

THOROUGHLY STUDY AND IMPLEMENT
XI JINPING THOUGHT ON THE RULE OF LAW TO
PROMOTE IMPARTIAL ADMINISTRATION OF JUSTICE

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THOROUGHLY STUDY AND IMPLEMENT XI JINPING THOUGHT ON THE RULE OF LAW TO PROMOTE IMPARTIAL ADMINISTRATION OF JUSTICE

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Xi Jinping Thought on the Rule of Law is extensive and profound, and promoting impartial administration of justice is a key component of this Thought. A thorough understanding of General Secretary *Xi Jinping*'s important discourses on promoting impartial administration of justice is crucial for judicial organs to ensure impartial administration of justice and achieve social fairness and justice.

I. THE CONNOTATION AND SIGNIFICANCE OF PROMOTING IMPARTIAL ADMINISTRATION OF JUSTICE

The overarching goal of comprehensive advancement of law-based governance is to develop the system of socialist rule of law with Chinese characteristics and establish China as a socialist country under the rule of law. As General Secretary *Xi Jinping* pointed out, 'The comprehensive advancement of law-based governance is a profound revolution in national governance. We must promote the rule of law and make efforts to ensure sound legislation, strict law enforcement, impartial administration of justice, and society-wide observance of the law.'¹ He also stressed, 'To advance comprehensive law-based governance, we must uphold impartial administration of justice.'² Therefore, ensuring impartial administration of justice is a vital part of overall law-based governance.

General Secretary *Xi Jinping* pointed out that 'Impartial administration of justice means that infringed rights must be protected and remedied, and illegal and criminal acts must be sanctioned and punished.'³ That is,

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1 XI JINPING, SECURE A DECISIVE VICTORY IN BUILDING A MODERATELY PROSPEROUS SOCIETY IN ALL RESPECTS AND STRIVE FOR THE GREAT SUCCESS OF SOCIALISM WITH CHINESE CHARACTERISTICS FOR A NEW ERA, *in* SELECTED READINGS FROM THE WORKS OF XI JINPING (VOLUME II), at 32 (People's Publishing House, 2023).

2 XI JINPING, ENSURE SOUND LAWMAKING, STRICT LAW ENFORCEMENT, IMPARTIAL ADMINISTRATION OF JUSTICE, AND SOCIETY-WIDE OBSERVANCE OF THE LAW, *in* ON UPHOLDING OVERALL LAW-BASED GOVERNANCE, at 22 (Central Party Literature Press, 2020).

3 *Id.*

all members of the society are equal in terms of rights and obligations. Protection and remedy shall be available to those whose rights are infringed upon. Those who commit crimes must be punished accordingly.

Fairness and justice are the core values for promoting impartial administration of justice. As the primary values pursued by human society, fairness and justice mean that every member of the society enjoys an equal, legitimate, and reasonable distribution of rights and obligations. As General Secretary *Xi Jinping* stressed, ‘In advancing comprehensive law-based governance, we must focus on safeguarding and promoting social fairness and justice. Fairness and justice are a lofty value pursued by our Party. In order to serve the people wholeheartedly, we must pursue fairness and justice, protect the rights and interests of the people, and uphold justice.’⁴ Impartial administration of justice is an embodiment of social fairness and justice, and an essential guarantee for achieving social fairness and justice. Since ancient times, fairness and justice have been integral to the administration of justice, representing its fundamental and ultimate value pursuit. General Secretary *Xi Jinping* has repeatedly emphasized that ‘Justice is the lifeline of the rule of law’,⁵ and that ‘Fairness and justice are the soul and life of the judiciary.’⁶

Fairness and justice are the lifeline of the judiciary work. Impartial administration of justice concerns the immediate interests of the people, the realization of social fairness and justice, and the comprehensive advancement of law-based governance. It is the last line of defense for maintaining social fairness and justice. In judicial work, the impartial administration of justice is the key to enabling the judiciary to fulfill its role in upholding social fairness and justice. The law serves the function of resolving disputes and restoring order. The administration of justice, as an essential function of the state, is a crucial mechanism for achieving social fairness and justice. As an important way to resolve social conflicts and disputes, the judiciary plays a final and conclusive role. Therefore, the impartial administration of justice constitutes

4 XI JINPING, OFFICIALS MUST SET A GOOD EXAMPLE IN OBSERVING THE LAW, *in* THE GOVERNANCE OF CHINA (VOLUME II), at 129 (Foreign Languages Press, 2017).

5 XI JINPING, SPEECH AT THE SEMINAR FOR LEADING OFFICIALS AT THE PROVINCIAL AND MINISTERIAL LEVELS ON STUDYING AND IMPLEMENTING THE SPIRIT OF THE FOURTH PLENARY SESSION OF THE 18TH CPC CENTRAL COMMITTEE AND COMPREHENSIVELY ADVANCING LAW-BASED GOVERNANCE, *in* EXCERPTS FROM XI JINPING’S DISCOURSES ON COMPREHENSIVE LAW-BASED GOVERNANCE, at 38 (Party Literature Research Office of the CPC Central Committee ed., Central Party Literature Press, 2015).

6 XI JINPING, PROMOTE COMPREHENSIVE LAW-BASED GOVERNANCE FROM AN OVERALL AND STRATEGIC PERSPECTIVE, *in* SELECTED READINGS FROM THE WORKS OF XI JINPING (VOLUME II), at 385 (People’s Publishing House, 2023).

the baseline for realizing social fairness and justice. Only through the impartial administration of justice can disputes be effectively resolved, rights be remedied, and the judiciary fully fulfill its function of making judgment, punishing wrongdoing, and upholding righteousness. To achieve impartial administration of justice, it is essential to ensure the organic unity of punishing criminals and protecting human rights. On the one hand, judicial organs must lawfully collect evidence, accurately and promptly ascertain the facts of cases, and correctly apply the law, so as to bring criminals to justice and achieve the goal of punishing criminals. On the other hand, judicial organs must also protect the legitimate rights of the parties to litigation, prevent the innocent from being wrongfully convicted, and ensure that the guilty are not subjected to unjust punishment, thereby achieving the objective of protecting human rights.

Impartial administration of justice is the key to enhancing judicial credibility, which refers to the degree of public trust and confidence in judicial organs. General Secretary *Xi Jinping* pointed out, ‘Whether law enforcement and the administration of justice have credibility depends mainly on two factors: impartiality and integrity.’⁷ To enhance judicial credibility, the key lies in ensuring impartial administration of justice. On the one hand, judicial credibility depends on substantive justice. Only fair and just outcomes can convince the parties involved and the public of judicial decisions. On the other hand, judicial credibility also depends on procedural justice, as the legitimacy of procedures helps strengthen the parties’ respect for the judiciary. If the public is unable to safeguard their legitimate rights and interests through judicial procedures, the judiciary will lose credibility, social fairness and justice will be questioned, and social harmony and stability will be difficult to maintain. In other words, only judicial authority with credibility can truly carry weight, and the improvement of judicial credibility is closely linked to the advancement of impartial administration of justice.

Substantive justice and procedural justice are two interrelated aspects of advancing impartial administration of justice. Procedural justice, also known as fairness in the legal process, refers to the fairness reflected in the litigation procedures. For instance, criminal suspects and defendants have the right to legal defense, and the use of torture to extort confessions is strictly prohibited. Substantive justice, also known as fairness in outcomes, concerns the fairness embodied in the substantive results of a case. When parties involved initiate

7 XI JINPING, STRICT LAW ENFORCEMENT AND IMPARTIAL ADMINISTRATION OF JUSTICE (JANUARY 7, 2014), in ON UPHOLDING OVERALL LAW-BASED GOVERNANCE, at 46 (Central Party Literature Press, 2020).

their right to litigation and engage in proceedings, their primary goal is to obtain a fair ruling favorable to themselves — that is, to realize substantive justice. Procedures safeguard the realization of substantive values, and procedural justice directly embodies the principle of democracy, the rule of law, human rights, and civilization. The intrinsic value of procedures lies not only in their finality but also in enhancing the parties' acceptance of substantive outcomes. It should be noted that the independent exercise of judicial authority by judicial organs in accordance with the law is an important manifestation of procedural justice and a fundamental guarantee for substantive justice. This concerns the relationship between Party leadership and the independent exercise of authority by judicial organs in accordance with the law. The Party exercises overall leadership over all endeavors across the country, including judicial organs. The leadership of the Party is reflected in its correct lines, principles, and policies. Procedural justice and substantive justice have their own distinct connotations and standards, and they are not interchangeable. Impartial administration of justice represents the organic unity of substantive justice and procedural justice, and dynamic emphasis should be placed on both to ensure their balanced development.

II. THE HARM OF JUDICIAL INJUSTICE

General Secretary *Xi Jinping* once quoted the British philosopher *Francis Bacon* to illustrate the serious harm of judicial injustice, 'One foul sentence doth more hurt than many foul examples. For these do but corrupt the stream, the other corrupteth the fountain.'⁸ Impartial administration of justice is the prerequisite and foundation for safeguarding judicial authority and enhancing judicial credibility. In contrast, judicial injustice inflicts devastating damage on judicial credibility and undermines the public's trust in the rule of law.

Judicial injustice can cause significant harm to the parties involved, and in some cases, lead to irreparable losses. As the ultimate mechanism for resolving conflicts and disputes in a society under the rule of law, the judiciary is entrusted with critical functions including resolving disputes,

8 XI JINPING, EXPLANATION ON THE RESOLUTION OF THE CENTRAL COMMITTEE OF THE COMMUNIST PARTY OF CHINA ON SEVERAL MAJOR ISSUES CONCERNING COMPREHENSIVELY ADVANCING LAW-BASED GOVERNANCE (OCTOBER 20, 2014), in ON UPHOLDING OVERALL LAW-BASED GOVERNANCE, at 98 (Central Party Literature Press, 2020).

punishing criminals, and protecting human rights. These unique functions determine that the judiciary must uphold fairness and justice with the utmost rigor. Once a court renders an effective but unjust judgment, the parties concerned will inevitably face adverse consequences, such as the deprivation of personal liberty, even life, or being subjected to economic liabilities. Moreover, even with post-remedy mechanisms such as judicial error correction and the state compensation system, the harm caused to the parties by judicial injustice cannot be fully erased. For example, *Nie Shubin* and *Huugjilt* were executed long before the ‘actual perpetrators’ were identified. The subsequent acquittals could not bring back their lost lives. On December 2, 2016, the Second Circuit Court of the Supreme People’s Court announced a not-guilty verdict in the retrial of *Nie Shubin*’s case. Overwhelmed with emotion, *Nie Shubin*’s mother covered her face and wept, ‘I waited so long for this not-guilty verdict. I am very satisfied with the result, but my son will never come back. I miss him so much.’

Judicial injustice undermines judicial credibility, destroys the public’s faith in the rule of law, and disrupts social order and stability. Although judicial injustice occurs in a very limited number of cases, if the final line of defense for right remedies fails to ensure fairness, the public’s trust in judicial organs will inevitably decline. This, in turn, will lead the parties concerned to lose confidence in, feel dissatisfied with, or even refuse to comply with the judicial process and its outcomes, ultimately eroding, and even destroying the public’s trust in the rule of law. Moreover, when the public loses faith in the judiciary and ceases to believe in the rule of law, they may resort to extreme measures to protect their rights and interests, which can eventually exacerbate social conflicts and lead to disorder in society.

There is a close connection between judicial injustice and judicial corruption. Judicial corruption inevitably leads to judicial injustice. The flaws in the mechanism for the allocation of authority and the checks on its exercise create an environment that fosters rent-seeking within the judicial system, providing opportunities for judicial corruption. Generally speaking, judicial injustice may result from factors such as insufficient professional competence among individual judicial personnel who fail to handle cases properly. However, judicial corruption is a more serious and critical cause of judicial injustice. A small number of corrupt individuals who have degenerated ideologically treat the sacred authority conferred by the law as a ‘cash cow’.

Advancing impartial administration of justice requires resolutely curbing

judicial corruption. It was emphasized at the Fourth Plenary Session of the 18th Central Committee of the Communist Party of China: ‘We must show zero tolerance towards judicial corruption and root out corrupt elements.’ Since the 18th National Congress of the Communist Party of China, China has made remarkable achievements in advancing anti-corruption and integrity initiatives, with major judicial reforms launched with the goal of promoting impartial administration of justice. Judicial corruption, as a cancer within the judiciary, must be eradicated with firm determination.

III. KEY MEASURES TO PROMOTE IMPARTIAL ADMINISTRATION OF JUSTICE

A. Optimizing the Allocation of Judicial Powers

Deepening the comprehensive and coordinated reform of the judicial system and accelerating the establishment of a fair, efficient, and authoritative socialist judicial system are important measures for advancing the modernization of national governance system and capacity. Optimizing the allocation of judicial powers serves as a key link between deepening the comprehensive judicial system reform and standardizing judicial conducts. It is a key criterion for measuring the intensity of judicial system reform. Since the 18th National Congress of the Communist Party of China, the Central Committee of the Communist Party of China has made a series of major strategic deployments to further deepen judicial system reform. The *Resolution of the Central Committee of the Communist Party of China on Several Major Issues Concerning Comprehensively Advancing Law-Based Governance*, passed at the Fourth Plenary Session of the 18th Central Committee of the Communist Party of China, outlined the reform tasks for optimizing the allocation of judicial powers. The *Amendment to the Constitution of the People’s Republic of China* and the *Supervision Law of the People’s Republic of China* promulgated in March 2018 transferred most of the investigative powers over crimes from procuratorial organs to supervisory authorities. This measure not only further optimized the allocation of judicial powers, but also affirmed the achievements of the national supervisory system reform. To further optimize the allocation of judicial powers and improve the institutions and mechanisms for impartial administration of law, the *Resolution of the Central Committee of the Communist Party of China on Further Deepening*

Reform Comprehensively to Advance Chinese Modernization, adopted at the Third Plenary Session of the 20th Central Committee of the Communist Party of China, explicitly stated: ‘We will refine the institutions and mechanisms for ensuring that supervisory organs, public security organs, procuratorates, courts, and administrative departments for justice all fulfill their respective functions, and that powers of supervision, investigation, procuratorate, adjudication, and enforcement complement and constrain each other. This will ensure that law enforcement and judicial activities are subject to effective checks and oversight at every link and stage in the process. We will deepen the reform to separate adjudicatory and enforcement powers, improve the national system for law enforcement, and see that the parties concerned, the procuratorates, and the public exercise oversight throughout the process of enforcement activities.’ This not only affirms the achievements of the comprehensive judicial system reform, but also reflects a precise understanding of future judicial system reform and the optimization of judicial powers.

B. Strictly Implementing Impartial Administration of Justice

General Secretary *Xi Jinping* has repeatedly emphasized that ‘We will see that the people feel justice has been served in each and every judicial case.’⁹ This is not only the expectations of the people for judicial work in the new era, but also the Party’s requirement for judicial work in China. Strictly implementing impartial administration of justice demands that we must take facts as the basis and the law as the criteria, resolutely ensuring that no one is wrongfully convicted or unjustly let off. First, in terms of substance, the facts of the case must be clear, the law must be applied correctly, and the conviction and sentencing must be accurate. In terms of procedure, we must strictly adhere to the provisions on litigation procedures, effectively safeguarding the rights of the parties and litigants in the case. Second, the rule of evidence-based adjudication must be fully implemented. Evidence is the basis for determining the facts of a case. Fully implementing this rule ensures that judges render impartial judgments based on objective and lawful evidence. Evidence must be strictly collected, fixed, preserved, reviewed, and used in accordance with the law, and the system

9 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 (OCTOBER 16, 2022), in REPORT TO THE 20TH NATIONAL CONGRESS OF THE COMMUNIST PARTY OF CHINA, at 42 (People’s Publishing House, 2022).

for witnesses and expert witnesses to appear in court must be improved. This ensures that trials play a decisive role in clarifying facts, verifying evidence, protecting the right to sue, and delivering fair judgments. Lastly, the judicial accountability system must be comprehensively and accurately implemented. The responsibilities, procedures, and standards of various judicial personnel must be clearly defined. A lifelong responsibility system for the quality of case handling and a retroactive accountability system for misjudged cases must be implemented to ensure that case handling can withstand the test of the law and history. General Secretary *Xi Jinping* emphasized, ‘We must seize judicial accountability system as the ‘key point’, thoroughly study the comprehensive and integrated reform plans for the judicial accountability system, and accelerate the establishment of a new mechanism for the operation of judicial power that aligns power with responsibility.’¹⁰ Currently, the Supreme People’s Court and the Supreme People’s Procuratorate have successively issued and improved a number of relevant legal instruments, effectively establishing a judicial accountability and responsibility system that is clear and proportionate in power and responsibility, as well as fair, standardized, efficient, and reasonable. Judges and prosecutors must perform their duties in accordance with the law and strictly implement the requirements of the judicial accountability system.

C. Strengthening Human Rights Protection

General Secretary *Xi Jinping* has repeatedly issued a series of important instructions on the judicial protection of human rights, from the perspectives of comprehensively advancing law-based governance, safeguarding social fairness and justice, and meeting the people’s aspirations for a better life. These instructions have established the fundamental purpose, clarified the value orientation, and pointed out the specific direction for advancing human rights protection in China. Since ‘respecting and safeguarding human rights’ was incorporated into the *Criminal Procedure Law of the People’s Republic of China* in 2012, a series of measures related to human rights protection have been continuously introduced. First, the criminal principle of a balanced approach between leniency and severity was implemented. The

10 XI JINPING, SPEECH AT THE FIRST MEETING OF THE CENTRAL COMMITTEE FOR ADVANCING OVERALL LAW-BASED GOVERNANCE (AUGUST 24, 2018), in *ON UPHOLDING OVERALL LAW-BASED GOVERNANCE*, at 234 (Central Party Literature Press, 2020).

improvement and refinement of the system of leniency for guilty pleas and the mechanism for reviewing the necessity of detention have largely relieved parties and litigants from the burdens of traditional proceedings, presenting judicial fairness in an efficient manner that is tangible to the people. Second, the reform of the criminal procedure system centered on adjudication has been deepened, promoting the substantive development of trials. This has effectively ensured that litigation evidence is presented in court, case facts are clarified in court, and judgments are formed in court. Lastly, the continuous improvement of the criminal procedure system, guided by the idea of punishing criminals while protecting human rights, has provided strong support for the realization of judicial protection of human rights. The establishment of the rule excluding illegally obtained evidence, the continuous improvement of the defense system, and the promulgation of the *Legal Aid Law of the People's Republic of China* all fully reflect the value pursuit of the *Criminal Procedure Law of the People's Republic of China* in respecting and protecting human rights. The *Resolution of the Central Committee of the Communist Party of China on Further Deepening Reform Comprehensively to Advance Chinese Modernization*, adopted at the Third Plenary Session of the 20th Central Committee of the Communist Party of China, proposed more specific and clearer requirements for strengthening human rights protection, 'Adhering to the correct outlook on human rights, we will provide more effective human rights protection through law enforcement and administration of justice. We will improve the working mechanisms for *ex ante* review, ongoing oversight, and *ex post* redress, and refine the system for coercive measures that concern the personal rights of citizens as well as the sealing, sequestering, and freezing of assets. We will investigate and prosecute, in accordance with the law, the abuse of power to bend the law for personal gain, illegal detention, the use of torture to extort confessions, and other similar offences. We will provide lawyer defense in all criminal cases and introduce a system to seal records for minor offences.'

D. Fully Guaranteeing Public Participation in the Administration of Justice

Public participation in the administration of justice is of significant importance in promoting impartial administration of justice, enhancing judicial democracy, and improving judicial credibility. On the one

hand, public participation in the administration of justice allows for the supervision of judicial power, effectively preventing judicial corruption and abuse of power. On the other hand, through expressing their views and opinions, the public can participate in judicial decision-making, which not only enhances public recognition and trust in the judiciary, ensuring that administration of justice is witnessed in a fair, open, and transparent manner, but also reflects the will of the society, thereby reducing doubts and resistance toward judicial rulings. Since the 18th National Congress of the Communist Party of China, significant efforts have been made in China to ensure public participation in the administration of justice, achieving remarkable results. First, the people's assessor system has been improved. In 2018, China officially promulgated the *People's Assessors Law of the People's Republic of China*, systematically improving the system of assessors. It clarifies various aspects such as the scope of selection for assessors and their qualifications to participate in trials, thereby ensuring substantial involvement of people's assessors in trials and allowing them to fully express their opinions. Second, the transparency in the administration of justice has been increased, bridging the gap between the public and judicial activities. To make judicial activities more accessible to the public, judicial authorities have utilized the Internet, new media, and other channels to promptly disclose information such as case trial procedures, judgment documents, and enforcement details, etc. Furthermore, judicial authorities have specifically reported on typical cases to help the public better understand the administration of justice. Third, the channels for public participation in the administration of justice have been expanded. Continuous efforts have been made to establish and improve the judicial hearing system. For cases involving significant public interest or social concern, hearings are organized to solicit public opinions and suggestions. At the same time, legal awareness of the public is raised through legal publicity and education, which in turn enhances their enthusiasm and initiative to participate in judicial processes.

(Translated by Zhao Hongfang & Zhen Nating)
(Edited by Zhai Yujia)