interests in accordance with the law. The Report clearly specifies the key tasks of international law-based promotion. (1) Strengthening Mechanisms for countering foreign sanctions, interference, and "long-arm jurisdiction." "China opposes protectionism, the erection of fences and barriers, decoupling, disruption of industrial and supply chains, unilateral sanctions, and maximum-pressure tactics."[63] It clearly indicates that "Mechanisms for countering foreign sanctions, interference, and long-arm jurisdiction will be strengthened."[64] This requires "Strengthening legislation in international fields, further improving laws and regulations against sanctions, interference and 'long-arm jurisdiction,' and develop a system of laws for extraterritorial application"[65] (2) Strengthening our capacity to ensure overseas security. "We will strengthen our capacity to ensure overseas security and protect the lawful rights and interests of Chinese citizens and legal entities overseas. We will safeguard China's maritime rights and interests and resolutely defend our country's sovereignty, security, and development interests."[66] (3) Expanding institutional opening up. We should steadily expand institutional opening up

63 See XI, fn. 1 at 61–62.
64 See XI, fn. 1 at 53.
65 See XI, fn. 15 at 6.
66 See XI, fn. 1 at 53.

in rules, regulations, management and standards.

Advancing the international law-based development is an important guarantee for transforming the global governance system and building a community of shared future for mankind. The Report systematically put forward the China concept and China plan for promoting the international law-based. (1) Building a community of shared future for mankind. Building a community with a shared future for humanity is the common aspiration of people from all countries around the world. It aims to build an open, inclusive, clean, and beautiful world that enjoys lasting peace, universal security, and common prosperity. (2) Promoting the shared values of all humanity. "All countries to hold dear humanity's shared values of peace, development, fairness, justice, democracy, and freedom; to promote mutual understanding and forge closer bonds with other peoples; and to respect the diversity of civilizations. Let us allow cultural exchanges to transcend estrangement, mutual learning to transcend clashes, and coexistence to transcend feelings of superiority. Let us all join forces to meet all types of global challenges."[67] (3) Pursuing a vision of global governance featuring shared growth through discussion and collaboration. "China plays an active part in the reform and development of the global governance system. It pursues a vision of global governance featuring shared growth through discussion and collaboration. China upholds true multilateralism, promotes greater democracy in international relations, and works to make global governance fairer and more equitable."[68] (4) Being firm in safeguarding the international system with the United Nations at its core, the international order underpinned by international law. "China is firm in safeguarding the international system with the United Nations at its core, the international order underpinned by international law, and the basic norms governing international relations based on the purposes and principles of the UN Charter."[69] (5) Promoting the building of a new type of international relations. "China adheres to the Five Principles of Peaceful Coexistence in pursuing friendship and cooperation with other countries. It is committed to promoting a new type of international relations, deepening and expanding global partnerships based on equality, openness, and cooperation, and broadening the convergence of interests with other countries."[70]

Acknowledgments This article is a phased achievement of the Philosophy and Social Science Major Project of the Ministry of Education of China in 2022, "Studies on the Practices for Building a Chinese-Style Socialist Rule of Law System and Developing the Comprehensive Rule of Law" (2022JZDZ002).

67 See XI, fn. 1 at 63.
68 See XI, fn. 1 at 62.
69 See XI, fn. 1 at 62.
70 See XI, fn. 1 at 61.