

Research on Xi Jinping Thought on the Rule of Law on the Coordinated Promotion of Domestic and Foreign-Related Rule of Law

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Abstract

Xi Jinping Thought on the Rule of Law is the fundamental rules and guideline for law-based governance, among which the coordinated promotion of domestic and foreign rule of law, as one of the contents of Xi Jinping Thought on the Rule of Law, is a strategic judgment based on internal and international imperatives, rooted in China's rule of law practice and coped with the international situation. To comprehensively understand and implement the vision of coordinating domestic rule of law and foreign-related rule of law, we need to grasp it from three aspects, including internal relationship, practical relevance, implementation path and basic value. Building the rule of law in China, dealing with economic and trade disputes, and building a community with a shared future for mankind all require the coordinated promotion of both. In the process of promoting domestic rule of law and foreign-related rule of law in a coordinated manner, efforts can be made in three aspects: legislation, personnel training and legal services in foreign-related fields.

Keywords: Xi Jinping Thought on the Rule of Law, domestic rule of law, foreign-related rule of law

1. Introduction

Among the major events in promoting the process of building the rule of law in China, the central conference on work related to overall law-based governance held on November 16, 2020, is undoubtedly an important point. The conference formally and clearly put forward Xi Jinping Thought on the Rule of Law, which summarizes and concludes China's rule of law construction from a strategic height, and its content can be

summarized as 'eleven insistences', including the leading core, fundamental goals, key links, and many other aspects of the comprehensive rule of law. Xi Jinping Thought on the Rule of Law is a scientific summing-up of China's rule of law practice on the basis of the great rejuvenation of the Chinese nation and the unprecedented changes, which is of great significance in the historical process of China's rule of law construction.

“Accelerating the strategic layout of foreign-related rule of law work, coordinating the promotion of domestic rule of law and foreign-related rule of law, and coordinating the advancement of domestic governance and international governance.” (Xi Jinping, 2015) As one of the ‘eleven insistences’ of Xi Jinping Thought on the Rule of Law, it puts forward new requirements and defines new tasks for China to comprehensively promote the rule of law. The new tasks have been clearly defined. In order to fully understand the core meaning of General Secretary Xi Jinping’s ‘coordinating domestic rule of law and foreign-related rule of law’, it is necessary to sort out the connotation and relationship between domestic rule of law and foreign-related rule of law, clarify the realistic relevance of domestic rule of law and foreign-related rule of law, illuminate the realistic basis for the coordinated promotion, and clarify the realistic path to achieve this goal.

2. The Connection Between Domestic Rule of Law and Foreign-Related Rule of Law

For a long time, the status of foreign-related rule of law as a component of domestic rule of law has not been prominent, and the relationship between domestic rule of law and foreign-related rule of law has not been raised to a theoretical height. Since the 18th Party Congress, General Secretary Xi Jinping, based on the established rule of law experience, has made distinct and systematic assertions around the rule of law, bringing the foreign-related rule of law to the same height as the domestic rule of law. This is an objective requirement for China to respond to the new situation and cope with new challenges in the new era. Especially in the context of expanding a high level of opening up to the outside world, the coordinating domestic rule of law and foreign-related rule of law will be the focus of work.

2.1 The Concept of Foreign-Related Rule of Law

In 2014, the Decision of the CPCCC on Several Major Issues in Promoting overall law-based governance, which was adopted at the Fourth Plenary Session of the 18th CPC Central Committee, clearly proposed ‘strengthening foreign-related legal work’ (Decision of the Central Committee of the Communist Party of

China on Major Issues Concerning Upholding and Improving Socialism with Chinese Characteristics and Modernizing the State Governance System and Capacity, 2014); in February 2019, the Second Plenary Session of the Central Committee for Comprehensively Following the Law pointed out that “accelerate the construction of a legal system for the extraterritorial application of China’s laws, strengthen the training of foreign-related rule of law professionals, and actively develop foreign-related legal services.”¹ The Second plenary session of the Central Committee for the Overall Law-based Governance in February 2019 pointed out that “we should speed up the construction of the legal system applicable outside China’s jurisdiction, strengthen the training of foreign-related rule of law professionals, and actively develop foreign-related legal services”. On November 16, 2020, General Secretary Xi Jinping points out in his speech at the CPC Central Committee on Advancing Overall Law-based Governance that “actively promote legislation in important areas such as foreign-related rule of law” and “insist on promoting domestic rule of law and foreign-related rule of law in a coordinated manner”². It has become an important element in promoting the modernization of national governance capacity and system, alongside with domestic and foreign-related rule of law. General Secretary Xi Jinping pointed out that “we must strengthen the construction of foreign-related laws and regulations, enhance the effectiveness of foreign-related law enforcement and justice, and resolutely safeguard national sovereignty, security and development interests” (Xi Jinping, 2015).

From the perspective of the basic composition of the rule of law, foreign-related rule of law should include foreign-related legislation, foreign-related law implementation, foreign-related legal services, foreign-related personnel training, and many other aspects (Huang Jin & Lu Yang, 2021). Foreign-related rule of law is part of the construction of a rule of law state and is an extension of the domestic rule of law to the outside world, focusing on the maintenance of international order and rules with international law as the core, and the construction of equal, mutual, open and inclusive international relations. As an important part of the socialist rule of law

system with Chinese characteristics, the foreign-related rule of law refers to all legal relations with foreign elements in terms of content. This concept goes beyond the usual division of department law and is closer to the concept of field law. It includes both international law and domestic law with foreign-related elements, such as foreign investment, immigration management and other legal rules, as well as foreign law that may involve China.

2.2 The Relationship Between Domestic Rule of Law and Foreign-related Rule of Law

In terms of value objectives, both domestic and foreign rule of law are core elements of Xi Jinping rule of law, both are based on the basic needs of the people and safeguard the interests of the state and the people. In terms of the state, there is no clear distinction between domestic rule of law and foreign rule of law, and foreign rule of law is an extension of domestic rule of law. (Wu Qiong & Wang Wei, 2021) The rule of law at the national level and the rule of law abroad are two aspects of the rule of law at the national level, while the rule of law at the national level and the rule of law at the international level are two aspects of the global rule of law, both of which are indispensable. The difference between the two lies in their different focuses: the domestic rule of law focuses on the development of the national economy and the improvement of people's living standards; the foreign-related rule of law focuses on safeguarding the security and rights of subjects involved in foreign affairs and using the rule of law to protect the interests of Chinese groups abroad. The two are mutually beneficial in effectively addressing challenges, preventing risks, and safeguarding national sovereignty, security, and development interests. From the current development of domestic and foreign-related rule of law, foreign-related rule of law is the current focus of work and a strategic choice based on the international and domestic situation. (Liu Renshan, 2021)

The domestic rule of law and foreign-related rule of law are themselves an extension of the concepts of domestic governance and international governance. Domestic governance is based on building a state, government and society based on the rule of law, while international governance focuses more on safeguarding the sovereignty,

security, and development interests of the country. The two sides of domestic rule of law and foreign rule of law are one and the same, and their foothold is the basic interests of the state and the people. As an important part of Xi Jinping thought on the rule of law, the coordinated promotion of domestic rule of law and foreign-related rule of law is an important impetus to follow the road of socialist rule of law with Chinese characteristics and build a socialist rule of law state with Chinese characteristics. The consistency of domestic rule of law and foreign-related rule of law determines that both must be balanced, and both are unified in the great practice of socialism with Chinese characteristics and in the intersection of history and the future.

3. The Realistic Basis for the Coordinated Promotion of Domestic Rule of Law and Foreign-Related Rule of Law

Xi Jinping Thought on Rule of Law is based on China's national conditions and rooted in the institutional practice. To deeply understand the connotation of the coordinated advancement of domestic and foreign-related rule of law, we need to first understand the realistic basis of the concept, such as the realistic basis of the proposed domestic and foreign-related rule of law, as well as the domestic and foreign situation and the proposition of the times to which it responds.

3.1 The Requirement of Building a Rule of Law China

The coordinated domestic rule of law and foreign-related rule of law based on the underlying issues of national economic and social development. "Foreign-related rule of law plays a role of bridge and link between domestic rule of law and international rule of law, integration and interaction, and is a matter of national sovereignty, security and development interests, and is an important fulcrum of the strategy to advance the modernization of China's system and capacity for governance." (Huang Huikang, 2021) The construction of a new development paradigm featuring dual circulation, in which domestic and overseas markets reinforce each other, with the domestic market as the mainstay is inevitably inseparable from the two major situations of domestic and foreign-related rule of law. In terms of sovereign states, they can promulgate a variety of laws, of which the laws are divided into

domestic laws and foreign-related laws according to the subject of application. Foreign-related law is to adjust relevant laws and regulations with foreign-related factors, and draws more from the international rules, but its implementation is ultimately guaranteed by domestic laws.

With the round of high-standard opening-up, Chinese economic system to a new level. In 2013, General Secretary Xi Jinping proposed that ‘the Belt and Road’ initiative, and in 2015, the Vision and proposed actions outlined on jointly building Silk Road Economic Belt and 21st-Century Maritime Silk Road issued by the National Development and Reform Commission, Ministry of Foreign Affairs, and Ministry of Commerce of the People’s Republic of China. The road to win-win cooperation with countries along the route was officially opened. According to statistics, in 2021, China’s enterprises invested 130.97 billion yuan in non-financial direct investment in 57 countries along the ‘Belt and Road’, up 6.7% year-on-year, accounting for 17.9% of the total amount in the same period, up 1.7 percentage points from the same period last year.³ Under the leadership of the policy, a large number of Chinese enterprises and personnel are going overseas, resulting in many legal problems that need to be solved. It is a long way to implement the people-centered development concept in dispute resolution and protect the interests of Chinese enterprises and citizens going overseas. In order to hear international commercial cases in a fair and timely manner and serve and protect the construction of ‘the Belt and Road’, the First and Second International Commercial Courts of the Supreme People’s Court were established in 2018, and since 2020, the Suzhou and Beijing International Commercial Courts have been set up as specialized institutions to hear foreign-related commercial cases, making efforts to improve the capacity of foreign-related commercial dispute resolution. The Supreme People’s Court of China has contributed Chinese solutions to the resolution of commercial disputes.

The law is of great value in the governance of a country, and social and economic problems in national governance can only be substantially resolved by a standardized approach, which will ultimately build a rule of law state. The rule of law in a state contains both domestic rule of law and

foreign-related rule of law. On the one hand, the construction of a rule of law state takes systematic legal norms as prerequisite; on the other hand, it also requires the implementation of legal norms.

3.2 *The Guarantee for Settling International Dispute*

The world today is undergoing momentous changes of a kind unseen in a century. Economic recovery lacks momentum, commodity prices are high and volatile, the external environment is more complex and severe and uncertain, and various instability factors are on the rise. (Li Keqiang, 2022) The impact of economic fluctuations is all-round and multi-disciplinary, and the competition and struggle for high points in science and technology and industry between countries is bound to be accompanied by trade protectionism and other risks. For foreign-related enterprises, uncertainties are on the rise, and “the resistance and challenges encountered by Chinese enterprises in expanding their overseas interests are bound to increase, and transnational disputes and legal issues will become more frequent and complicated”⁴. In addition to the enterprises and personnel going out, the formation of a global free trade network under the high-level opening-up strategy will attract more foreign enterprises and personnel. The establishment of free trade zones, for example, from the establishment of the Shanghai Free Trade Zone in 2013 to now, 21 Free Trade Test zones has been set up. Free trade brings the free flow of capital and economic growth at the same time, the international friction and conflict is inevitable, so timely and effective measures also should be taken to deal with.

The coordinated promotion of domestic rule of law and foreign-related rule of law provides legal guidance for the resolution of international trade and economic disputes. In the process of dispute handling, the sovereignty, security, and interests of the country should be effectively safeguarded, and active and effective measures also should be taken to protect the interests of overseas citizens and enterprises. The improvement of domestic rule of law is the premise and basis for the prevention and resolution of foreign-related economic and trade disputes, guiding enterprises and citizens to use the law to protect their legitimate rights and interests; the construction of foreign-related rule of law is a dynamic and long-term process, and China should be good at using international rules

and also participate in the formulation of rules as much as possible. This is not only the need to establish a new system for higher-level open economy, but also the goal of responding to international economic and trade disputes.

3.3 In-depth Reflection Based on Global Governance

As far as the whole world economic system is concerned, it is difficult for countries to withdraw from the wave of economic globalization. As a country participating in the governance of the international community, it is right that it should enjoy the right to participate in decision-making on an equal footing and contribute Chinese solutions and countermeasures to the handling of international affairs. The governance of the modern international society is essentially a product of history, taking international law as an example, international law in the past was dominated by the West and endorsed the conquest by force and law of the jungle, and thus was not a fair system; international law today is influenced by the power of the great powers, and there are still many unfair norms in the use of force, maritime development, and economic and trade exchanges. The international law today is influenced by the power of the great powers and there are still many unfair norms in the use of force, maritime development, and economic and trade relations. (He Zhipeng, 2015) The developed countries rely on their economic power to promote the development of international law in their own interests, resulting in the developing countries suffering losses in their foreign relations. The established global governance model has seriously affected the interests of developing countries.

It is extremely significant and urgent for both China and the world to push forward the change of global governance and build a new world order (Zhang Wenxian, 2017), which is a new mission given by the times. Coordinating the rule of law at home and abroad is a practical solution based on a profound consideration of the global governance model. As the largest developing country in the world, China has the role and responsibility of a great power. In the process of moving to the center of the world stage, China is “committed to stabilizing the international order, enhancing the representation and voice of the majority of developing countries in international affairs, and

taking the lead in promoting the democratization of international relations and the rule of law”. (Bolstering Confidence and Jointly Overcoming Difficulties to Build a Better World, 2022) Of course, in order to change the current global governance model and make it more responsive to the interests of developing countries, China, as the world’s largest developing country, should improve national governance capacity, strengthen awareness of regulation, focus on improving legal system, firmly uphold the international order based on international law, and build a complete foreign-related legal system. When participating in the formulation of rules, China needs to base on its domestic rule of law practice and support it with international law theory. Only in this way can China better tell the Chinese story, safeguard national interests, contribute China’s wisdom, and promote the construction of a new international relationship of mutual respect, fairness, and justice, and win-win cooperation.

3.4 The Only Road Leading to Building a Community with a Shared Future for Mankind

The vision of building a community with a shared future for mankind advocates cooperation among countries on the basis of equality and mutual benefit to maintain world peace and stability and promote common development in the world. The vision is a high summary of the new type of international relations by General Secretary Xi Jinping, and is an important part of Xi Jinping thought, answering the ‘question of the times’ of ‘what kind of world to build and how to build it’. (Xu Hong, 2018) In essence, the community of human destiny expresses a beautiful vision of an open, inclusive, fair, and just international order.

The democratization of the global governance is the basis for the construction of the community of human destiny, that is, the rules are jointly formulated and uniformly applied, so that all countries in the world can govern and share, and jointly control the governance of global affairs. Each country puts forward corresponding proposals based on its national conditions, while international rules are balanced according to each country’s proposal, thus forming an international order that maximizes benefits. Building a community with a shared future for mankind is pursuing improvement in the international rules and governance system. Coordinating domestic

rule of law and foreign rule of law is the path and measure to promote the construction of the community of human destiny. In this process, it is necessary to base on China's basic national conditions, continuously enhance the international communication power and discourse power of the construction of rule of law China and promote the effective construction of the community of human destiny.

4. The Path to Realizing the Coordinated Promotion of Domestic Rule of Law and Foreign-Related Rule of Law

The coordinated promotion of the rule of law at home and abroad is not an empty slogan but should be put into practice and penetrate into all aspects of national governance and should be based on the overall situation and take into account all aspects. This is not only reflected in the cultivation of legal talents, but also in the improvement of foreign-related laws and the strengthening of legislation and cooperation in foreign-related fields.

4.1 Strengthen Legislation in Foreign-Related Areas

The status and role of foreign-related laws have not been given sufficient attention, resulting in many problems in the scope of application, and the effect of application and the legal system of foreign-related laws. Therefore, legislation is particularly urgent and necessary. In order to meet the requirements of the development of outward-oriented economy, China has started to improve the foreign-related legal system, such as the introduction of the Foreign Investment Law in 2019 to replace the original three laws, as well as the successful compilation of the Civil Code in 2020, which has also greatly promoted the application effect of the law. However, in fact, the current laws are still insufficient to meet the needs of practice, and foreign-related laws are still scattered among various ministries, and there are normative confusions in urgent need of revision or repeal. On the one hand, the legislation should be aimed at adapting to the work of opening up to the outside world, integrating the expansion of law enforcement and judicial cooperation into the construction of bilateral and multilateral relations, and continuously extending the security chain of protecting China's overseas interests. On the other hand, it is also necessary to clarify the real legal

needs of the people, realize the docking between needs and legislation, and promote the formation of a complete system of foreign-related laws and regulations.

Development and security are the basic goal of social development, and the rule of law is an effective way to address challenges and forestall risks. Of course, for foreign-related legislation, multi-sectoral cooperation and coordination are still needed so that the legislature can keep informed of the latest developments and respond effectively to various types of international frictions. We should continue to create a business environment based on the rule of law, implement a unified negative list system for market access, and use the power of the rule of law to promote the construction of a new system for a higher level of open economy.

4.2 Intensify the Training of Talents

As it stands, the capacity and quality of judicial officers, notaries and arbitrators engaged in foreign-related legal services are not yet matched with the requirements of internationalization, and the relevant foreign-related legal service personnel are still not very familiar with the relevant regulations of China's foreign trade. Under such circumstances, it is necessary to cultivate high quality trial teams and judicial administration teams. The cultivation of talents is a long-term process, and the first problem to be solved in the cultivation of legal talents is 'what kind of talents to cultivate'. General Secretary Xi Jinping points out that "the basic requirement for legal service personnel is under the Party leadership, support the socialist rule of law in China, and should strengthen education, management, guidance, guide legal service officers to adhere to the correct political direction, practice in accordance with the law and integrity, conscientiously fulfill their social responsibilities, full of enthusiasm into the construction of a socialist state under the rule of law." (Xi Jinping, 2015) In terms of the construction of the socialist rule of law system with Chinese characteristics, first is under the Party leadership, ideologically consistent with the Party's general policy and can be deep in the field of legal services. In terms of China's current talent needs, it is also the basic goal of legal talent training to cultivate talents who can enter international organizations, "participating in and

striving to lead international rule-making, promoting the formation of a fair, reasonable and transparent international rule system, and enhancing China's voice and influence in the transformation of the global governance system"⁵.

Currently, it is imperative to promote reform and improve the quality of talent training in law schools. From a macro point of view, law students should be encouraged to learn a second foreign language and related negotiation and communication skills, which can be carried out according to the school's geographical location and disciplinary orientation. In addition, we should insist on the strategy of combining 'going out' and 'coming in' and bring in high-level foreign experts to teach in the school to further improve the professional ability of law students. From a micro point of view, we should carry out the reform of teaching and meet the needs of practice and the requirements of international organizations, so as to improve students' ability to apply law and cultivate compound talents.

4.3 Enhance the Level of Foreign-Related Legal Services

The implementation of a high level of openness to the outside world, the scale of trade and investment is bound to expand, and the demand for legal services will increase accordingly. In 2017, the Ministry of Justice, the Ministry of Foreign Affairs, the Ministry of Commerce and the Legal Affairs Office of the State Council jointly issued the Opinions on Developing the Foreign-related Legal Service Industry, which particularly pointed out that "centering on the central work of the Party and the state, the big picture of opening up and diplomacy shall be served, play shall be given to advantages, initiative actions shall be taken, and efforts shall be made to provide high-quality and efficient foreign-related legal services for the promotion of China's social and economic development"⁶.

Foreign-related legal service contains two aspects: one is to provide legal service for Chinese enterprises and citizens going overseas; the other is to provide legal service for foreign enterprises in China. Both are the objects of legal services. Besides the China Commercial Court, it is urgent to promote the organic connection between litigation, mediation, and arbitration; for lawyers, besides the above-mentioned personnel training,

exchange and cooperation are also necessary to improve the level of foreign-related legal services. Encourage foreign lawyers to 'go out', develop international vision, and enhance the competitiveness in international legal services. We also should support law firms to establish branches in foreign countries to protect the interests of overseas Chinese enterprises and citizens and enhance the radiation and influence of foreign-related services.

Foreign-related legal services are in line with economic globalization, and implementation of high-level reform and opening-up strategy, and it has an important role in amplifying voices on the international stage. To consider both domestic and external situations in a coordinated way, it is necessary to promote the speed, scale, and quality of the development of foreign-related legal services in coordination with the development of the open economy and to achieve the overall coordinated development of foreign-related legal services.

5. Conclusion

Since 18th CPC National Congress places the construction of the rule of law in a significant position, remarkable achievements have been made in both socio-economic and judicial reform. Xi Jinping thought on the rule of law is a scientific theory rooted in China. The coordinated promotion of international rule of law and foreign-related rule of law is based on the current problems of the rule of law in China and aims to take the road of socialist rule of law with Chinese characteristics. From the perspective of historical experience and realistic needs, the coordinated promotion of domestic rule of law and foreign-related rule of law is a new program for the new era, and a strategic choice in the face of the unprecedented changes of the century, indicating the strategies to deal with global risks in the rule of law and the specific path to achieve this goal. Whether it is building a rule of law state or responding to international trade and economic disputes, changing the global governance model, or building a community with a shared future for mankind, the coordination and balance between the domestic rule of law and the foreign-related rule of law are indispensable.

Coordinating domestic and foreign-related rule of

law is a systematic project that needs to be grasped from the overall. From the perspective of reality, China can make efforts in three aspects: strengthening legislation in foreign-related fields, cultivating legal talents, and improving foreign-related legal services, so as to advance the national governance capacity and system to a new level.

References

Xi Jinping. (2015). Unswervingly Follow the Path of Socialist Rule of Law with Chinese Characteristics to Provide a Strong Legal Guarantee for Building a Modern Socialist Country in All Respects, *Qiushi Journal*, 9, 5.

Decision of the Central Committee of the Communist Party of China on Major Issues Concerning Upholding and Improving Socialism with Chinese Characteristics and Modernizing the State Governance System and Capacity. (2014, October 29). *People's Daily*.

Xi Jinping. (2020). *The Law-based Governance of China*, 256, Central Party Literature Press Published.

Huang Jin, Lu Yang. (2021). The International rule of law connotation of Xi Jinping Thought on the Rule of Law 8, *Tribune of Political Science and Law Journal*, 3.

Wu qiong, Wang wei. (2021). Strengthening Legislation in Foreign-related Fields Needs to Make up for the Shortcomings of Laws and Regulations-Interview with Mei Xiaying, Director of the Institute of Foreign-related Rule of Law of the University of International Business and Economics http://www.legaldaily.com.cn/index/content/2021-04/19/content_8485100.htm.

Liu Renshan. (2021). The Coherent Promotion of the Domestic Rule of Law and the Foreign-related Rule of Rule 22, *Jingchu Law Review Journal*, 1

Huang Huikang. (2021, January 27). Promoting Coordinated Development of Domestic and Overseas-related Rule of Law, *Study Times*.

Li Keqiang. (2022, March 13). The Report on the Work of the Government, *People's Daily*.

He Zhipeng. (2015, May 13). Global Consensus and China's Contribution in the International

Rule of Law, *Guangming Daily*.

Zhang Wenxian. (2017). Promoting the Transformation of Global Governance and the Construction of a New World order: Xi Jinping's Global Thinking on State Governance, *Global Law Review*, 4, 6.

Bolstering Confidence and Jointly Overcoming Difficulties to Build a Better World. (2022, September 22). *Guangming Daily*.

Xu Hong. (2018). A Community of Shared Future for Mankind and International Law, *Chinese Review of International Law Journal*, 5, 3.

The Opinions on Developing the Foreign-related Legal Service Industry, (2017). Justice of China, 7, 90.

¹ Xi Jinping. (2020). *The Law-based Governance of China*, 256, Central Party Literature Press Published.

² Xi Jinping. (2020). *The Law-based Governance of China*, 5, Central Party Literature Press Published.

³ China in 2021 Investment cooperation to countries along the Belt and Road, <http://fec.mofcom.gov.cn/article/fwydy1/tjsj/202201/20220103239004.shtml>.

⁴ Xi Jinping. (2020). *The Law-based Governance of China*, 256, Central Party Literature Press Published.

⁵ Xi Jinping. (2020). *The Law-based Governance of China*, 258, Central Party Literature Press Published.

⁶ The Opinions on Developing the Foreign-related Legal Service Industry, 90 Justice of China, Journal 7, 2017.