

Chinese Modernization and the Rule of Law

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The report to the 20th National Congress of the Communist Party of China (CPC) points out that Chinese modernization “contains elements that are common to the modernization processes of all countries, but it is more characterized by features that are unique to the Chinese context.”¹ To gain a scientific understanding of Chinese modernization, it is imperative to grasp both its distinctive Chinese characteristics and the common features of modernization processes of all countries around the world, as well as to comprehend both its essence and principles and the pathways to its realization. For the first time, the report to the 20th CPC National Congress dedicated a separate chapter to “Exercising Law-based Governance on All Fronts and Advancing the Rule of Law in China,”² and put forward the important proposition of “striving to build a modern socialist country in all respects under the rule of law.” This article intends to explore the relationship between Chinese modernization and the rule of law, offering a preliminary analysis of relevant theoretical issues and practical pathways in accordance with the guiding principles of the 20th CPC National Congress, with the aim of deepening understanding of this important proposition.

I. The Rule of Law as a Common Feature of Modernization Across the World

Modernization refers to the historical process through which a country, or even the entire world, transitions from a traditional society to a modern one. The suffix “-ization” implies a trend and a historical movement. This trend and movement are not in a state of completion but are ongoing. The globally recognized criteria for measuring modernization are three-dimensional, integrating material, institutional, and cultural-ethical progress. It represents the transformation of human civilization in various fields such as economy, politics, culture, society and ecology, which is driven by the industrial and technological revolutions that have transcended agrarian civilization. It is impossible to build a modern society by relying solely on traditional agrarian civilization. A review of over 20 countries with a relatively high degree of modernization reveals that they share the following common features.

1. **Industrialization.** Industrialization is the basic characteristic of modernization

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¹ Xi Jinping, “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 Communist Party of China,” *Qiushi* 21 (2022): 14.

² *Ibid.*, 22.

across nations and a prerequisite for it. Without industrialization, there can be no modernization. The Chinese civilization once led the world, whose advantage was rooted in agrarian civilization. During the Ming and Qing dynasties, when Western countries were undergoing industrial and technological revolutions, China missed out on historical opportunities due to its policy of isolationism, which made the country oblivious to the global changes. The essence of industrialization is a revolution in productivity, which transforms traditional small-scale, manual, and dispersed agricultural production into socialized mass production, thereby turning to modern productivity. Industrialization provides the driving force for modernization. The first industrial revolution introduced mechanization, the second electrification, and the third computer intelligence; humanity is now embracing the fourth industrial revolution, characterized by digitization and generative artificial intelligence (AI). Industrialization corresponds to technological innovation, with science and technology being the primary productive force and innovation the primary driving force. Science and technology are the source and lifeblood of industrialization and the yardstick for measuring the level of modernization.

2. Marketization. Marketization represents the economic characteristics of modernization across nations. The outcome of industrialization is a substantial increase in social productivity and abundant commodities, leading to large-scale transactions and a unified market. History has fully demonstrated that the market serves as the optimal platform for resource allocation. It acts as the fundamental link for the allocation and interconnection of various economic factors in modern society. The report to the 20th CPC National Congress underscores the need to adhere to the reform direction of a socialist market economy, build a high-standard socialist market economic system, fully leverage the decisive role of the market in resource allocation, and give better play to the role of the government.³ Marketization requires the establishment of a unified large market in a country and calls for economic globalization as a global trend.

3. Democratization. Democratization is the political characteristic of modernization across nations. Karl Marx once stated in *Capital: A Critique of Political Economy* that the commodity is “a born leveler and a cynic.”⁴ Modern democracy is a product of the market economy and the result of superstructural changes that align with the requirements of the market economy. Democracy not only signifies equality among individuals but also implies that no one is enslaved by others or confined, bound, or oppressed by power. In essence, democracy means that each individual is his or her own master and collectively the master of the nation. It represents the most advanced political system in human society to date. It ensures that sovereignty rests with the people and that state power is owned, utilized, and managed by the people. The report to the 20th CPC National Congress states that “people’s democracy is the lifeblood of socialism.”⁵ Without democracy, there can be no

³ Ibid.

⁴ Ibid., 17.

⁵ Karl Marx, *Capital: A Critique of Political Economy* (vol. 1), translated by the Central Compilation and Translation Bureau (CCTB) under the CPC Central Committee for the Works of Karl Marx, Friedrich Engels, Vladimir Lenin, and Joseph Stalin (Beijing: People’s Publishing House, 2004), 104.

socialism, and without democracy, there can be no socialist modernization.⁶

4. Rule of Law. The rule of law represents an institutional characteristic of modernization across nations. Without it, modernization cannot be achieved. A nation, government, and society governed by law form an integrated whole, offering a predictable and secure way of life. It signifies the supreme status of constitutional law in social affairs and its role in regulating the exercise of public power. It reflects the shared value of fairness and justice throughout society, with the ultimate goal of ensuring respect for and protection of human dignity and human rights. The rule of law is achieved when laws can effectively prevent the abuse of public power and ensure accountability for public power and its holders. It also entails a set of procedures: For citizens, all that is not prohibited by law is free; for public power, all that is not authorized by law is impermissible. Any compulsory measures that affect citizens and their properties must be complemented by remedies. All systems must be established by law, and laws shall not have retroactive effect.

5. Urbanization. Urbanization is a social characteristic of modernization across nations and a prerequisite for it. It encompasses not only modern lifestyles and means of subsistence but also modern production methods, serving as the physical space for the secondary and tertiary industries. Urbanization signifies humanity's transition from an acquaintance-based society in rural and agricultural settings to a stranger-based society governed by legal principles in urban areas. Cities offer work, education, healthcare, housing, leisure, and social interactions that transcend the isolation, natural dependency, and uniformity of rural life. The level of urbanization is a key indicator of a nation's degree of modernization.

6. Green Development. Green development represents an ecological characteristic of modernization across nations and serves as its cornerstone. The concept of ecological sustainability originated from the historical lessons learned by Western countries, which initially pursued pollution-intensive development before adopting remedial measures. With the growing depletion of fossil fuels and the increasingly pronounced greenhouse effect caused by massive carbon dioxide emissions from early industrialized nations, the green industrial revolution and green lifestyles have given rise to green energy, green manufacturing, green products, green finance, green tariffs, green housing, and green consumption, which are now defining features of modernization worldwide.

Among the aforementioned six shared characteristics of modernization across nations, the rule of law plays a leading role. Its position and function in the modernization process are highly distinctive. The rule of law reveals a historical law: whether for pioneering modernized nations or those catching up, achieving modernization has invariably been preceded by the establishment of the rule of law. Only after achieving legal governance have these nations been listed among developed and modernized countries. There have been no exceptions to this law among the more than 20 highly modernized nations globally. This historical

⁶ Xi Jinping, "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 Communist Party of China," *Qiushi* 21 (2022): 20.

experience offers valuable insights for us to draw upon.

II. Why Chinese Modernization Must Be Advanced Under the Rule of Law

The relationship between the rule of law and Chinese modernization is manifested in four dimensions. First, legal governance is an inherent requirement of Chinese modernization. As Xi Jinping, general secretary of the Communist Party of China (CPC) Central Committee emphasized, “A modernized nation must be one governed by law.”⁷ Second, the rule of law plays a guiding role in advancing Chinese modernization. When elaborating on the relationship between reform and legal governance, General Secretary Xi Jinping stressed the need to “skillfully employ legal thinking and approaches to advance reforms,”⁸ advocating for “prioritizing the rule of law.”⁹ At the Central Economic Work Conference in 2023, he further underscored the principle of “establishing new frameworks before dismantling outdated ones.”¹⁰ Third, the rule of law can safeguard the outcomes of Chinese modernization. The report to the 20th CPC National Congress underscores that “we must give better play to the role of the rule of law in consolidating foundations, ensuring stable expectations, and delivering long-term benefits”¹¹. Fourth, the rule of law provides the exclusive pathway for advancing Chinese modernization. Its role can be interpreted from the following dimensions:

Firstly, the general laws governing the history of human development show that the rule of law stands as the most effective approach to governance in human society to date. Four fundamental principles have emerged through its historical evolution: First, the rule of law marks humanity’s transition from barbarism to civilization. Lyndon B. Johnson, the 36th president of the United States, once stated, “Law is the greatest human invention. All the rest give him mastery over his world, but law gives him mastery over himself.”¹² Second, the rule of law symbolizes political civilization in human society. As General Secretary Xi Jinping pointed out, “The question of governance by law versus governance by man represents a fundamental issue in the history of human political civilization and a critical challenge all nations must address in realizing modernization.”¹³ Historically, governance has taken three primary forms: theocracy, rule by man, and the rule of law. Following the decline of religious courts,

⁷ Deng Xiaoping, “Upholding the Four Cardinal Principles,” *Comrade Deng Xiaoping’s Discourses on Upholding the Four Cardinal Principles and Opposing Bourgeois Liberalization*, compiled by the Institute of Party History and Literature of the CPC Central Committee (Beijing: People’s Publishing House, 1989), 8.

⁸ Xi Jinping, “Enhancing Legal Governance in National Defense and Military Modernization,” *On Upholding Comprehensive Rule of Law* (Beijing: Central Party Literature Press, 2020), 130.

⁹ Xi Jinping, “Thoroughly Implementing the Guiding Principles of the Third Plenary Session of the 20th CPC Central Committee to Promote Steady Progress in Reforms,” *People’s Daily*, October 30, 2024, 1.

¹⁰ Xi Jinping, “Speech at the First Meeting of the Commission for Law-based Governance of the CPC Central Committee,” *On Upholding Comprehensive Rule of Law* (Beijing: Central Party Literature Press (2020), 233.

¹¹ “The Central Economic Work Conference Held in Beijing,” *People’s Daily*, December 13, 2023, 1.

¹² Xi Jinping, “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 Communist Party of China,” *Qiushi* 21 (2022): 22.

¹³ Lyndon B. Johnson, *Remarks to the Delegates to the Conference on World Peace through Law*, The American Presidency Project (September 16, 1965), <https://www.presidency.ucsb.edu/documents/remarks-the-delegates-the-conference-world-peace-through-law>.

secular states have been left with two options: rule by man or the rule of law. Ultimately, the rule of law has prevailed, becoming the symbol of political and institutional civilization. Third, market economies and democratic politics are inherently grounded in the rule of law. The rule of law emerged from the interplay of market economies and democratic politics. Internally, it regulates the relationship between public power and private rights, achieving harmony through legal frameworks. Externally, it ensures both the vitality and order of market economies while guaranteeing the authenticity and effectiveness of democratic politics. Democracy, the rule of law, and market economies form an iron triangle of modern institutional frameworks. Fourth, robust legal governance facilitates successful modernization; its absence leads to systemic pitfalls. As General Secretary Xi Jinping observed, “A review of modern world history reveals that no nation achieving successful modernization has failed to resolve the tension between the rule of law and rule by man. Conversely, some nations experienced rapid growth but stalled at the threshold of modernization, falling into various ‘traps’ characterized by economic stagnation or regression — an outcome largely attributable to weak legal governance.”¹⁴ The general laws governing the development of the rule of law indicate that to advance Chinese modernization, we must embrace the rule of law.

Secondly, based on the CPC’s own governance experiences and lessons, advancing Chinese modernization requires embracing the rule of law. Since the founding of the People’s Republic of China, the development of the rule of law can be divided into four historical stages: From 1949 to 1956, the Party attached great importance to the rule of law. In just seven years, the Party had enacted as many as 731 laws and decrees, marking an initial step onto the path of legal governance. As a result, various undertakings of the Party and the state began to flourish; the two decades from 1957 to 1976 marked a period of stagnation and regression in the rule of law, during which the Party and the state encountered unprecedented difficulties in all endeavors; the years from 1978 to 2012 was a period of restoration and reconstruction of socialist rule of law, during which governing the country in accordance with the law served as a basic strategy, law-based governance became a fundamental approach, and the greatest achievement in legal construction was the establishment of the legal system with Chinese socialist characteristics; Since the 18th CPC National Congress, China has entered a new era of comprehensively governing the country in accordance with the law, achieved historic milestones and undergone historic transformations in legal construction. The Party has led the people to jointly create two miracles: Rapid economic development and long-term social stability, which were both closely tied to the rule of law. When summarizing China’s historical experiences and lessons, General Secretary Xi Jinping pointed out, “Whenever the rule of law was emphasized and flourished, the country enjoyed peace and prosperity; whenever it was neglected and weakened, the country faced turmoil and public discontent.”¹⁵ The conclusion is: “When the rule of law flourishes, the country prospers; when the rule of law wanes,

¹⁴ Xi Jinping, “Speech at the Second Plenary Session of the 18th CPC Central Committee,” *Selected Quotations from Xi Jinping’s Discourses on Comprehensive Rule of Law* (Beijing: Central Party Literature Press (2015), 12.

¹⁵ *Ibid.*

the country falls into chaos.”¹⁶

Last but not least, in terms of the functions of the rule of law, advancing Chinese modernization must rely on the rule of law. The rule of law is not merely a set of rules but also a lifestyle in modern society. The modernization of people is the cornerstone of modernization in all other aspects, and choosing a lifestyle under the rule of law represents a rational decision made by individuals with a modern mindset. Among the tools for national governance, the rule of law boasts unique functions that other tools — such as politics, economy, discipline, policy, and violence — do not offer. It can maximize public support and represent the greatest common denominator for social consensus. The rule of law is an undertaking in pursuit of fairness and justice, which is distributed by legislation, implemented by law enforcement, realized by law-abiding behavior, and rectified by the judiciary.¹⁷ It provides people with the most stable and reliable social expectations. Additionally, it serves as the ultimate criterion for resolving disputes and defining rights, as well as the most effective public instrument for constraining public power and protecting private rights. Moreover, it constitutes the best business environment. When elaborating on the relationships within the “Four-pronged Comprehensive Strategy,” General Secretary Xi Jinping pointed out that comprehensive law-based governance holds a special position within the strategy, serving as an overarching, foundational, and supportive element.¹⁸ Without comprehensive law-based governance, it would be impossible to realize the other “comprehensives.”

In summary, the historical, theoretical, and practical logic from both ancient and modern times, as well as from China and other countries, all lead to a common conclusion: the rule of law is the only stable and reliable platform and pathway for advancing Chinese modernization.

III. Unwaveringly Pursuing the Path of Socialist Rule of Law with Chinese Characteristics

Different countries adopt diverse models, forms, and paths of the rule of law. To comprehensively build a modern socialist country under the rule of law, we must follow the path of socialist rule of law with Chinese characteristics.

The socialist rule of law with Chinese characteristics differs from the Western rule of law in the following aspects:

1. Differences in Class Nature. China’s rule of law is a socialist rule of law led by the CPC, which is, in essence, the organic unity of the Party’s propositions and the will of the people. In contrast, as analyzed by Karl Marx and Friedrich Engels in the *The Communist Manifesto*, the Western rule of law “is nothing but the will of your class, elevated to the status of law, and the content of this will is determined by the

¹⁶ Ibid., 8.

¹⁷ Ibid.

¹⁸ Xi Jinping, “Strengthening Party Leadership over Comprehensive Law-based Governance,” *Qiushi* 4 (2019): 8; Xi Jinping, “Speech at the Second Plenary Session of the Fourth Plenary Session of the 18th CPC Central Committee,” *Selections from Xi Jinping’s Discourses on the Coordinated Advancement of the “Four-pronged Comprehensive Strategy,”* compiled by the Institute of Party History and Literature of the CPC Central Committee (Beijing: Central Party Literature Press, 2015), 100.

material conditions of life of your class.”¹⁹ The greatest contribution of Marxist jurisprudence to the history of human legal thought lies in its revelation of the essence of law. The judgment made by Karl Marx and Friedrich Engels 177 years ago remains relevant today.

2. Differences in Historical Traditions. The Western rule of law is built upon two major historical traditions: the classical democratic tradition inherited from ancient Greek city-states and the Roman legal tradition left by ancient Rome after its conquest of the European continent. These traditions have evolved into the common law system, primarily characterized by case law, and the civil law system, mainly represented by codified statutes, since the Middle Ages. The traditional Chinese rule of law also has two origins: the criminal law originated from military practices,²⁰ while governance originated from ritual propriety. Ritual propriety served as a significant manifestation of law in ancient China. The ideological roots of Chinese rule of law are primarily divided into two branches: Confucianism, which advocates “rule by virtue,” and Legalism, which advocates “rule by law.” Xunzi was the first to propose “upholding ritual propriety while emphasizing law.”²¹ After the failure of Qin’s practice of abandoning virtue and relying solely on law, Emperor Wu of the Han Dynasty adopted Dong Zhongshu’s proposal to implement “virtue as the primary principle, supplemented by penal law.”²² Emperor Xuan of the Han Dynasty continued Emperor Wu’s policy, advocating “a blend of hegemonic and kingly approaches,”²³ leading to the integration of virtue and law as the orthodox legal ideology in China for over 2,000 years. This ideology is, in essence, a reiteration of Xunzi’s “upholding ritual propriety while emphasizing law.” Later, Tan Sitong remarked, “The scholarship of the past 2,000 years is essentially Xunzi’s thought,”²⁴ implying that Xunzi’s ideology of integrating virtue and law has dominated China for 2,000 years. Today, we still adhere to the combination of rule by law and rule by virtue, which represents a vivid application of fine traditional Chinese legal culture in modern times and serves as an exemplary case of integrating Marxist jurisprudence with China’s reality and its fine traditional culture.

3. Differences in Social Foundations. The social bedrock of the Western rule of law lies in religion. After the Reformation, the concept of equality before God spurred the widespread acceptance of the ideas of freedom and equality in the West, and many rituals from religious trials were retained in secular courts. For instance, judges’ robes originated from the attire of church bishops, and court witnesses still swear on the Bible. Without religion, the Western rule of law would not exist. The faith in religion

¹⁹ Karl Marx and Friedrich Engels, *The Communist Manifesto*, translated by the Central Compilation and Translation Bureau (CCTB) under the CPC Central Committee for the Works of Karl Marx, Friedrich Engels, Vladimir Lenin, and Joseph Stalin (Beijing: People’s Publishing House, 2018), 45.

²⁰ *History of the Liao Dynasty: Annals of Penal Law*. The original text states, “Punishment originates in military force and ends in social ritual.”

²¹ *Xunzi: A General Outline*. The original text reads, “A ruler who upholds ritual propriety and respects the wise will achieve hegemony; one who emphasizes law and loves the people will achieve dominance; one who seeks profit and is deceitful will face peril.”

²² *Spring and Autumn Annals: Discerning Human Affairs*. The original text states, “The function of punishment is to serve as an auxiliary to virtue, just as yin serves as a complement to yang.”

²³ *Book of Han: Annals of Emperor Yuan*.

²⁴ *Ren Xue: Collected Works of Tan Sitong* (Shenyang: Liaoning People’s Publishing House, 1994), 70.

in Western society has also been transformed into faith in the rule of law. The Western model of rule of law can be summarized as “religion + law.” The social foundation of the Chinese rule of law is entirely different from that of the West. Chinese ancestors underwent a profound ideological transformation during the Zhou Dynasty, concluding that the ultimate challenge in national governance was not divine rule but rather moral governance, and that seeking virtue was more effective than seeking divine intervention. The philosophy of “revering heaven and protecting the people” thus became the philosophical foundation of Chinese society. Instead of choosing religion as the cornerstone of society, our ancestors created the concept of natural order, anchoring society in ethics, kinship, and virtue, thereby shaping a society based on human relationships that has lasted for thousands of years. *Guanxi* (personal connections) and *mianzi* (face or reputation) are the two major pillars connecting individuals in Chinese society. The essence of *guanxi* lies in ethics, while that of *mianzi* in dignity. The pinnacle of ancient Chinese jurisprudence was the unity of “natural order, state law, and human sentiment.” This idea has evolved to the present day, requiring our judicial system to realize the organic unity of political, legal and social outcomes.

4. Differences in the Paths of Development. Foreign rule of law systems can be categorized into four models: first, the endogenous evolution model exemplified by the United Kingdom; second, the Roman law reception model adopted by civil law countries such as Germany, France, Italy, and Spain; third, the theocratic model prevalent in Arabian countries of the Middle East; and fourth, the transplantation model pursued by Japan, South Korea, and Singapore. Historically, Japan initially transplanted Chinese legal systems, then adopted German laws during the Meiji Restoration, and later embraced American legal frameworks after World War II. China’s path to the rule of law diverges significantly from these four models, as we have pursued a self-constructed approach. Chinese rule of law boasts a unique historical trajectory characterized by “one reform” and “two revolutions.” The “one reform” refers to the legal reform in the late Qing Dynasty, during which Shen Jiaben and Wu Tingfang transformed China’s traditional integrated legal system into specialized departmental laws, resulting in the formulation of constitutional outlines, criminal codes, commercial codes, procedural laws, and more. The establishment of the Supreme Court marked the separation of judicial power from administrative authority, leading to the gradual dissolution of the traditional Chinese legal system. The “two revolutions” include the abolition of all the laws of the Qing Dynasty following the 1911 Revolution, and the issuance of the “*CPC Central Committee’s Directive on Abolishing the Kuomintang’s Six Legal Codes and Establishing Judicial Principles in the Liberated Areas*” in February 1949. This directive marked a fresh start for the rule of law in New China, akin to drawing a beautiful picture on a blank canvas. Therefore, China’s path to the rule of law cannot rely on gradual evolution or total transplantation; instead, it necessitates exploring a new path that integrates the top-down leadership of the CPC in guiding the people with the bottom-up impetus of the people’s demand for the rule of law. This self-constructed approach is manifested in the establishment of a socialist legal system with Chinese characteristics.

5. Differences in Organizational Structures. The organizational framework of the Western rule of law generally features the separation of powers and judicial independence, yet varies in implementation. The United States and France exemplify classic separation of powers, while the United Kingdom and Japan adopt a parliamentary cabinet system. The bicameral or unicameral structure of parliaments also differs across nations; for instance, Sweden, despite its separation of powers, operates with a unicameral legislature. In terms of judicial organizational structures, significant disparities exist between civil law and common law systems. In civil law countries, prosecutorial agencies are subordinate to judicial institutions, and federal prosecutors lack authority over local prosecutors. Conversely, common law systems lack an independent prosecutorial system, with prosecutorial functions managed by the Department of Justice; in terms of the relationships among judges, prosecutors, and police, the principle of judicial supremacy prevails. China's organizational structure of the rule of law is unique globally. The system of people's congresses ensures the unity and indivisibility of state power, with all power vested in the people. The organs through which the people exercise state power are the National People's Congress and local people's congresses at various levels. All state organs established by the people's congresses operate on a basis of division of labor, rather than separation or independence of powers. State administrative, supervisory, judicial, and prosecutorial organs do not have parity or independence with the people's congresses. The people's congress system serves as a crucial institutional vehicle for the Party's leadership over state organs and represents the fundamental political arrangement for integrating the Party's leadership, the people's status as masters of the country, and the rule of law.²⁵ The people's congress system determines that China cannot adopt the separation of powers or judicial independence. The constitutional provision for the independent exercise of judicial power by people's courts covers five dimensions: first, the independence of judicial power from administrative interference; second, the independence of court levels, with superior courts holding only supervisory, not leadership, authority over inferior courts; third, the independence of judgment by case adjudicators; fourth, the independent accountability of case adjudicators for trial outcomes; and fifth, the collective exercise of judicial power by people's courts, rather than by individual judges. When addressing the relationships among public security, procuratorial, and judicial organs, China's *Constitution* and procedural laws adhere to the principles of division of labor, mutual cooperation, and mutual restraint.

6. Differences in Approaches to Supervision. Supervision under the rule of law refers to achieving legal unity through the oversight and restraint of state power. In Western countries, the enforcement of the rule of law primarily relies on the judiciary. The United States was the first country in the world to establish a judicial review system, through which the Federal Supreme Court monitors constitutional implementation and rectifies legislative and administrative measures that violate the constitution by adjudicating on specific cases that have already occurred. In contrast, countries such as France and Germany have set up specialized constitutional courts to oversee parliamentary legislation and administrative enforcement. Through over

²⁵ Xi Jinping, "Speech at the Central Conference on People's Congress Work," *Qiushi* 5 (2022): 6 and 11.

seven decades of exploration into the rule of law, China has drawn two key conclusions from both positive and negative experiences: first, intra-Party supervision constitutes the most potent form of oversight, and second, top-down supervision proves to be the most effective. Based on these insights, China has developed a supervisory system with Chinese characteristics, characterized by intra-Party supervision as the leading force and coordinated oversight from all parties concerned. Systematic supervision stands out as a distinctive feature of China's implementation of the rule of law.

After clarifying the differences between Chinese and Western models of the rule of law, it becomes evident that the Chinese approach to the rule of law has the following basic characteristics.

1. The Chinese rule of law is a socialist one led by the CPC. This constitutes its essential feature. Within this feature, there are five theoretical elements denoted as "one," "two," "three," "four," and another "four" that require clarification, with the aim of properly handling the dialectical relationship between Party leadership and socialist rule of law. "One" refers to the "one fundamental principle" that Party leadership is the fundamental guarantee and the very soul of socialist rule of law.²⁶ "Two" denotes the "two musts," meaning that the socialist rule of law must uphold Party leadership, and Party leadership must rely on the socialist rule of law.²⁷ "Three" signifies the "three integrations," which involve integrating the basic strategy of governing the country by law with the fundamental approach of governing the Party by law, integrating the Party's overall leadership and coordination of all parties with the performance of functions and work by all parties in accordance with the law and regulations, and integrating the Party's leadership in legislation and ensuring the implementation of laws with the Party's activities within the framework of the constitution and laws.²⁸ The first "four" represents the "four proficiencies," namely, being proficient in transforming the Party's propositions into the will of the state through legal procedures, in appointing candidates recommended by Party organizations as leaders of state organs through legal procedures, in implementing the Party's leadership over the country and society through state organs, and in upholding the authority of the CPC Central Committee and achieving unity within the Party and the country by applying the principle of democratic centralism.²⁹ The second "four" refers to the "four aspects," namely, the Party leading legislation, ensuring law enforcement, supporting the judiciary, and taking the lead in abiding by the law.³⁰ These theories reaffirm that Party leadership is the most essential feature of the Chinese rule of law.

2. The Chinese rule of law is people-centered. This approach is manifested in four key aspects in the context of the rule of law: First, the people are the principal actors in the rule of law. The rule of law means that the people comprehensively

²⁶ Xi Jinping, "Deepening Reform on the Judicial System," *Xi Jinping: On Upholding and Strengthening Comprehensive Rule of Law* (Beijing: Central Party Literature Press, 2020), 147.

²⁷ *Decision of the CPC Central Committee on Several Major Issues Concerning Comprehensively Advancing the Rule of Law* (Beijing: People's Publishing House, 2014), 5.

²⁸ *Ibid.*

²⁹ *Ibid.*, 6.

³⁰ *Ibid.*, 5.

govern the country through legal means, with state power serving as the object. Governing the country by law essentially means that the people manage state public power and those who exercise it in accordance with the law, rather than governing the people by law. Second, it upholds the principle of equality before the law. It unequivocally opposes privileges, recognizing that the rule of law is the greatest nemesis of privilege and corruption. It ensures equal rights, opportunities, rules, and protections for all. Third, it pursues social fairness and justice. The comprehensive law-based governance is centered around promoting and safeguarding fairness and justice, enabling the people to perceive fairness and justice in every legal system, every law enforcement decision, and every judicial case.³¹ Fourth, it protects the people's rights and interests in accordance with the law, which constitutes the essential requirement of comprehensive law-based governance. The essence of the rule of law lies in human rights. Respecting and protecting human rights is a core governing philosophy of the CPC and the fundamental purpose of comprehensive law-based governance.

3. The Chinese rule of law follows a distinctive path of its own. We boast an uninterrupted 5,000-year-long civilization of the rule of law, the strong leadership of the CPC, a well-established and mature national governance system with corresponding governance capabilities, and the theory of socialist rule of law with Chinese characteristics as the guidance. These four pillars provide us with the confidence and foundation to pave the way for socialist rule of law with Chinese characteristics. Among the experiences gained from comprehensive law-based governance, the most fundamental one is that we have charted a course of socialist rule of law with Chinese characteristics, which is a concrete manifestation of the path of socialism with Chinese characteristics in the rule of law. This path closely integrates Party leadership, the principal status of the people, the principles of the rule of law, China's national conditions, and institutional innovations.

4. The Chinese rule of law is characterized by inclusiveness. It is neither a Western-style rule of law, nor a Soviet-style one, nor the Legalist version advocated in ancient Chinese history, nor the Paris Commune-style rule of law once commended by Karl Marx. The Chinese rule of law is deeply rooted in the fine traditional Chinese legal culture. Elements such as a unified national structure, codified legislation, a system of checks and balances among the three judicial branches, the centralization of the death penalty decision-making power, and the mediation system — hailed as an oriental gem — remain integral components of the Chinese rule of law today. It also drew on the shared legal civilizations of humanity. Concepts such as the supremacy of constitutional law and equality before the law, values centered on fairness and justice, legal principles aimed at constraining public power and protecting human rights, a sectoral classification of laws, judicial systems ensuring the independent exercise of judicial and procuratorial powers in accordance with the law, systems for legal defense and procedural justice relief mechanisms — all these represent humanity's collective understanding of the rule of law. The Chinese rule of law incorporates these

³¹ *Resolution of the CPC Central Committee on the Major Achievements and Historical Experience of the Party's Century-long Struggle* (Beijing: People's Publishing House, 2021), 42.

elements into its own framework, demonstrating its openness and inclusiveness as its defining features. Furthermore, it inherits the revolutionary legal traditions from the revolutionary bases. From the *Jinggangshan Land Law* in 1928 to the *Outline of the Constitution of the Chinese Soviet Republic* in 1931, to the *Constitutional Principles of the Shaanxi-Gansu-Ningxia Border Region*, and to the “Ma Xiwu trial method,” all legal principles reflecting the Party’s original aspirations and commitment to serving the people have been inherited and promoted in today’s rule of law. The Chinese rule of law primarily consists of systems self-created by the Chinese people, led by the CPC. Systems such as the people’s congress system, the system of regional ethnic autonomy, the system of multi-party cooperation and political consultation under the leadership of the CPC, the system of community-level self-governance, the system under which public ownership is the mainstay and diverse forms of ownership develop together, and the Special Administrative Region system are all groundbreaking innovations. These constitute the main body and essence of the Chinese rule of law. In essence, the Chinese rule of law truly embodies the principle of “drawing on the wisdom of ancient and modern times and extensively absorbing the experiences of China and foreign countries,” representing a comprehensive integration of human institutional civilizations.

5. The Chinese rule of law combines law-based governance and virtue-based governance. Unlike the Western model of “religion + law” and the Arabian model, where “religion is law,” the defining feature of the Chinese rule of law lies in its formal integration of governance by law and governance by virtue. Law ensures stability across the nation, while virtue nurtures the sentiments of the people; law is codified morality, and morality is the internalized law.³² Law regulates human behavior, while morality shapes the inner self. Sound laws and good governance are achieved through the integration of morality and law. This is a precious heritage passed down from China’s excellent tradition of governance over thousands of years. Throughout Chinese history, whenever there was a harmonious integration of morality and law, the country enjoyed long-term stability and peace; conversely, when such integration was lacking, chaos or the short-lived dynasties ensued. Drawing on this historical experience, we have developed the “Fengqiao Experience” and a diversified conflict resolution system characterized by mediation, thereby fostering a safe and secure China under the rule of law.

6. The Chinese rule of law is characteristic of a major power. Achieving the modernization of the rule of law for a population exceeding 1.4 billion will mark a significant milestone in the history of human rule of law and will reshape the global landscape of legal governance. Its success will herald a new form of human legal civilization and offer an alternative path for other nations and peoples that pursue the modernization of their legal systems. The rule of law in a major power is not solely defined by its scale; rather, it lies in its innovative institutions that will have a global impact: it seeks to build a community with a shared future for mankind and takes participation in global governance as a pivotal approach, aiming to promote

³² Xi Jinping, “Adhering to the Combination of Governing the Country by Law and Governing It with Virtue,” *Xi Jinping: On Upholding Comprehensive Rule of Law* (Beijing: Central Party Literature Press, 2020), 165.

international peace and development. It is a form of legal governance capable of providing more public institutional goods for all humanity.

The path of socialist rule of law with Chinese characteristics has been blazed by the Chinese people led by the CPC over the past century, and it stands as the only correct pathway for China. Advancing Chinese modernization with the Chinese rule of law is the historical choice made by the Chinese people regarding law-based governance.

IV. Major Legal Issues to Be Addressed in Advancing Chinese Modernization

National conditions serve as the logical starting point for advancing Chinese modernization. Given its unique national circumstances, China must inevitably adopt a model and fulfill tasks of Chinese modernization that differ from those of other countries, and consequently, its legal issues to be resolved in the same process also vary.

Firstly, how to achieve modernization for more than 1.4 billion people. Chinese modernization “is the modernization of a huge population.”³³ This is a prominent feature of Chinese modernization. “The overall modernization of China’s population of over 1.4 billion, which surpasses the combined population of all existing developed countries, will significantly change the global landscape of modernization,” and will also profoundly transform the global landscape of the rule of law. “Chinese modernization represents not only the largest but also the most challenging modernization process in history.”³⁴ The modernization of people is the most fundamental among all elements of modernization. The symbol of human modernization lies in possessing attitudes, mindsets, and lifestyles compatible with industrial civilization. Within China’s population of over 1.4 billion, disparities based on differences in ownership systems, urban-rural residency, and the nature of work have led to distinctions between urban and rural areas, workers and farmers, and cadres and the masses. According to these differences, individuals are ultimately categorized into groups in two distinct rights systems fixed by laws and policies based on their identities. Each person enjoys rights and fulfills obligations according to their identity. How to ensure the effective implementation of legal provisions for equality of identity and rights poses a significant challenge for the Chinese rule of law in achieving legal uniformity.

Secondly, how to achieve common prosperity for all. Chinese modernization “is the modernization of common prosperity for all.”³⁵ This is the essential feature of Chinese modernization. Common prosperity does not imply egalitarianism, immediate

³³ Xi Jinping, “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 Communist Party of China,” *Qiushi* 21 (2022): 14.

³⁴ Xi Jinping, “Chinese Modernization: A Broad Avenue Leading to the Building of a Strong Country and National Rejuvenation,” *Qiushi* 16 (2023): 4.

³⁵ Xi Jinping, “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 Communist Party of China,” *Qiushi* 21 (2022): 14.

attainment, or achieving it by depriving others of their wealth. It is a significant proposition for the modernization of the rule of law in China. On the one hand, the rule of law has the mission to stimulate social vitality and protect social productivity, encouraging the expansion of the “pie” by protecting private property and intellectual property rights. On the other hand, as the superstructure is built upon productive relations compatible with productivity, the rule of law functions to distribute the “pie” fairly. A sound rule of law will encourage more people to contribute to making the “pie” and ensure that those who make it receive the largest share, thus enabling labor income to account for a higher proportion of the gross national product (GNP). A high-quality rule of law will also reduce the number of people involved in distributing the “pie” and minimize institutional costs. Under the rule of law, institutional costs are divided into four parts: decision-making costs, operational costs, supportive costs, and error-correction costs. A system where each of these costs is minimized will be a system under a high-quality rule of law. It is an important mission of the Chinese rule of law in achieving common prosperity for all to protect new-quality productive forces, establish productive relations and legal systems compatible with them, and reduce institutional costs.

Thirdly, how to achieve coordination between material and cultural-ethical advancement. Chinese modernization “is the modernization of material and cultural-ethical advancement.”³⁶ This represents a lofty aspiration of Chinese modernization. The bridge that connects material and cultural-ethical advancement is institutional advancement. The common experience of modernization across nations reveals that cultural-ethical modernization precedes institutional modernization, which in turn precedes material modernization. Cultural-ethical advancement gives rise to institutional advancement, which subsequently fosters material advancement. Cultivating and promoting the core socialist values, enhancing the overall level of civilization in society, and facilitating the all-around development of individuals constitute the essence of the Chinese rule of law. Globally, four cultural trends are emerging: humanitarian culture, which regards individuals as ends rather than means and corresponds to cultural-ethical advancement; rights culture, which considers the respect and protection of human rights as the purpose of the rule of law and corresponds to institutional or political advancement; technological culture, which emphasizes innovation as the primary driving force for economic and social development and corresponds to material advancement;³⁷ and green culture, which advocates harmony between humanity and nature and corresponds to ecological advancement. The cultural foundation of modern rule of law is rights culture, which rejects status culture, hierarchical culture, privilege culture, as well as official-centeredness and power worship, while advocating freedom, equality, innovation, tolerance, peace, and environmental sustainability. A fundamental issue in advancing the Chinese rule of law is how to shape rights culture into the mainstream

³⁶ Ibid.

³⁷ He Shankan, “Leading University Cultural Development with the Socialist Core Value System,” *Value Consciousness in Cultural Development: Collection of Papers of the National Symposium on “Cultural Development and Value Consciousness” and the 18th Annual Conference of the Shaanxi Provincial Society for Value Philosophy*, edited by Kong Runnian (Xi’an: Shaanxi People’s Publishing House, 2014), 139.

culture in society.

Fourthly, how to ensure the harmony between humanity and nature. Chinese modernization “is the modernization of harmony between humanity and nature.”³⁸ This is a distinctive feature of Chinese modernization. Over the past three decades, epoch-making changes have taken place globally in the legalization of ecological advancement. First, there has been a shift in the concept of ecological subjects. Previously, the sole ecological subject was anthropocentrism; however, this has been disrupted since the enactment of the Plant Rights Bill in the UK and the Animal Rights Bill in Germany. Second, the concept of justice has been redefined. In the past, justice was confined to the current generation, whereas in ecological advancement, it extends to future generations and even beyond. The excessive use of resources and the environment by the current generation at the expense of future generations is considered unjust. Third, the perception of rights and obligations has changed. Everything we possess today is not inherited from our ancestors but borrowed from our descendants.³⁹ The inheritors are the right holders, while the borrowers are the obligors. It is an obligation for the current generation to pass on a beautiful environment to the next. Fourth, there has been a change in the approach to environmental protection, shifting from primarily administrative protection to predominantly judicial protection. Environmental rights constitute the institutional foundation of modern ecological advancement. Affirming rights emerging in real life, politically, and then legalizing them is an essential step in the progress of the rule of law.

Fifth, how to pursue peaceful development. Chinese modernization “is the modernization of peaceful development.”⁴⁰ This is a prominent feature of Chinese modernization. The rule of law plays an active role in promoting the building of a community with a shared future for mankind. To participate in the reform and establishment of the global governance system, China must contribute more wisdom to the formulation and maintenance of international rules, which requires us to integrate the domestic rule of law and foreign-related rule of law in a holistic way. Foreign-related rule of law consists of three parts: First, foreign-related elements in domestic laws, such as the customs law, the anti-foreign sanctions law, and the law on foreign relations. even laws that appear to be purely domestic, such as the criminal law, the civil procedural law, and the civil code, are considered foreign-related due to their extraterritorial jurisdiction. Second, bilateral or multilateral treaties concluded between China and foreign countries. Third, international conventions that China has acceded to. China’s image in the international rule of law is evaluated by the international community through its rule of law practices. The world can perceive China’s openness through its enactment of domestic laws, assess its trustworthiness

³⁸ Xi Jinping, “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 Communist Party of China,” *Qiushi* 21 (2022): 14.

³⁹ the Office of the State Environmental Protection Leading Group: *Outline for the Protection of the World’s Natural Resources*, 1982, 10.

⁴⁰ Xi Jinping, “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 Communist Party of China,” *Qiushi* 21 (2022): 14.

through its fulfillment of international treaties, and evaluate its level of civilization through the international conventions it has joined. Institutions represent a country's core competitiveness. Providing more original Chinese institutions to the international community and setting an example in practicing international law are the two major pathways for China to become a major country under the rule of law.

Chinese modernization and the modernization of China's rule of law are part of the same process. Addressing major issues in China's rule of law during the pursuit of Chinese modernization and advancing Chinese modernization through legal means and under the rule of law are two interconnected aspects of the same endeavor. Building a modern socialist country in all respects under the rule of law is the only pathway to achieving the great rejuvenation of the Chinese nation.

(Translated by *LI Chunyan*)