

"Xi Jinping Thought"

Realisation of the Chinese Dream of National Rejuvenation?

JOHN GARRICK AND YAN CHANG BENNETT

Introduction: A context of epochal change

Xi Jinping's full report to the 19th Chinese Communist Party (CCP) Congress in October 2017 seeks to "ensure and improve living standards through sustainable development;"⁽¹⁾ it condones market "reform and opening" (*gaige kaifang* 改革开放) and encourages Chinese enterprises to "go out" (*zou chuqu* 走出去) especially along the Silk Road Economic Belt and 21st Century Maritime Silk Road (2017: 2). China's relatively slow growth rate since 2009 has required a rebalancing of its economy away from investment-led growth and towards a more consumption-driven economy, "the new normal." This phrase has been commonly used in China to indicate the importance of this recalibration. Some argue the recalibration has "stalled" due to the persistence of corruption, a volatile domestic stock market, and the challenges of crucial reforms in the state-owned sector.⁽²⁾ At the same time, power is tightly held by the one-party system, and the underlying values of this ideology create an intriguing context for examining tension-points in the contested space over global influence between China and the US, with the latter remaining (for the moment) the world's biggest economy.

Now that the National People's Congress amended the Constitution to remove presidential term limits (enabling General-Secretary Xi to retain power indefinitely), Xi holds more power than any Chinese leader before him except perhaps Mao Zedong. Significantly, the People's Liberation Army (PLA) backed the NPC's move, giving Xi a "tight grip on the gun against potential political backlash and popular dissent."⁽³⁾ In 2017, the 19th Party Congress officially incorporated "Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era" (*Xi Jinping xin shidai zhongguo tese shehui zhuyi sixiang* 习近平新时代中国特色社会主义思想) into the CCP constitution.⁽⁴⁾ Xi Jinping Thought (*Xi Jinping sixiang* 习近平思想), as it is simply known, is based on his "Four-Pronged Comprehensive Strategy" (*si ge quanmian zhanlue buju* 四个全面战略布局; hereafter "Four Comprehensives"). The Four Comprehensives encompasses the interrelated narratives of 1. Building a moderately prosperous society, 2. Deepening reform, 3. Governing the nation according to law, and 4. Tightening party discipline. The purpose of the Four Comprehensives is to continue building socialism with Chinese characteristics.

This strategy's grand aims to "build a moderately prosperous society, deepen reform, govern the nation according to law, and tighten Party discipline"⁽⁵⁾ has not faced sufficient critical academic scrutiny outside mainland Chinese Marxist theorists, but should, due to the global implications of the sheer scale of China's economic growth and market reach. Further, the four interrelated prongs represent a key to Xi Jinping Thought; together, the prongs position the CCP at the centre of every aspect of economic development, social cohesion, law, and governance, and as a totalising discourse, give little room for dissent. This paper's purpose is to describe the

"four-pronged comprehensive strategy," and to critically appraise key tension points and obstacles to its implementation.

Prong one: Building a "moderately prosperous society"⁽⁶⁾

The political reality of China's socialist market economy follows a Leninist ideology with Chinese characteristics that include experience of a social system that recognises a central authority free from checks and balances generally associated with legitimate rule of law.⁽⁷⁾ Linking the authority structure of the traditional Chinese dynastic rulers with the Leninist discipline of today's CCP, the Confucian governance model based on *the family* and *loyalty to authority* maps well onto the theoretical frame of Xi Jinping Thought. Reconciling Marxism-Leninism with the rampant pursuit of glorious wealth is, however, another matter. Under Xi, the CCP constructs the narrative of law-based governance as an instrument that helps legitimise modernisation and wealth-building. Despite China's phenomenal economic growth, which, to some, may indicate that China is liberalising on a massive scale, the Leninist concept of democratic centralism sheds light on how such growth is achieved. Internal CCP practices guided by democratic centralism allows for debate, discussion, and the development of policy within the CCP, but "only before a course of action has been decided upon."⁽⁸⁾ Party unity and authority remains foremost in all economic reform.

Sustainable development and wealth inequality

Xi highlights the need to "invigorate China" through coordinated economic, political, cultural, social, and ecological strategies. Building a moderately pros-

1. Xi Jinping, "Secure a decisive Victory in Building a Moderately prosperous Society in All Respects and Strive for the Greatest Success of Socialism with Chinese Characteristics," speech delivered at the 19th National Congress of the Communist Party of China, 18 October 2017, http://news.xinhuanet.com/english/special/2017-11/03/c_136725942.htm (accessed on 3 January 2018).
2. Jérôme Doyon and François Godement, "Discipline and Punish: Party Power under Xi," *China Analysis*, 14 March 2017.
3. Adam Ni, "China's Military Backs Proposed Constitutional Amendments," *The Diplomat*, 2 March 2018.
4. "Inclusion of Xi's Thought Highlight of Amendment to CPC Constitution," *Xinhua*, 29 October 2017, http://news.xinhuanet.com/english/2017-10/29/c_136713559.htm (accessed on 3 January 2018).
5. Front-page editorial, *People's Daily*, 24 February 2015. Also see "China's Xi Jinping Unveils New 'Four Comprehensives' Slogans," *BBC News China*, 25 February 2015, <http://www.bbc.com/news/world-asia-china-31622571> (accessed on 3 January 2018).
6. "Moderately prosperous"—as set out in Xi Jinping's full report: Xi Jinping, "Secure a decisive Victory in Building a Moderately prosperous Society in All Respects and Strive for the Greatest Success of Socialism with Chinese Characteristics," *op cit*, 23.
7. See for instance contrasting Chinese and Western "rule of law" perspectives in Berring (2004) and Rose (2004).
8. Vladimir Lenin, "Freedom to Criticize and Unity of Action," *Volna* 22, 1906 - see Marxists Internet Archive: <https://www.marxists.org/archive/lenin/works/1906/may/20c.htm> (accessed on 3 January 2018).

perous society requires China to transition from a command economy towards a socialist market economy characterised by "innovation-driven development, rural vitalization, coordinated regional and sustainable development and the military-civilian integration strategy."⁽⁹⁾ The challenges, however, include transitioning from a position promoting strong economic growth no matter the costs, to one that promotes sustainable development.⁽¹⁰⁾ Chinese macroeconomist Qiyuan Xu (2016: 73) argues that structural reforms in demand and supply issues are needed for sustainable development. On the demand side, "China needs to reduce its reliance on the two old engines of growth—investment and export—by stimulating domestic consumption." Key reforms include constructing a mature social credit system and reducing transaction costs in the domestic market. Xu (2016: 74) also links anti-corruption measures to the drive to boost domestic consumption. Other reforms include improvements to the social welfare system, reforms to the household registration (*hukou*) system, reductions in income disparity, industry restructuring, and deregulation of the services sector.

Thomas Piketty (2014) identified China's economic growth as highly unequal. The "new normal" is one of the most economically unequal and unjust (and thus potentially unsustainable) societies in the world: the wealth of the privileged few princelings and wealthy second-generation elites (*fuerdai* 富二代) is set against a backdrop of those whose income has, proportionately, hardly increased at all.⁽¹¹⁾ There are two issues here: income and wealth inequality. Knight (2017: 312) makes the point that "income inequality is now falling whereas wealth inequality continues to rise [and] has increased rapidly in recent years." The wealth imbalance indicates that the "new normal" narrative covers up the emergence of a grossly imbalanced capitalist class system. This is not lost on China's leaders. Xi Jinping's 2018 New Year's speech, whilst not directly addressing China's wealth imbalance, spoke of poverty alleviation:

We are now one big step closer to the completion of a moderately prosperous society in all respects (...). It is our solemn commitment to lift all rural residents living below the current poverty line out of poverty by 2020.⁽¹²⁾

The government's drive for sustainable development will require deepening economic reforms, including "more equitable distribution of rural and urban services, better social welfare redistribution and marked improvements to public goods and services, less corruption, and a fair and just legal system more generally" (Xu 2016: 74). The challenges of sustaining China's economic growth while transitioning to a more sustainable development model make it difficult to fit it into a particular paradigm. At the heart of this interpretive puzzle is another paradox: a socialist market economy developed within a state-controlled property system in which all the land is government-owned. This "property paradox" (Hu 2016: 132) contains an important Chinese distinction: China's urban growth has been historically "land-based" rather than "population-based"; urban expansion has been accompanied by rural migration to cities (often without attaining official urban residency) and subsequent rural depopulation and land loss. Additionally, China's land use and urbanisation have both been subject to government monopoly and control, with local governments having political and financial incentives to sell land and promote urban growth (Hu 2016). Many problems, including corruption, risky financing, and peasant exploitation, are attributed to this nexus of political power, monopoly practices, and corrupt financial incentivisation. Another dilemma created by this property

paradox is house price inflation, which contributes significantly to China's inequality of total wealth. A decomposition analysis finds that house price inflation can explain nearly half (45%) of the rise in China's Gini coefficient of wealth between 2002-13 (Knight 2017: 314).⁽¹³⁾

Rural property rights

Various recent reforms in rural property rights, such as liberalising the land market and loosening *hukou* restrictions, relate to the dual urban-rural social structure and aim to remove obstructions. Garrick and Bennett (2016: 214) point out the legitimising narrative underpinning these reforms rests upon the imperative of "stability maintenance." Land disputes and related corruption are major sources of protest and instability. The Four Comprehensives seeks to address these issues, but is confronted by a reality of deeply-rooted structural and political obstacles (Zang 2016). When the interests of the central and local governments diverge, rural property reform becomes difficult (Guo 2016). The central government "sets the rules but heavily relies on local governments to implement them."⁽¹⁴⁾ These are conundrums for the government's "deepening reform" narrative.

Prong two: Deepening reform

Xi's report highlights various challenges for deepening reform, including the creation of a modern public finance system, a fiscal relationship between central and local governments with clearly delineated authority and responsibility; taxation reform, financial sector institutional reform, and an improved regulatory framework for monetary and macro-prudential policy, such as making interest and exchange rates more market-based.⁽¹⁵⁾ Xi Jinping's "Explanation of the Chinese Communist Party Central Committee Decision on Several Major Questions About Deepening Reform" ("Decision")⁽¹⁶⁾ made it clear that "ideological unity continues to be forged around Deng Xiaoping's 'two-hands' formula: a market-based economy and uncompromising political control."⁽¹⁷⁾ In the Decision, Xi emphasised that rule of law should be advanced under CCP leadership, in line with socialism with Chinese characteristics and with economic structural reform at the centre of deepening reform. This view was reinforced in the amendment to the CCP

9. Xi Jinping, "Secure a decisive Victory in Building a Moderately prosperous Society in All Respects and Strive for the Greatest Success of Socialism with Chinese Characteristics," *op cit*, 23.
10. The Four Comprehensives calls for improved environmental protections and some reform efforts have been made; however, Stern (2014: 53) shows the extraordinary difficulties and high costs of suing heavy polluters in China.
11. The *Hurun Rich List 2017* indicates that "over the past year average wealth rose 12.5% to US\$1.2 billion, with the Top 100 shooting up 60%," "China Rich List 2017," *Hurun Report*, 2017, <http://www.hurun.net/EN/Article/Details?num=5A320E03FD31> (accessed on 23 November 2017). As Knight (2017: 312) puts it, "if you are willing to believe the Huron Rich List, China now has more billionaires than the US."
12. "Chinese President Xi Jinping Delivers 2018 New Year Speech," http://www.china.org.cn/china/2017-12/31/content_50181054.htm (accessed on 8 January 2018).
13. From 2002 to 2013, China's wealth inequality grew at a rate equivalent to one percentage point per annum in the Gini coefficient (Knight 2017: 321).
14. "Xi's History Lessons: How China Rewrites the Past to Control the Future," *The Economist*, 22 August 2015, 27.
15. Xi Jinping, "Secure a decisive victory in building a moderately prosperous society in all respects and strive for the greatest success of socialism with Chinese characteristics," *op cit*, 30.
16. Third Plenary Session of 18th Central Committee of the Communist Party of China, 中共中央关于全面深化改革若干重大问题的决定 (*zhonggong zhongyang guanyu quanmian shenhua gaige ruogan zhongda wenti de jue ding*, Decision of the Chinese Communist Party Central Committee on Several Major Questions About Deepening Reform), 12 November 2013, http://www.gov.cn/jrzq/2013-11/15/content_2528179.htm (accessed on 8 January 2018).
17. *Ibid*.

constitution at the 19th Party Congress enshrining Xi's thought as part of the Party's “guide for action.”⁽¹⁸⁾ This guide for action indicates that a one-Party-state under the Party's unified command, with Xi at the helm, must be maintained.⁽¹⁹⁾ At the same time, important (non-Party) constituents in society, such as non-state business people, urban professionals, the growing middle class, and farmers, for example, must be more involved in decision-making processes.

The decisive function of the market and the Belt and Road initiative

The meaning of the phrase “decisive function of the market” remains unclear; however, the expansion of the RMB's role in international trade and finance is clearly sought through China's One Belt One Road initiative (OBOR).⁽²⁰⁾ Recently incorporated into the CCP Constitution, OBOR seeks to more closely link countries across Eurasia and the Indian Ocean.⁽²¹⁾ China's policy banks are providing massive funds to allow Chinese enterprises to operate along the “Belt” and “Road” axes, with further funding provided by the Asian Infrastructure Investment Bank (AIIB). The Bank of China has indicated OBOR's aim is to make the RMB the main trading and investment currency in the 65 countries involved. There are obstacles to the rapid internationalisation of the RMB, however, including China's domestic financial system, in which interest rates are tightly controlled, state-owned banks dominate financial intermediation, and the Chinese stock market faces periodic (and deep) central government intervention. Although Premier Li has insisted on the internationalisation of the RMB, the scheme has slowed down due to the side effects of rapid internationalisation: for example, the lifting of capital controls led to record levels of capital flight.

“Market forces” and CCP ideology

At the international level, Chinese leadership in reforming global financial structures is likely to face significant challenges until China's own development strategy has undergone fundamental change. Xi's full report essentially acknowledges this. Chinese banks pay interest rates well below international standards without regulatory caps and China still has relatively few alternatives for domestic consumer investment vehicles.⁽²²⁾ China's stock market is another example. When the domestic stock bubble burst, the Communist Party leapt into action: regulators capped short-selling, pension funds pledged to buy more stocks, the government suspended initial public offerings, and “brokers were required to set up a fund to buy shares backed by the Central Bank.”⁽²³⁾ While China is, of course, not the first country to prop up a falling stock market, what makes China stand out is that “it panicked when a correction of clearly overvalued shares had been expected.”⁽²⁴⁾ China's economy cannot endure such ham-handed intervention if it is to reform.

The “deepening reform” narrative thus faces immediate challenges. The journey from a command to a liberalised economy is far from over. Xi indicates the “basic dimension of the Chinese context—that our country is still and will remain in the primary stage of socialism—has not changed.”⁽²⁵⁾ If the market remains subordinated to the Party-state, it becomes more difficult for critical economic development to take place, and as the economy grows ever more complex, the inadequacies of the institutions that underpin it, especially the rule of law, will become more glaring.

Most recently, the Trump administration has targeted China as a potential adversary in a trade war, which may impede China's future economic growth and economic stability. The United States has initiated investigations on Chinese exports of steel and aluminium; unfair trade practices vis-à-vis intellectual property rights, technology, and innovation; steel flanges; washing machines; and solar panels. Preliminary findings from such investigations have led to the US declaring a potential list of retaliatory tariffs on some 1,300 product lines. China said that it does not want a trade war, but would respond in measures of equal strength and scale.⁽²⁶⁾ China has threatened trade tariffs on goods that primarily hit Trump's voting base—planes, cars, and soybeans. However, in a speech at the Bo'ao Forum for Asia 2018, Xi urged “dialogue rather than confrontation,” and against a zero-sum game Cold War mentality.⁽²⁷⁾ He also pledged to ease restrictions on the domestic banking and auto manufacturing sectors.

While the total impact of a potential trade war may have only a minor effect on China's economy, it is clear that China does not want an economic confrontation with the US, in part because it would destabilise the reforms Xi has implemented. It is also clear that Xi does not relish challenges, like a potential trade war, on his presidency. On this analysis, US-China trade disputes are likely to be resolved before the imposition of the complete package of retaliatory tariffs.

Prong three: Governing the nation according to law

Under Xi's leadership, socialist rule of law with Chinese characteristics is the foundation for all legal reforms. According to the 2014 Plenum, the five general principles guiding the reform process are (1) the leadership of the Party, (2) the dominant position of the people, (3) equality before the law, (4) the combination of ruling the country by law (*yifa zhiguo* 依法治国) with the rule of virtue (*dezhi* 德治), and (5) the need for China to chart its own path. The 19th Party Congress guarantees this path will be charted

18. “Xi Jinping Thought Approved for Party Constitution,” *Xinhua*, 24 October 2017, http://www.chinadaily.com.cn/china/19thcpcnationalcongress/2017-10/24/content_33644524.htm (accessed on 8 January 2018). At the same time, the Congress approved “Xi's military thinking and the party's ‘absolute’ leadership over the armed forces” into its constitution. Also, on “advancing law-based governance,” see: Xi Jinping, “Secure a decisive Victory in Building a Moderately prosperous Society in All Respects and Strive for the Greatest Success of Socialism with Chinese Characteristics,” *op cit*, 2.
19. Xi Jinping, “Secure a decisive victory in building a moderately prosperous society in all respects and strive for the greatest success of socialism with Chinese characteristics,” *op cit*, 62.
20. On the “Silk Road Economic Belt and 21st Century Maritime Silk Road Initiative,” see Xi Jinping, “Secure a decisive victory in building a moderately prosperous society in all respects and strive for the greatest success of socialism with Chinese characteristics,” *op cit*, 2.
21. Xi's “Belt and Road” initiative was enshrined in the CCP's charter at the 19th Party Congress. See “The 19th CPC National Congress and the ‘Belt and Road Initiative,’” *OBOReuropa*, 25 October 2017, <http://www.oboreurope.com/en/19th-cpc-national-congress/> (accessed on 8 January 2018). For further details and various theoretical perspectives on OBOR, see for example, W. T. Wilson, “China's Huge ‘One Belt, One Road’ Initiative is Sweeping Central Asia,” *The National Enquirer*, 27 July 2016. Also see Blackwill and Harris (2016); Yu (2017).
22. Xi Jinping, “Secure a decisive victory in building a moderately prosperous society in all respects and strive for the greatest success of socialism with Chinese characteristics,” *op cit*, 30.
23. “China Embraces the Markets,” *The Economist*, 11 July 2015, 61.
24. *Ibid*.
25. Xi Jinping, “Secure a decisive victory in building a moderately prosperous society in all respects and strive for the greatest success of socialism with Chinese characteristics,” *op cit*, 10.
26. Ministry of Commerce PRC, “MOFCOM Spokesman Comments on the US’ List of Proposed Chinese-Made Goods for Tariffs under the 301 Investigation,” 5 April 2018. <http://www.mofcom.gov.cn/article/ae/ag/201804/20180402728771.shtml> (accessed on 6 April 2018).
27. “China's Xi Jinping Says Tariffs on Car Imports Will Be Cut this Year,” *CCN Money*, 10 April 2018. <http://money.cnn.com/2018/04/09/news/economy/china-xi-jinping-economy-trade/index.html> (accessed on 11 April 2018).

under the absolute leadership of the CCP through the Party Constitution, even at the cost of “corresponding stagnation of institutional improvement” (see Zhang: 2017). In short, socialist rule of law with Chinese characteristics can be interpreted as an instrument to be vigorously enforced under CCP leadership with *the state a reflection of the will of the people*. This is the modern version of an intricate interaction between law and society in China and has been a central feature of Chinese legal tradition. This contrasts with historical Anglo-American interpretations of “rule of law” as articulated by Dicey (1885), whereby rule of law rests upon a separation of powers doctrine and an adversarial system. In China, the idea that conflict (*maodun* 矛盾) is resolved through traditional authority structures rather than through the courts is still very much embedded in its culture and political thought. One can see this in China’s preference to handle conflicts in the South China Sea on a bilateral basis than through the International Tribunal for the Law of the Sea.

Xi urges further “reform of the judicial system, and strengthened rule of law awareness among all our people while also enhancing their moral integrity.”⁽²⁸⁾ Indeed, Xi has also stated the need for both rule of virtue and rule of law where they are complementary, with some inescapable links to traditional Chinese legal theory.⁽²⁹⁾ Xi Jinping Thought may be viewed by the Party as better serving citizens as a state instrument in contrast with the “separation of powers” doctrine characteristic of Western legal systems. However, China does have its own a separation of powers issue: “between the Party and the state within a Party-state” (Zhang 2017). Although Zhang argues “the recent challenges to rule of law in China don’t necessarily indicate its possible failure,” others argue that Anglo-American principles deliver little more than meaningless “feel-good” language (see Feng 2016; Clarke 2014). Peerenboom (2014: 8) argues that it is “not surprising to see this type of pragmatic, measured, ameliorative language at this stage of development [and] that as a middle-income country, China faces a long, hard slog in establishing rule of law [with] progress slow and incremental without miracle solutions, and that reforms in one area give rise to new problems, often in other areas.” Pils (2015: 83) draws attention to the Decisions’ “deeply illiberal commitment to power concentration and Party supremacy over law.”⁽³⁰⁾ In this Pils does not implicitly take for granted that the Chinese system will, at some point in time, turn into a full-blend “rule of law,” but rather sees the rejection of constitutionalism and judicial independence as reflecting a realpolitik that Chinese leaders are not about to relinquish the Leninist principle of the law being under Party-state control/supervision.

Taboo on judicial independence

Q. Zhang (2016: 29) points out that there is a high degree of scepticism as to whether judicial reform can truly take place. Given that the legal system is dominated by the Party and its objectives, the judiciary can do little that is not CCP-sanctioned. Civil rights activists and women’s rights activists were charged in 2015 with such crimes as “picking quarrels and causing trouble,”⁽³¹⁾ NGOs are being heavily circumscribed, and there is little the judiciary can do to prevent or ameliorate such overt political suppression.⁽³²⁾ Judicial independence has recently been added to the list of taboo subjects in China. Chief Justice Zhou Qiang was quoted in the state-run Chinese News Service (15 January 2017) as saying, “China’s courts must firmly resist the western idea of judicial independence and other ideologies which threaten the leadership of the ruling Communist Party.”⁽³³⁾

Prong three of the Four Comprehensives reinforces the Party’s leading role in judicial reform, but it is unclear whether Party leadership can be reconciled with the concept of “rule of law” as resting upon the principle that law is impartially applied to all individuals *and* public institutions. Hand’s assessment (2016: 30) of socialist constitutional supervision models and prospects for a constitutional supervision committee helps bring China’s socialist rule by law narrative into focus. Over the past two decades, citizens have tried using constitutional arguments and legal mechanisms to “promote constitutional interpretations that incorporate some meaningful constraints on Party power” (Chen 2010: 878). But Hand’s view (2016) of the Fourth Plenum *Decision* is that such constitutional interpretation is “intended to stifle such citizen efforts” and put obedience to Party leadership at the core of the socialist rule of law.⁽³⁴⁾

Although the legal system may be a useful tool to discipline the lower levels of the bureaucracy, ensure the implementation of economic policy, and protect rights within limits, it is only the Party that is the final arbiter of fundamental political questions implicit in many constitutional claims.⁽³⁵⁾ Hand (2016: 43) suggests that the Party may fear that even the modest step of establishing a weak constitutional supervision committee “could generate ideological confusion.”

Criticism and the supremacy of the CCP

In a tightening political-legal environment, with the Party emphasising its supremacy in China’s constitutional order and Xi asserting dominance over the Party, Xi has emerged as China’s most powerful leader since Mao. Current ideological campaigns raise some uncomfortable memories of the Mao era. Pils (2016) argues that “rule by fear” is more than just a regime survival strategy but a political philosophy built into CCP ideology. History suggests that such a concentration of power in one person is dangerous as there are few constitutional safeguards against it. On 9 July 2015, Chinese police rounded up and interrogated about 300 rights lawyers, legal assistants, and activists across the country, now infamously named the “709” crackdown. Most have now been released, but “as long as the Chinese government treats legal defence work as anti-state activity, confi-

28. Xi Jinping, “Secure a decisive victory in building a moderately prosperous society in all respects and strive for the greatest success of socialism with Chinese characteristics,” *op cit*, 19.

29. The Tang code for example held virtue and law as complementary. For details see Teon (2016).

30. Pils (2015: 83) argues that Professor Peerenboom’s analysis of the Decision does not fully account for the repression of legal and political rights advocacy, which has worsened since the Decision, with serious consequences for the nature and scope of the challenges faced by the Party-state. See also Peerenboom’s (2015) refutation of Pils’s argument.

31. “Beijing: A Bad Day for Women,” *The Economist*, 21 March 2015, 24; “China’s Feminist Movement Braves a Government Crackdown on #MeToo,” *The Verge*, 9 February 2018.

32. “The Communist Party Cracks Down on Political Activists, Even as it Eases up on Some Less Sensitive Legal Cases,” *The Economist*, 11 August 2016. Also see Fu Hualing (2017: 249).

33. Chief Justice Zhou’s comments came after the country’s anti-graft watchdog said that a mechanism to keep officials in check that is independent of the Communist Party cannot exist in China. The Central Commission for Discipline Inspection (CCDI) pledged to create a national supervisory commission and a corresponding national law as part of a move to reform the oversight system for thousands of Party officials, but the reforms would stop short of placing power outside the Party. See “China’s Top Judge Warns Courts on Judicial Independence,” *Reuters World News*, 15 January 2017, <http://www.reuters.com/article/us-china-policy-law-idUSKBN14Z07B> (accessed on 16 January 2017).

34. Also see Dixon and Ginsburg (2014: 10) for details on how, historically in China, formal ideas of legalised constitutionalism that constrain the sovereign (the Son of Heaven) were not developed. In this sense, Xi’s elevation at the 19th Party Congress aligns with China’s imperial rule history, but with a modern legitimising narrative. Indeed, some observers suggest a leadership personality cult is being re-established.

35. The NPC is the national legislature of the PRC and under China’s current Constitution has the power to legislate, oversee the operations of the government, and elect the major officers of state.

dence in the country's legal system will remain low.”⁽³⁶⁾ Pils's (2017) view is that the anti-liberal re-conception of legal process allows “rule by fear” techniques to play an increasingly prominent role and to be applied in a more open manner. In the eight-year sentence given to rights advocate Wu Gan in December 2017 by the Tianjin Intermediate People's Court, this appears to be the case. This is one of the harshest sentences given amid the ongoing crackdown on human rights activism and legal advocacy and underlines how, under Xi Jinping, activists such as Wu Gan “who once survived at the edge of official tolerance have come under concerted attack from the police, prosecutors and courts, with the state news media often acting as a cheerleader.”⁽³⁷⁾

Examination of the Decision and Document No. 9 shows the overarching principle is enhancement of the “Party's authority and control over legal procedure[s] and outcomes of politically sensitive cases” (Feng 2016: 56). The CCP positions law reform as a necessary tool for the promotion of economic growth intended to instil more public faith in the legal system by facilitating legal protection of economic interests. Moves to curb local protectionism, reduce grassroots corruption in the court system, and uphold justice in ordinary legal proceedings (i.e., those without political significance) are essentially politically motivated with the aim of improving the Party's image (Feng 2016).

A principal concern of Feng's is the conflation of anti-corruption measures and the elimination of dissent and political opposition, both real and imagined. Reform remains bound to Leninist historical frameworks dressed up in more contemporary, characteristically Chinese narratives. Indeed, China is also requiring individuals to increasingly self-censor what they say online. Prominent human-rights activist Lee Ming-Chee was recently convicted on the basis of his Facebook posts from Taiwan as evidence against him; China is now punishing people for critical content published outside China to audiences not based in China.⁽³⁸⁾ The de facto application of “rule of fear” can actually undermine the de jure principle of “rule of law” in so far as law may be applied selectively to serve non-legal interests including “protection” of the well-connected and/or to increase one's power and influence. This conflation draws on “extra-legal” methods and can be interpreted as part of the CPP's endgame of retaining power. Without adequate checks and balances, political and legal development—and civil society more generally—is heavily circumscribed by the overarching authority of the Party-state.

Prong four: Tightening Party discipline

Xi Jinping's full report identifies “sweeping efforts to strengthen Party leadership and Party building (...) [and a] commitment to examining ourselves in the mirror, tidying our attire, taking a bath, and treating our ailments.”⁽³⁹⁾ In fact this fourth prong of the Comprehensives has its own propaganda campaign: the “Three Stricts, Three Earnests” (“Three Stricts”) campaign (commonly known on websites as “Three Stricts and Three Honests”).⁽⁴⁰⁾ The campaign to improve Party discipline and cadre conduct promotes elements of the Core Socialist Values (Gow 2017: 106).⁽⁴¹⁾ Core socialist values reflect normative concepts as defined by the CCP, which are “diametrically opposed to the common-sense usage of the same terms used in western liberal thought, including freedom, democracy, civility and rule of law.” By building a normative consensus around socialist values, the CCP is seeking to strengthen its dominant position, and the law is used to generate this consensus. There is therefore a powerful connection between prongs three and four of the Comprehensives in that tightening of Party discipline and devel-

oping procedural justice in China are tied together, as the following discussion briefly explores.

Corruption and Party discipline

The Sixth Plenum approved two key documents focused on strengthening Party discipline: “Guidelines on Inner-Party Life in the New Situation” and “Party Regulations on Inner-Party Supervision.” The “new situation” includes the massive institutionalised anti-corruption campaign launched by Xi in 2013, which has increased the power of leaders at the top of the Party hierarchy with Xi as commander-in-chief. Key mechanisms to ensure “political unity” are Party “study sessions” and “democratic life meetings” focusing on Party ideology. According to Doyon and Godement (2017: 4), these meetings are essentially “self-criticisms” meant to ensure the unity and purity of the Party and to eradicate the “four (bad) work styles”—formalism, bureaucracy, hedonism, and extravagance. These measures serve to strengthen the Leninist structure of China's “democratic centralism” and are aided by the softening of reforms to procedural justice and the significant challenges to judicial independence outlined above. This is especially the case in relation to sensitive matters, including the Party's recent reliance on political-legal committees and its own extra-legal mechanism, *shuanggui* (双规), used to fight corruption. Concerns over the misuse of *shuanggui* reached Xi, who called upon the Party to deepen reform by formulating a “national supervision law.”⁽⁴²⁾ Supervisory commissions will be given “responsibilities, powers and means of investigation in accordance with law and the practice of *shuanggui* will be replaced by detention.”⁽⁴³⁾ Some are concerned that this has the potential to become a new “black box” alongside China's justice system (Wuthnow 2017: 886).

The notion of procedural justice is a recent introduction to China and “needs time to be developed and adapted to local conditions” (Chen 2016: 96). However, this argument implies a tolerance of extrajudicial measures to discipline Party members who are perceived to have strayed from the strict and virtuous requirements of today's CCP. From the Gang of Four trial to Bo Xilai's downfall and Xi Jinping's “tigers and flies” (*laohu cangying yiqi*

36. See Human Rights Watch, “Chinese Authorities Could Make their Biggest Legal Achievement this Year: An End to this Outrageous Crackdown – and a Step towards a More Just China,” 7 July 2017, <https://www.hrw.org/news/2017/07/07/china-709-anniversary-legal-crackdown-continues> (accessed on 8 January 2018).

37. See “Wu Gan Sentenced to 8 Years in Prison,” *China Digital Times*, 26 December 2017, <https://chinadigitaltimes.net/2017/12/super-vulgar-butcher-wu-gan-sentenced-8-years-prison/> (accessed on 2 January 2018).

38. See “China Presses its Internet Censorship Efforts Across the Globe,” *The New York Times*, 2 March 2018, <https://cn.nytimes.com/china/20180305/china-technology-censorship-borders-expansion/> (accessed on 3 March 2018).

39. Xi Jinping, “Secure a decisive victory in building a moderately prosperous society in all respects and strive for the greatest success of socialism with Chinese characteristics,” *op cit*, 6.

40. “The Three Stricts and Three Earnests are: to be strict with oneself in practising self-cultivation, using power, and exercising self-discipline; and to be earnest in one's thinking, work and behaviour” (Xi Jinping, “Secure a decisive victory in building a moderately prosperous society in all respects and strive for the greatest success of socialism with Chinese characteristics,” *op cit*, 6; footnote 1). Also see: “The ‘Three Stricts and Three Honests’ educational campaign,” *china.org.cn*, 26 June 2015, http://www.china.org.cn/china/2015-06/26/content_35915584.htm (last accessed on 7 August 2017); “Rule the Party With a Firm Hand,” *Beijing Review*, 3 November 2016, http://www.bjreview.com/Current_Issue/Editor_Choice/201610/t20161030_800070457.html (last accessed on 7 August 2017).

41. A central element of the Three Stricts campaign focuses on “personal moral character” (Gow 2017: 106). Gow points out that this “illustrates the CCP's appropriation of the Confucian status of a morally superior person [drawn from Analects 15:15].” The CCP's message is that a communist must be a virtuous person.

42. Xi Jinping, “Secure a decisive victory in building a moderately prosperous society in all respects and strive for the greatest success of socialism with Chinese characteristics,” *op cit*, 61.

43. *Ibid*.

da 老虎苍蝇一起打) campaign, there are similarities and continuities in the CCP's anti-corruption measures with the Party as the main actor, neutralising enemies through publicised campaigns, trials, and non-judicial anti-corruption measures that continue to rely on Maoist rhetoric for legitimisation. Under the direction of the CCP, anti-corruption campaigns appear not only to remove corrupt officials but also those perceived to be politically unreliable or destructive to the Party (Ho 2016; 2012). Ironically, Bo himself used the organised crime crackdown in Chongqing to extort businessmen and remove individuals he perceived as threats to his authority.

Discipline and punishment

Under Xi's leadership, the broader anti-corruption campaign has come to include targeting corruption within the military and to emphasise "the Party's absolute leadership over the People's Liberation Army (PLA)." ⁽⁴⁴⁾ Furthermore, the domestic anti-corruption campaign may yet have international implications, as China tenaciously pursues corrupt "fugitives" who have fled overseas to escape charges at home. ⁽⁴⁵⁾ As Fu (2014) argues, corruption is closely correlated with legitimacy, and political leaders in China have found it expedient to use anti-corruption campaigns to remove their political foes and rein in the bureaucracy while enhancing their legitimacy in the eyes of the general public. Fu's "Wielding the Sword" argument is that the Party's anti-corruption campaign is a tool for the concentration of political power. The selective mobilisation of key law reforms has the effect of negating the potential for alternative discourses and is a central weapon in the Comprehensives' fourth prong.

Against the backdrop of China's anti-corruption campaign and drive to tighten Party discipline, Ho's (2016: 109) view on the short- to medium-term outlook for consistent procedural fairness and transparent use of the courts is "not so encouraging." For the longer term, there is hope that the improvements to judicial capability, procedural fairness, and the legal system across China more generally can be built upon. General-Secretary Xi puts the rights narrative in contemporary Party context by stating that China must only "borrow beneficial fruits of political civilization of mankind,

but we must not copy Western political institutions and models, and must not accept any condescending preaches [sic] of foreign countries." ⁽⁴⁶⁾

Conclusion

The underlying purpose of Xi Jinping Thought is to continue the quest of realising the Chinese Dream. Against a backdrop of China's rising international assertiveness and of domestic power increasingly vested in Xi Jinping, it is no surprise that the country's constitution was amended to enable Xi's reign to extend beyond the former 10-year limit. However, close analysis of Xi Jinping Thought reveals points at which the Leninist guardianship of Chinese society has frail edges. The delicate balancing act of deepening market reform and socio-economic transformation occurs under an authoritarian leadership model. The challenges of sustaining China's economic growth while maintaining a firm grip on Chinese society and strengthening Party control over the country are large, and in part why Xi Jinping Thought has been elevated to the highest levels of Chinese Communist Party dogma. Xi himself acknowledges some of these frailties, referring to "acute problems caused by unbalanced and inadequate development." ⁽⁴⁷⁾ Because of China's global ambitions, it has undertaken multiple reforms that include modernising its military, extending its reach far beyond Asia into the Pacific, and fostering trade with such initiatives such as One Belt, One Road, in addition to market reforms necessary for greater economic growth. Whether China realises its Dream will depend, in large part, on how well Xi Jinping and the Party navigate the rocky shoals of such complex reform and expansion.

■ John Garrick is senior lecturer in business law at the College of Business and Law, Charles Darwin University.

Charles Darwin University, Darwin Waterfront campus, 21 Kitchener Drive, Darwin, NT, Australia (john.garrick@cdu.edu.au).

■ Yan Chang Bennett is Managing Director at the Paul and Marcia Wythes Center on Contemporary China, Princeton University. Princeton University, 365 Wallace Hall, Princeton, NJ 08544, USA. (ybennett@princeton.edu).

44. "Xi Jinping Flexes His Muscle against Army Corruption," *The Economist*, 14 February 2015, 25. The CCP subsequently included Xi's "military thinking and the Party's absolute leadership over the armed forces" into its Constitution at the Party's 19th National Congress, see: *China Daily*, 24 October 2017, 1.

45. Wen and Garnaut claim that the high priority Xi Jinping has given to the international operations of the domestic anti-corruption campaign, "Fox Hunt" and "Sky Net," "has raised incentives and pressures for police officials at all tiers of Chinese government to bring fugitives back home and uncover hidden assets." See "Chinese Police Chase Corruption Suspects in Australian Suburbs," *Sydney Morning Herald*, 15 April 2015, <http://www.smh.com.au/world/chinese-police-chase-corruption-suspects-in-australian-suburbs-20150414-1mkwd2.html> (accessed on 8 January 2018). Also see Feng's claim that the Chinese communist state has taken advantage of liberal democracies around the world "to promote its communist ideology under its 'United Front' strategy [which] has two parts: One is 'unity among friends under the leadership of the Chinese Communist Party'; the other is the life-and-death struggle against enemies of the state." "Academic Chongyi Feng: Profits, Freedom and China's 'Soft Power' in Australia," *The Conversation*, 6 June 2017, <https://the-conversation.com/academic-chongyi-feng-profits-freedom-and-chinas-soft-power-in-australia-78751> (accessed on 8 January 2018).

46. See 习近平总书记系列重要讲话读本 (*Xi Jinping zong shuji xilie zhongyao jianghua duben*, General-Secretary Xi Jinping's Important Speeches), Beijing: People's Publishing House, 2014. Contrast the Party-line on rights with Pils's (2017) analysis of: "liberty and integrity of the person," "freedom of thought and expression," and "inequality and socio-economic rights." Pils's argument is that the Party-state system is inherently opposed to human rights principles in these areas and that, contributing to a global trend, is becoming more repressive.

47. Xi Jinping, "Secure a decisive victory in building a moderately prosperous society in all respects and strive for the greatest success of socialism with Chinese characteristics," *op cit*, 8.

References

- BERRING, Robert C. 2004. "Rule of Law: The Chinese Perspective." *Journal of Social Philosophy* 35(4): 449-456.
- BLACKWILL, Robert D., and Jennifer M. HARRIS. 2016. *War by Other Means: Geoeconomics and Statecraft*. Cambridge, MA: Harvard University Press.
- CHEN, Albert H. Y. 2010. "Pathways of Western Liberal Constitutional Development in Asia: A Comparative Study of Five Major Nations." *Journal of Constitutional Law* 8(4): 849-884.
- CHEN, Jianfu. 2016. "Efforts Toward Procedural Justice in Post-Mao China." In John Garrick and Yan Chang Bennett (eds.), *China's Socialist Rule of Law Reforms under Xi Jinping*. London: Routledge. 94-108.
- CLARKE, Donald C. 2003. "Corporate Governance in China: An Overview." *China Economic Review* 14(4): 494-507.
- CLARKE, Donald C. 2014. "The Fourth Plenum's 'Decision': My Take." *Chinese Law Prof Blog* (blog), 29 October. http://lawprofessors.typepad.com/china_law_prof_blog/2014/10/the-fourth-plenums-decision-my-take.html (accessed on 9 January 2018).
- DICEY, Albert V. 1885. *Introduction to the Study of the Law of the Constitution* (10th Ed. 1961). London: Palgrave Macmillan. 183-206.
- DIXON, Rosalind, and Tom GINSBURG (eds.). 2014. *Comparative Constitutional Law in Asia*. Cheltenham, UK; Northampton, MA, USA: Edward Elgar.
- FENG, Chongyi. 2016. "China's Socialist Rule of Law: A Critical Appraisal of the Relationship Between the Communist Party and Comprehensive Law Reform." In John Garrick and Yan Chang Bennett (eds.), *China's Socialist Rule of Law Reforms under Xi Jinping*. London: Routledge. 45-58.
- FU, Hualing. 2017. "China's Striking Anti-Corruption Adventure: A Political Journey Towards the Rule of Law?" In Weitseng Chen (ed.), *The Beijing Consensus? How China Has Changed the Western Ideas of Law and Economic Development*. Cambridge: Cambridge University Press. 249-274.
- FU, Hualing. 2014. "Wielding the Sword: President Xi's New Anti-Corruption Campaign." University of Hong Kong, Faculty of Law. http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2492407 (accessed on 9 January 2018).
- GARRICK, John, and BENNETT, Yan Chang (eds.). 2016. *China's Socialist Rule of Law Reforms under Xi Jinping*. London: Routledge.
- GOW, Michael. 2017. "The Core Socialist Values of the Chinese Dream: Towards a Chinese Integral State." *Critical Asian Studies* 49(1): 92-116.
- GUO, Yingjie. (ed.). 2016. "Introduction: Class and Stratification in the People's Republic of China." In *Handbook on Class and Social Stratification in China*. Cheltenham, UK: Edward Elgar Publishing.
- HAND, Keith J. 2016. "An Assessment of Socialist Constitutional Supervision Models and Prospects for a Constitutional Supervision Committee in China: The Constitution as Commander?" In John Garrick and Yan Chang Bennett (eds.), *China's Socialist Rule of Law Reforms under Xi Jinping*. London: Routledge. 30-44.
- HO, Norman P. 2012. "Organized Crime in China: The Chongqing Crack-down." In John Garrick (ed.), *Law and Policy for China's Market Socialism*. London: Routledge. 202-14.
- HO, Norman. P. 2016. "Addressing Corruption and the Trial of Bo Xilai: Historical Continuities, Rule of Law Implications." In John Garrick and Yan Chang Bennett (eds.), *China's Socialist Rule of Law Reforms under Xi Jinping*. London: Routledge. 109-21.
- HU, Richard. 2016. "China's Land Use and Urbanization: Challenges for Comprehensive Reform." In John Garrick and Yan Chang Bennett (eds.), *China's Socialist Rule of Law Reforms under Xi Jinping*. London: Routledge. 122-33.
- KNIGHT, John. 2017. "China's Evolving Inequality." *Journal of Chinese Economic and Business Studies* 14(4): 307-323.
- PEERENBOOM, Randall. 2014. "Fly High the Banner of Socialist Rule of Law with Chinese Characteristics! What Does the 4th Plenum Decision Mean for Legal Reforms in China?" SSRN, 6 November. http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2519917 (accessed on 9 January 2018).
- PEERENBOOM, Randall. 2015. "Rule of Law Political Legitimacy and Civil Disobedience in China: A Reply." *Hague Journal of Rule of Law* 7: 91-95.
- PIKETTY, Thomas. 2014. *Capital in the Twenty-First Century*. Translated by Arthur Goldhammer. Cambridge, MA: Harvard University Press.
- PILS, Eva. 2015. "China, the Rule of Law, and the Question of Obedience: A Comment on Professor Peerenboom." *Hague Journal of Rule of Law* 7: 83-90.
- PILS, Eva. 2016. "Rule of Law Reform and the Rise of Rule by Fear in China." Paper presented at the Law, Authoritarianism and Democracy in Asia Symposium, National University of Singapore, 12-13 December.
- PILS, Eva. 2017. *Human Rights in China: A Social Practice in the Shadows of Authoritarianism*. Wiley: NYSE.
- ROSE, Jonathan. 2004. "The Rule of Law in the Western World: An Overview." *Journal of Social Philosophy* 35(4): 457-470.
- STERN, Rachel E. 2014. "The Political Logic of China's New Environmental Courts." *The China Journal* 72: 53-74.
- TEON, Aris. 2016. "China's Legal System And The 'Ten Abominations'." *The Greater China Journal*, 11 May.
- WUTHNOW, Joel. 2017 "China's New 'Black Box': Problems and Prospects for the Central National Security Commission." *The China Quarterly* 232: 886-903.
- Xi Jinping. 2014. *The Governance of China*. Beijing: Foreign Languages Press.
- XU, Qiyuan. 2016. "Reform Directions for China's Socialist Market Economy: A Macroeconomic Perspective." In John Garrick and Yan Chang Bennett (eds.), *China's Socialist Rule of Law Reforms under Xi Jinping*. London: Routledge. 59-74.
- YU, Hong. 2017. "Motivation behind China's 'One Belt, One Road' Initiatives and Establishment of the Asian Infrastructure Investment Bank." *Journal of Contemporary China* 26(105): 353-68.
- YUEH, Linda. 2016. "The Law and Growth Nexus in China." In John Garrick and Yan Chang Bennett (eds.), *China's Socialist Rule of Law Reforms under Xi Jinping*. London: Routledge. 177-93.
- ZANG, Xiaowei. 2016. *Understanding Chinese Society* (2nd ed.). Routledge: London.
- ZHANG, Qianfan. 2016. "Judicial Reform in China: An Overview." In John Garrick and Yan Chang Bennett (eds.), *China's Socialist Rule of Law Reforms under Xi Jinping*. London: Routledge. 17-29.
- ZHANG, Xiaodan. 2017. "Rule of Law within the Chinese Party-State and its Recent Tendencies." *Hague Journal on the Rule of Law* 9(2): 373-400.