

THE LAW-BASED GOVERNANCE OF CHINA

XI JINPING



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Compiled by

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of the Central Committee of the Communist Party of China

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EDITOR'S NOTE

The rule of law is one of the core values of socialism, and developing a rule of law country is one of the goals of building socialism with Chinese characteristics. Since the Third Plenary Session of the 11th Central Committee of the Communist Party of China (CPC) in 1978, the Party has adopted law-based governance as its fundamental policy for leading the people in governing the country. At the Fourth Plenary Session of the 18th CPC Central Committee in October 2014, the Central Committee, drawing on over 30 years of practice and exploration, for the first time made the rule of law the theme of a resolution adopted at a plenary session, proposing comprehensively advancing the law-based governance of China, developing a socialist rule of law system with Chinese characteristics, and establishing a socialist country governed by the rule of law.

Comprehensively advancing the law-based governance of China is one element of the Four-Pronged Comprehensive Strategy adopted by the CPC led by General Secretary Xi Jinping. It is a major matter of strategic importance that has an important bearing on the Party's governance and national rejuvenation, as well as on the wellbeing of the people and the lasting stability of the Party and the country. It is necessary in order to improve and develop socialism with Chinese characteristics and to modernize the country's governance system and its capacity for governance.

This work is a translation of a collection of 193 excerpts compiled by the Party Literature Research Office of the CPC Central Committee

of Xi Jinping's expositions on comprehensively advancing the law-based governance of China. The excerpts, which deal with eight topics, have been selected from more than 30 of his speeches, reports, comments, and directives dating between December 4, 2012 and February 2, 2015.

The purpose of this book is to help readers gain a clearer understanding of the resolve, concepts, strategies, and approaches which underpin the CPC's work to advance the law-based governance of China by offering the opportunity to view them through the eyes of China's top leader.

The Compilation and Translation Bureau
of the Central Committee of the Communist Party of China
September 2016

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I

**MAINTAINING COMMITMENT TO AND
DEVELOPING SOCIALISM WITH
CHINESE CHARACTERISTICS DEMAND
AND ARE GUARANTEED
BY LAW-BASED GOVERNANCE**

As we move toward finishing building a moderately prosperous society in all respects, the governance of China must become increasingly law-based. We must put fully into effect the guiding principles from the 18th National Party Congress, and use Deng Xiaoping Theory, the Theory of Three Represents, and the Scientific Outlook on Development to guide us, to make all-around progress in ensuring that a well-conceived approach is taken to legislation, law is strictly enforced, justice is administered impartially, and the law is observed by all our people. We should coordinate work on advancing law-based governance, law-based exercise of state power, and law-based administration of government, and adopt a holistic approach to establishing a rule of law country, government, and society, so that we can continuously break new ground in ensuring law-based governance.

—Speech at the Political Bureau of the 18th CPC Central Committee's fourth group study session, February 23, 2013

As an ancient Chinese sage once said, “Make good laws for all under Heaven and there will be tranquility; make good laws for a country and the country will be governed well.” To modernize China’s governance system and capacity for governance, of course we must place great importance on the rule of law; we must adopt strong measures to fully advance law-based governance, and build a socialist rule of law country and a rule of law China. Our commitment to

this will not falter.

—Speech at a seminar for principal provincial and ministerial level leaders on the guiding principles from the Third Plenary Session of the 18th CPC Central Committee and on comprehensively deepening reform, February 17, 2014

Comprehensively advancing law-based governance is an important part of putting into action the guiding principles from the 18th National Congress of the Party and the Third Plenary Session of its Central Committee, and is important for ensuring the smooth completion of all objectives, the achievement of a moderately prosperous society in all respects, and the acceleration of socialist modernization. It is also fundamental to efforts to address the series of major problems our country faces in its development, tap into and boost social vitality, promote social equity and justice, safeguard social harmony and stability, and ensure China's lasting security. To sustain our country's sound economic and social development, and open up greater space for the development of socialism with Chinese characteristics, we must consolidate rule of law as the foundation for ensuring the lasting stability of the Party and country as we comprehensively deepen reform.

...

The tasks we face in promoting reform, development, and stability, and the number of problems, risks, and challenges that confront us are unprecedented. We must,

therefore, give greater prominence to law-based governance, ensuring it plays a more significant role. We must be firmly committed to putting into effect the fundamental policy of law-based governance and to compliance with law as the fundamental way to exercise state power, so as to continue leading the people in building China into a socialist rule of law country. We cannot finish building a moderately prosperous society in all respects and deepen all-around reform without comprehensively advancing law-based governance.

—Speech at a conference with non-CPC dignitaries held by the CPC Central Committee, August 19, 2014, People's Daily, October 25, 2014

Law-based governance is both a necessary requirement and an important safeguard for upholding and developing socialism with Chinese characteristics. It is necessary for modernizing our country's governance system and capacity for governance. To ensure economic development, political integrity, cultural prosperity, social justice, and healthy ecosystems, we must make sure the rule of law plays a better role in leading and standardizing our practices.

—Report on the work of the Political Bureau at the first full assembly of the Fourth Plenary Session of the 18th CPC Central Committee, October 20, 2014

The Central Committee began to consider and research the theme of its Fourth Plenary Session immediately after its Third Plenary Session. The goal of finishing building a moderately prosperous society in all respects was set at the 18th National Party Congress and the top-level design for comprehensively deepening reform was put forward at the Third Plenary Session. To achieve this goal and put into effect this top-level design, we need to ensure the rule of law serves as a reliable guarantee.

—“*Explanation on the Draft Resolution of the Central Committee of the Communist Party of China on Certain Major Issues Concerning Comprehensively Advancing the Law-based Governance of China*,” October 20, 2014, Documents of the Fourth Plenary Session of the 18th Central Committee of the Communist Party of China, Beijing: People’s Publishing House, 2014, pp. 67-68

It was stated at the 18th National Party Congress that the rule of law is the fundamental way by which the country must be governed and that work would be accelerated to build China into a socialist rule of law country and comprehensively advance law-based governance. It was also decided at the Congress that by 2020 the fundamental policy of law-based governance must be in full implementation, a rule of law government must have been basically established, judicial credibility must have been continually improved, and human rights must be fully respected and safeguarded.

Further to this, at the 18th Central Committee's Third Plenary Session it was decided that strengthening rule of law in China would demand coordinated efforts to improve the law-based governance of the country, the law-based exercise of state power, and the law-based administration of government, and the adoption of a holistic approach for developing a rule of law country, government, and society. The full implementation of these plans and directives will have a direct bearing on speeding up efforts to improve the rule of law in socialist China, fully implementing top-level design for comprehensively deepening reform, and making progress in the long-term development of Chinese socialism.

—*Ibid*, p. 68

Law is invaluable in the governance of a country, and the rule of law is important in underpinning a country's governance system and capacity for governance. Comprehensively advancing law-based governance is a fundamental requirement if we are to solve the series of major problems faced in developing the cause of the Party and country, tap into and boost social vitality, promote social equity and justice, maintain social harmony and stability, and ensure the lasting peace and stability of the Party and country. To promote China's sustained and healthy economic and social development, and continue opening up greater space for the development of Chinese socialism, we need to make an all-around push to build China into a socialist rule

of law country, and, on the basis of the rule of law, provide institutional solutions to these issues.

—*Ibid*, pp. 68-69

The comprehensive advancement of law-based governance is an issue of major strategic importance for our Party's efforts to govern and reinvigorate the country, for the wellbeing of the people, and for the lasting stability of the Party and country. It is also a crucial part of improving and developing socialism with Chinese characteristics and modernizing the country's governance system and capacity for governance. If we are to carry out the strategies decided upon at the 18th National Party Congress and the Third Plenary Session of the 18th Central Committee for finishing building a moderately prosperous society in all respects, realizing the Chinese Dream of national rejuvenation, comprehensively deepening reform, and improving and developing socialism with Chinese characteristics, then we must produce an integrated plan, adopt concrete measures, and take firm steps to comprehensively advance law-based governance.

—*Ibid*, p. 71

Comprehensively advancing law-based governance is a strategic task proposed by our Party in order to uphold

and develop Chinese socialism and ensure more effective governance. It is also of overarching importance in the Party's governance and rejuvenation of the country. Ensuring this task is accomplished properly is of great significance in promoting sustained and healthy economic development, safeguarding social harmony and stability, achieving social equity and justice, finishing building a moderately prosperous society in all respects, and realizing national rejuvenation.

...

Comprehensively advancing law-based governance is a major policy decision based on thoroughly reviewing the successful experiences and profound lessons drawn from our efforts to strengthen socialist rule of law in China. Our Party's understanding of law-based governance has gone through a process of constant deepening. In the early years of the People's Republic, while abolishing outdated laws, the Party used the successful experience it had gained during the new-democratic revolution when establishing a legal system for its bases to quickly begin developing and lay the initial foundations for socialist rule of law. Later on, "Leftist" errors appeared in the Party's guiding thought. As a result, the legal system gradually became less important; in particular, it suffered great damage during the ten years of turmoil of the Cultural Revolution. The cost of these mistakes was great and the lessons were bitter.

Since the Third Plenary Session of the 11th Central Committee held in late 1978, our Party has adopted law-based governance as its fundamental policy for leading the people in governing the country, has treated the law-

based exercise of state power as the basic means by which it governs, and has always considered, planned, and advanced the rule of law in light of the work of the Party and country. This has resulted in significant achievements in law-based governance.

...

History is our greatest teacher. Experience and past lessons have made us keenly aware that the rule of law is indispensable as a means of governance. If the rule of law prevails, the country benefits; if it fails, the country suffers. When the rule of law is valued and thrives, a nation will be stable and its people content; when the rule of law is neglected and weak, a country will fall into chaos and its people will become discontented. What is law? Figuratively speaking, it is a yardstick. Rule of law means using the law to judge, regulate, and guide social activity.

...

China is a large country with a population of more than 1.3 billion. Its territory is vast, its ethnic groups are great in number, and its national conditions are complex. As the ruling party of such a large country, if the CPC is to ensure that the country, the legal system, government orders, and the market are unified, and if it is to realize economic development, political integrity, cultural prosperity, social justice, and healthy ecosystems, it must firmly uphold the law and see the rule of law is well applied. These are the Central Committee's primary considerations in using this Plenary Session, which follows closely on from the 18th National Congress, where the goal of finishing building a moderately

prosperous society was set, and the Third Plenary Session, where the decision was made to comprehensively deepen reform, to plan the work for comprehensively advancing law-based governance.

...

Comprehensively advancing law-based governance is vital for ensuring that we finish building a moderately prosperous society in all respects and comprehensively deepen reform. Work on building a moderately prosperous society has now come to the decisive stage, and reform is entering uncharted waters and encountering tough challenges. Internationally, the situation is complex and ever-changing. The weight of the tasks faced in reform, development, and maintaining stability is unprecedented, and the number of problems, risks and challenges are of a scale never before seen. People's expectations of the rule of law are also increasing. All this makes it necessary to give greater priority to law-based governance and ensure it plays a greater role in the work of the Party and country.

...

On the whole, China is doing well in reform, development, and maintaining stability. However, the problem of uneven, unbalanced, and unsustainable development remains acute, disputes among the general public and other social conflicts continue to be serious, and there are problems concerning Party and government conduct that cannot be overlooked. Of these disputes and conflicts, a large number are a result of laws not being adhered to, law enforcement not being strict, and violations

of law not being prosecuted. A market economy should be a rule of law economy, and a harmonious society should be a rule of law society. We need to address the many problems preventing sustained and healthy development, curb departmental and local protectionism, and maintain market order. We need to protect intellectual property rights, address overcapacity, crack down on counterfeit and substandard products, and protect the environment. We must safeguard democratic rights, preserve the authority and sanctity of the socialist legal system, and overcome failures in strict law enforcement and judicial impartiality. We must deal with the problems of the greatest concern to the people in education, employment, income distribution, social security, medical care, and housing. We need to address the tough problems related to promoting social equity and justice, improving internet governance, strengthening workplace safety, guaranteeing food and drug safety, reforming the system for addressing public complaints, creating new social governance systems, and safeguarding social harmony and stability. We need to prevent people from using what is public for personal gain, abusing power for personal ends, and taking bribes to bend the law; defeat formalism, bureaucratism, hedonism, and extravagance; oppose privilege seeking; and punish corruption and other forms of misconduct. To accomplish these tasks, we must weave a tight net of laws and strengthen the rule of law.

...

As a Chinese sage once said, “No country is forever strong or eternally weak. When those who enforce the law

have strength, the country will be strong; when they are weak, it too will be weak.” We must give greater priority to practicing law-based governance, bringing the work of the Party and country in line with the rule of law and seeing that within its framework the potential of society is brought fully into play, interests are balanced, relations are harmonious, good standards of behavior prevail, and all social problems and conflicts are resolved in accordance with law. This will allow for both vibrancy and good order as Chinese society undergoes profound change.

...

The decision to comprehensively advance law-based governance is based on long-term considerations and has been made with a view to realizing the Chinese Dream of national rejuvenation and ensuring lasting peace and stability for the Party and country. Our strategic plan for comprehensively advancing law-based governance considers the practical need to address problems and difficulties faced in promoting reform, development, and stability, while also taking into account the need to achieve long-term goals. As it stands, we will finish building a moderately prosperous society in all respects in good time, provided we work hard and there are no major domestic or international disturbances. However, as the saying goes, plan ahead or find trouble on your doorstep. After we finish building a moderately prosperous society what will come next? How can we break free of the historical cycle and ensure our governance lasts? How can we ensure the Party and country enjoy lasting peace and stability? These are major issues that

require our careful deliberation.

...

The rule of law or rule of man question has been a fundamental one throughout the history of human political civilizations. It is a major issue that all countries must face and solve as they modernize. Modern world history tells us that of those countries that have successfully modernized, every one of them has dealt with this issue well. In contrast, some countries have failed to reach full modernization despite experiencing periods of rapid development. Instead they fell into various traps which resulted in economic and social stagnation or even regression. The experiences of these countries are largely due to a lack of rule of law.

...

As the saying goes, the competent manage tasks, the bright govern people, and the wise make laws. The key to governing a country and society well lies in establishing, prioritizing, and adhering to rules. Law is the greatest and most important form of rules in a country's governance. To modernize China's system and capacity for governance, we must maintain our commitment to law-based governance to provide a fundamental, comprehensive, and long-term institutional guarantee for advancing the cause of the Party and country. An important motivation for our decision to comprehensively advance law-based governance and firmly uphold the rule of law is consideration for our future generations and long-term development.

...

The themes of the third and fourth plenary sessions of

the 18th Central Committee on which decisions were then based were, respectively, comprehensively deepening reform and comprehensively advancing law-based governance. There is an underlying logic for this. They are two parts of an integrated strategy which have been initiated in succession. Neither the completion of establishing a moderately prosperous society in all respects nor the comprehensive deepening reform can be achieved without comprehensively advancing law-based governance. The decision made at the Fourth Plenary Session is therefore complementary to that made at the third. Both decisions must be implemented so that the deepening of reform and the development of law-based governance can act as two wheels that together drive forward the cause of completing the building of a moderately prosperous society in all respects.

—Speech at the second full assembly of the Fourth Plenary Session of the 18th CPC Central Committee, October 23, 2014

Strategic decisions were made at the 18th Central Committee's Third Plenary Session to comprehensively deepen reform and at the Fourth Plenary Session to comprehensively advance law-based governance. The second decision complements the first, and together they show the dialectical unity of destruction and creation.

—Speech at the Fifth Plenary Session of the 18th Central

Commission for Discipline Inspection, January 13, 2015

Both officials and the general public have largely praised the Fourth Plenary Session of the 18th Central Committee. They understand the formulation at the session of a general blueprint, road map, and action plan for comprehensively advancing law-based governance to indicate a shift into the fast lane in the pursuit of the country's law-based governance and see this as an important milestone in strengthening socialist rule of law in China. The decision made at the Fourth Plenary Session complements that made at the Third Plenary Session. Reform and the rule of law, like the two wings of a bird or the wheels on a cart, can move us forward in the cause of finishing building a moderately prosperous society in all respects.

...

After the 18th National Party Congress, the Central Committee, taking into account the need to uphold and develop socialism with Chinese characteristics, formulated and developed a strategy for making comprehensive moves to finish building a moderately prosperous society in all respects, deepen reform, advance law-based governance, and ensure strict governance of the Party. The strategy consists of both a strategic objective and strategic measures, and each element is of enormous importance.

The objective is to finish building a moderately prosperous society in all respects. We must concentrate all our efforts on achieving this objective by 2020, making a

great stride to the next level in China's development.

The three measures are comprehensively deepening reform, advancing law-based governance, and carrying out strict self-governance of the Party; each of them is essential for finishing building a moderately prosperous society. If we don't deepen reform, there will be insufficient impetus for development and a lack of vitality within society.

If we don't advance law-based governance, we will be unable to maintain order in the country and society, and social harmony and stability will be out of the question. If the Party fails to ensure strict self-governance, then like a blacksmith without the brawn to forge iron, it will find it difficult to fulfill its role at the core of the leadership.

To implement this strategy, it is vital that we comprehensively advance law-based governance. Without doing so, the governance of China will be wholly ineffective and our strategy will come to nothing. We need to approach the push for law-based governance within the context of the Four-Pronged Comprehensive Strategy and develop a thorough understanding of how it relates to the other three aspects, thereby ensuring that all four complement and promote each other.

—Speech at a seminar for principal provincial and ministerial level leaders on the guiding principles from the Fourth Plenary Session of the 18th CPC Central Committee and on comprehensively advancing the law-based governance of China, February 2, 2015

II

UPHOLDING PARTY LEADERSHIP IS FUNDAMENTAL TO CONTINUING ON THE PATH OF SOCIALIST RULE OF LAW WITH CHINESE CHARACTERISTICS

We need to ensure that the Party plays its role as the core leadership, exercising overall guidance and coordinating all aspects of work, and we must maintain our commitment to the fundamental policy of law-based governance of the country and the fundamental practice of exercising state power in accordance with law. We need to work effectively in using legally established procedures to see the positions of the Party become the will of the country, in ensuring candidates recommended by Party organizations become leaders of organs of state power, and in exercising Party leadership over the state and society through organs of state power. We will support organs of state power, administrative agencies, and judicial and procuratorial bodies in carrying out their work independently and in coordination with each other in accordance with the Constitution and the law.

—Speech at a meeting for people from all sectors of society based in Beijing to mark the 30th anniversary of the promulgation of the current Constitution, December 4, 2012, Selected Documents the Communist Party of China Has Produced since Its 18th National Congress, vol. I, Beijing: Central Party Literature Publishing House, 2014, pp. 91-92

We must stress that what is most fundamental in maintaining unity between Party leadership, the people's position as masters of the country, and law-based governance, is upholding Party leadership. The purpose

of upholding the leadership of the Party is to support the people in acting as the masters of the country and ensure proper implementation of law-based governance—the fundamental policy whereby the Party leads the people in governing the country. Party leadership is consistent with socialist rule of law: only by maintaining the leadership of the Party can we ensure the people are able to act fully as masters of the country, and move forward step by step with seeing that the state and society are increasingly administered through institutions and according to rule of law. Party leadership must not be understood as being in opposition to the people's position as masters of the country or to law-based governance, nor must it be compromised or called into question under the pretext of working for these things. To do so would be mistaken and politically dangerous.

...

Faced with major matters of principle like Party leadership over judicial and law enforcement work, we must remain politically clear-headed and conscious, and cannot, at any time or under any circumstances, have the slightest sense of irresolution. As well as remaining committed to Party leadership over judicial and law enforcement work, we need to strengthen and improve the Party's leadership over it and continue to improve the Party's ability to provide this leadership.

...

The relationship between our Party's policies and our country's laws must be handled properly. Both Party policies and state laws reflect the fundamental will of the

people, and are by nature in accord with one another. The Party's policies are the guide for the country's laws; they are the basis for legislation and an important guide for law enforcement and the administration of justice. We need to work effectively in using legally prescribed procedures to see the Party's positions become the will of the country and shape its laws and in using law to see the Party's policies are effectively implemented, so as to ensure that the Party plays the core leadership role, exercising overall guidance and coordinating all parties. When a Party policy has become state law, implementation of the law will mean putting into effect the will of the Party, and acting according to law will mean carrying out Party policy. The Party leads the people in formulating and enforcing, and must operate within the scope set by, the Constitution and the law, making sure it leads legislation, ensures law enforcement, and sets an example in observing the law.

—Speech at the Central Conference on Judicial and Law Enforcement Work, January 7, 2014

It must be clearly understood that the people's democracy of our country is fundamentally different from the so-called Constitutionalism of the West. Leadership by the CPC is the most fundamental feature of socialism with Chinese characteristics. It was made clear at the 15th National Party Congress back in 1997 that China needs law-based governance, under which the people, led by the Party

and in accordance with the Constitution and the law, use a variety of methods and channels to manage state, economic, cultural, and social affairs, ensuring that all aspects of the work of the state are carried out according to law, and seeing that socialist democracy is gradually institutionalized and written into law; so that such institutions and laws do not change just because there is a change in leadership or in the views or priorities of leaders. Our emphasis on governing the country and exercising state power on the basis of the Constitution, is not a repudiation or abandonment of Party leadership; what it stresses is that the Party leads the people in developing and enforcing the Constitution and the law and it must itself work within the scope of these laws. China's Constitution reflects the achievements made by the people under the leadership of the Party through revolution, development, and reform in the form of a fundamental law, and demonstrates that the leadership position of the Party came about through the choosing of the people and of history.

—Speech at a seminar for principal provincial and ministerial level leaders on the guiding principles from the Third Plenary Session of the 18th CPC Central Committee and on comprehensively deepening reform, February 17, 2014

Maintaining commitment to the CPC as the strong core leadership is connected to the future of the Chinese nation. The purpose of Party leadership is to support and guarantee

the position of the people as masters of the country. We must uphold the Party's core leadership role, exercising overall guidance and coordinating all parties, and, through the system of people's congresses, see that the Party's line, principles, policies, decisions, and plans are all fully and effectively carried out. We need to support organs of state power to ensure they work actively, independently, and in coordination with each other, according to the Constitution and the law. We must continue to strengthen and improve the leadership of the Party and work effectively in seeing that its positions become the will of the country through legally established procedures, in seeing that Party-backed candidates become leaders of organs of state power through legally prescribed procedures, in using state organs to carry out Party leadership over the state and society, and in using the principle of democratic centralism to safeguard the authority of the Party and the state and to uphold the unity of the entire Party and country.

—Speech at a conference commemorating the 60th anniversary of the founding of the National People's Congress, September 5, 2014, Beijing: People's Publishing House, separate edition, pp. 6-7

The Constitution is the fundamental law of our country. To uphold the law-based governance of the country, we must first uphold governance based on the Constitution; to uphold the law-based exercise of state

power, we must first uphold the exercise of power based on the Constitution. We must be committed to making law-based governance the fundamental policy by which the Party leads the people in governing the country, and to making rule of law our fundamental approach to governance, and we must constantly move forward in building China into a rule of law country.

—*Ibid*, p. 8

The relationship between Party leadership and the rule of law is the central issue in the development of the rule of law. The key to whether we can make a good job of fully advancing the law-based governance of the country, which is a major endeavor, is in whether or not our direction is correct and our political guarantees are strong enough. Specifically, we must uphold Party leadership, maintain our commitment to socialism with Chinese characteristics, and put into practice the theory of socialist rule of law with Chinese characteristics. Party leadership is the most fundamental attribute of Chinese socialism and the most fundamental guarantee for socialist rule of law. Chinese socialism is the fundamental institutional foundation for the system of Chinese socialist rule of law and the fundamental institutional guarantee for fully advancing the country's law-based governance. The theory of Chinese socialist rule of law is the theoretical guide and scientific underpinning for the system of Chinese socialist rule of law.

and a guide for action for fully pressing ahead with the law-based governance of the country. Essentially, these three points are the core principles of the path of socialist rule of law with Chinese characteristics, stipulating and ensuring its institutionalized nature and the direction in which it is advanced.

—“*Explanation on the Draft Resolution of the Central Committee of the Communist Party of China on Certain Major Issues Concerning Comprehensively Advancing the Law-based Governance of China*,” October 20, 2014, Documents of the Fourth Plenary Session of the 18th Central Committee of the Communist Party of China, *Beijing: People’s Publishing House, 2014*, pp. 78-79

Upholding Party leadership is a fundamental requirement of socialist rule of law; it is the foundation and lifeblood of both the Party and the country, is connected to the interests and wellbeing of the people of all ethnic groups in China, and is central to our work in fully advancing the country’s law-based governance. Party leadership and socialist rule of law are in accord with each other: socialist rule of law must maintain Party leadership, while Party leadership must rely upon socialist rule of law.

—*Ibid*, p. 79

A basic lesson we have learned in developing socialist rule of law in China is the need to achieve unity between Party leadership, the position of the people as the masters of the country, and law-based governance. China's Constitution reflects in the form of a fundamental law the achievements made by the people under Party leadership through revolution, development, and reform and establishes the leadership position of the CPC, which came to be through the choosing of the people and of history. We should make this point with confidence and make it loud and clear. We need to be explicit when explaining the nature of socialist rule of law to our officials and our people, getting to the heart of the matter and ensuring it is understood correctly.

—*Ibid.* pp. 79-80

The path of socialist rule of law with Chinese characteristics is a concentrated embodiment of the achievements made and experience gained in the development of socialist rule of law, and is the only path that is right for building China into a socialist rule of law country. We must send an accurate and clear signal to all members of society about what kind of path we are taking in developing rule of law, clearly elucidating the correct direction for fully advancing our country's law-based governance, and ensuring that the entire Party and the people of all Chinese ethnic groups are united in understanding and action.

Fully advancing the law-based governance of the country involves many different areas of work; in our practical work there must be a central focal point to guide overall execution and steer the efforts of all different parties. That central point is the development of a socialist rule of law system with Chinese characteristics. All work related to the law-based governance of the country should be planned around and should work toward this point.

...

Building a system of socialist rule of law with Chinese characteristics and developing China into a socialist rule of law country is a natural requirement for the modernization of the country's governance system and capacity for governance and for the all-around deepening of reform. It is conducive to modernizing China's governance system and capacity for governance in line with the rule of law; is conducive to fully moving forward with each item of work for our country's law-based governance within the framework of comprehensively deepening reform; and is conducive to constantly deepening reform in line with the rule of law.

— *Ibid*, p. 81

In fully moving forward with the country's law-based governance we must be sure to take the right path. The wrong path would lead us away from what we hope to achieve, in which case any further requirements or measures

we were to introduce would be meaningless. There is a core theme that runs through the resolution adopted at this plenary session*, and that is the need to keep to and expand the path of socialist rule of law with Chinese characteristics. This path is an overall guide for us. That is to say, there are dozens of achievements, big and small, that we could list relating to China's efforts to develop rule of law, but ultimately these achievements all boil down to one thing: the path of socialist rule of law with Chinese characteristics.

...

The decision made at this plenary session to lay out plans for fully advancing the law-based governance of the country comes from the desire of the Party itself to improve its capacity for governance, and not from outside pressure. On the fundamental issue of keeping to and expanding the path of socialist rule of law with Chinese characteristics, we need to build confidence and maintain resolve. Taking this path is a major proposition, and there are many things that will need to be explored in depth. But the fundamentals are something we must always uphold.

...

Party leadership is the most essential feature of socialism with Chinese characteristics and the most fundamental guarantee for socialist rule of law. The most fundamental thing in persevering along the path of socialist rule of law with Chinese characteristics is to uphold Party leadership. Law-based governance of the country is

* The Fourth Plenary Session of the 18th CPC Central Committee—Translator's note.

something that was introduced by our Party; making this the fundamental policy by which, with Party leadership, the people govern the country was also an idea introduced by our Party, and the Party has, all along, been leading the people in advancing the country's law-based governance in practice. Our moves to comprehensively advance the law-based governance of the country must help strengthen and improve the Party's leadership and be conducive to bolstering the Party's position as governing party and to helping the Party fulfill its mission of governing the country. In absolutely no way does it mean weakening Party leadership.

...

Upholding the Party's leadership is a fundamental requirement of socialist rule of law, and is central to our work in fully advancing the law-based governance of the country. We need to see that Party leadership is put into effect throughout the entire process and in every aspect of law-based governance, and maintain the unity of Party leadership, the position of the people as masters of the country, and law-based governance. It is only through practicing law-based governance and rule of law under Party leadership that we can fully realize the people's position as masters of the country, and steadily increase the level of rule of law in the state and society.

...

Upholding Party leadership is not an empty slogan; it must be embodied in the Party's work to offer leadership in legislation, ensure the enforcement of law, support

the administration of justice, and set an example in observance of the law. On the one hand, we need to maintain commitment to the Party's core leadership role of exercising overall guidance and coordinating all parties, see that all aspects of law-based governance are covered by the Party's overall planning, and ensure that the Party's ideas are implemented throughout the entire process and in every area of the country's law-based governance. At the same time, we need to improve the Party's leadership over law-based governance, and keep working to improve its capacity to lead in this respect. Not only must the Party commit to governing and exercising state power in accordance with law, confining its activities to the scope set by the Constitution and the law; it must also ensure that Party organizations at every level and all members and officials play their roles as the political core and as models in working for law-based governance.

...

China's socialist system ensures the principal position of the people as masters of the country and guarantees that the people are the primary actors in the initiative to fully advance the country's law-based governance. This is an advantage of our system, and is also the fundamental distinction between socialist rule of law with Chinese characteristics and capitalist rule of law.

...

Upholding the people's principal position means we must commit to rule of law that is for the people; dependent on the people, beneficial to the people, and there to protect the people. We must ensure that under Party leadership the

people follow the rules stipulated in law to use a variety of means and channels to manage state, economic, cultural, and social affairs. We must make sure that the entire process of law-based governance embodies the people's interests, reflects their wishes, protects their rights, and furthers their wellbeing, ensuring that the will of the people is manifested not just in the laws themselves but also in their enforcement.

...

Equality is a basic attribute of socialist law and a fundamental requirement of socialist rule of law. The principle that all are equal before the law must be reflected in every aspect of legislation, law enforcement, administration of justice, and observance of the law. Every organization and individual must respect the authority of the Constitution and the law; must act within the scope set by them; and must exercise powers and rights and perform duties and obligations in accordance with them. No organization or individual is above the Constitution or the law. Anyone who violates the Constitution or law must be held to account. Under no circumstances is any individual, under any pretext or in any way, to be allowed to override the law by fiat, use their power as if it were beyond the law, or bend the law for personal gain.

...

Law is virtue committed to writing, while virtue is law inscribed in people's hearts. Both law and virtue possess the power to achieve certain standards of social behavior and preserve social order. In the governance of our country and society, we need to emphasize both rule of law and rule of

virtue, valuing the normative function of law, while also attaching importance to the edifying effect of virtue, so that law and virtue complement each other and rule of law and rule of virtue promote each other.

...

To see that the normative role of the law is put to full effect, we must ensure that the rule of law embodies moral ideals and that the law plays a stronger role in promoting moral development. On the one hand, virtue is the foundation of law. Only laws that are in accord with virtue and have solid moral foundations will be consciously observed by the people. Law, at the same time, serves to safeguard virtue. A prevailing trend of morality can be fostered through the compulsory moderation of behavior and the punishment of violations of law. We need to pay more attention to turning basic ethical conventions into laws, ensuring our laws and regulations are more reflective of moral ideals and human concern, and we need to draw on the peremptory power of law to strengthen morality and protect basic moral standards, so as to improve the overall moral fabric of our society.

...

To see that the edifying effect of virtue is given full expression, we must draw on virtue to nurture the spirit of rule of law and strengthen the role of morality as a pillar of rule of law culture. However many laws we pass and however good they might be, it is only when law has been transformed into people's consciousness that it can truly be abided by. There is a saying, "A person who knows no

shame knows no limits.” Without the nurturing effect of virtue, rule of law culture would be without its source of sustenance and we would lack the solid social foundations needed for laws to be enforced. As we advance the law-based governance of the country, we must devote great energy to promoting core socialist values, foster traditional Chinese virtues, cultivate public morals, work ethics, family values, and individual morality, strengthen the moral integrity of the Chinese people, and create a positive cultural environment for the law-based governance of the country.

...

The approach a country takes to the rule of law and the kind of rule of law system it builds is determined by the basic circumstances of that country. In the Book of Lord Shang, it is written: “In governing a country, a wise ruler looks to popular custom to make law and achieve order, and observes the fundamental situation of the land to ensure suitable rule. Disregard for popular custom and inattention to the fundamentals of the country, would bring law without order; invested effort but little achievement.” Our work to fully advance law-based governance must be based on our country’s realities and correspond with our push to modernize China’s governance system and capacity for governance. We can neither disregard our country’s realities and work beyond the stage we are at, nor stick to old ways and guard old conventions.

...

Ensuring our efforts are based on China’s reality means giving prominence to what is uniquely Chinese,

practical, and contemporary. We need to learn from the Party's successes in leading the people in implementing the rule of law and, focusing on major theoretical and practical issues concerning the development of socialist rule of law, constantly enrich and develop the theory of socialist rule of law that is compatible with the actual situation in China, that is characteristically Chinese, and that is reflective of the laws governing social development, and in so doing provide the theoretical guidance and scientific underpinning needed in law-based governance. Our ancestors began long ago to ponder the question of how human behavior can best be tempered. Already by the Spring and Autumn and Warring States periods, China had systematic compilations of written law, and the years of the Han and the Tang dynasties saw the development of what was essentially a sophisticated, codified system of law. The legal systems of ancient China contain a huge wealth of knowledge and wisdom, giving the Chinese legal system a unique place among the major legal systems of the world. We need to further study the traditions and successes and failures of China's ancient legal systems, and identify and ensure the continuation of its finest elements, deriving positive lessons and incorporating them into our present work.

...

Basing our work on the reality in China does not mean developing the rule of law in isolation from the rest of the world. The rule of law is one of the most important accomplishments of human civilization. The essence and purpose of the rule of law have universal significance for

the governance of all nations and societies. We must learn from the fine achievements of other countries in their development of rule of law. However, learning from others does not mean simply copying them. We must primarily use what is our own, and borrow from abroad when it works for us, carefully discern between what is useful and what is not, and adopt the practices of others when to do so makes sense. We mustn't engage in “all-out Westernization,” we can't “completely transplant” the systems of others, and we mustn't go imitating other countries indiscriminately.

...

The overall objective of fully advancing the law-based governance of the country is to develop a socialist rule of law system with Chinese characteristics and to build a socialist rule of law country. As a main theme that runs all the way through the resolution adopted at this plenary session, this objective not only clarifies the nature and direction of efforts towards comprehensively advancing law-based governance, but also highlights the main point to seize on in our work. It can thus be regarded as an overall guide for our work in fully advancing the law-based governance of the country.

...

All work related to advancing the country's law-based governance must be planned and carried out in the interest of achieving our overall objective. The rule of law system we are developing is a core component of our national governance system. In order to implement the plans laid out at this plenary session, we must step up our efforts to

form a complete system of laws and standards, an efficient system for putting the rule of law into effect, a strict rule of law oversight system, and a strong system to guarantee rule of law, and we must develop an improved system of Party regulations.

— *“Accelerating China’s Development into a Socialist Rule of Law Country,”* October 23, 2014, *Qiushi Journal*, No. 1, 2015

The relationship between Party leadership and the rule of law is an issue of fundamental importance: if dealt with properly, the rule of law will develop smoothly, and our Party and country will flourish; if dealt with poorly, the rule of law will become weaker and our Party and country will fall into decline. It was stressed at the 18th Central Committee’s Fourth Plenary Session: “The Party’s leadership is the most essential feature of socialism with Chinese characteristics and the most fundamental guarantee for socialist rule of law in China. The basic lesson we have learned in developing China’s socialist rule of law is the necessity of exercising Party leadership over the whole process and in every aspect of the country’s law-based governance.” This statement gets to the heart of the relationship between Party leadership and the rule of law.

...

As we fully advance the country’s law-based governance, our direction must be correct and our political

guarantees must be strong. Our ancestors said, “When Dao is used to govern, even with few laws, it shall serve to moderate behavior; when Dao is not introduced, even with a profusion of laws, there shall be public disorder.” As I have said before, placing rule of law in competition with Party leadership is a political trap and a pseudo-proposition. We must not speak in ambiguous or vague terms on this issue; our answer must be unequivocal.

...

The relationship between Party leadership and the rule of law is a concentrated reflection of the relationship between politics and the rule of law. Within rule of law there is politics; there is no such thing as rule of law that is isolated from politics. Western jurists also believe that public law is only a complicated form of political discourse and that any debate on public law is simply an extension of political arguments. Every form of rule of law is underpinned by a set of political theories; every rule of law model has to it a certain political logic; and every path of rule of law has underlying it a political position. The path of socialist rule of law with Chinese characteristics to which we are committed is, essentially, a concrete embodiment of the path of socialism with Chinese characteristics in the area of the rule of law; the theory of socialist rule of law with Chinese characteristics which we are developing is, in essence, the outcome of the theories of socialism with Chinese characteristics on the question of rule of law; and the socialist rule of law system with Chinese characteristics we are building is, essentially, how the socialist system with

Chinese characteristics manifests in law. We have a set of theories and systems for rule of law that are in accord with the reality in China, but at the same time, we will keep an open mind and work to improve them by drawing on the finest elements of both traditional and foreign theories and systems and avoiding the elements that are of no use. Yet the fundamental elements must be our own; we must stick to our own path. In China, the CPC governs and other parties participate in government; we do not have opposition parties, and our system does not feature a separation of powers and alternation of power between political parties. The rule of law system we build must be congruent with our own political system.

...

We must keep firmly in mind that Party leadership is the soul of socialist rule of law with Chinese characteristics and the greatest difference between our rule of law and that of Western capitalist countries. Without Party leadership, there would be no progress in building a socialist rule of law system with Chinese characteristics or in developing China into a socialist rule of law country. In no way does our initiative to fully advance the law-based governance of the country mean that we are going to render Party leadership empty, weak, or even waver from or repudiate it; in fact we will work to further consolidate the Party's leadership position, improve the way it practices governance, and raise its capacity for governance, ensuring the lasting stability of the Party and the country.

Socialist rule of law must uphold Party leadership, while Party leadership must rely upon socialist rule of law. In China, law represents the unity of the Party's propositions and the will of the people; the Party leads the people in the formulation and enforcement of the Constitution and the law and must itself operate within their scope—this is a reflection of the strength of Party leadership. Constraining the activities of the Party within the scope set by the Constitution and the law demonstrates our Party's high degree of rule of law consciousness, and is also a concrete reflection of commitment to Party leadership. The Party and the law, and Party leadership and the country's law-based governance are in strong accord with each other.

...

Governing the country and exercising state power on the basis of the Constitution includes remaining firmly committed to the leadership of the CPC, and upholding the state system of a people's democratic dictatorship and the political system of people's congresses, all of which are written in the Constitution. It is erroneous, harmful, unconstitutional, and thus completely unacceptable for anyone, under any pretext, to repudiate the leadership of the CPC or our country's socialist system.

...

When we say that law should not be seen as being in competition with the Party, we are talking about the Party as a whole governing entity, and its position as governing party and its leadership position. Every Party and government organization and every official must defer to and abide by

the Constitution and the law and none may use the Party as a cover or an excuse to override the law by fiat, treat their power as if it were beyond the law, or bend the law for personal gain. Certain matters need to be referred to Party committees, but this kind of referral does not allow interference for personal reasons or to cover for someone. It is out of political consideration and in line with prescribed procedures and responsibilities. The line must be absolutely clear.

...

We say competition between the Party and the law is a pseudo-proposition, but the relationship between power and the law is a real issue that Party and government organizations and officials at every level must understand. A comprehensive look at the history of human political civilizations shows that power is a double-edged sword: exercised in line with the rule of law it can benefit the people, but used outside of the law it will bring calamity to a nation and its people.

...

Justice is the lifeblood of the rule of law. Equity and justice are the noble ideals to which our Party is committed. As our Party's purpose is to serve the people wholeheartedly, we must commit ourselves to the pursuit of equity and justice, protecting the rights and interests of the people, and seeing that justice is upheld. In our work to fully advance the law-based governance of the country, we must focus on safeguarding and promoting social equity and justice.

—*Speech at a seminar for principal provincial and ministerial*

*level leaders on the guiding principles from the Fourth Plenary Session of the 18th CPC Central Committee and on comprehensively advancing the law-based governance of China,
February 2, 2015*

III

MAKING LEGISLATION MORE EFFECTIVE AND IMPROVING THE SOCIALIST SYSTEM OF LAWS WITH CHINESE CHARACTERISTICS WITH THE CONSTITUTION AS ITS SUPREME COMMAND

As the fundamental law of the state, China's Constitution stipulates the path, theories and system of socialism with Chinese characteristics, demonstrates the common will and fundamental interests of all the Chinese people, and is the supreme legal expression of the central work, basic principles, major guidelines and important policies of the Party and the country.

—Speech at a meeting for people from all sectors of society based in Beijing to mark the 30th anniversary of the promulgation of the current Constitution, December 4, 2012, Selected Documents the Communist Party of China Has Produced since Its 18th National Congress, vol. I, Beijing: Central Party Literature Publishing House, 2014, p.86

Ensuring the full enforcement of the Constitution is the paramount task and the groundwork for building China into a socialist rule of law country. As China's fundamental law and the general program for its governance, the Constitution has the highest legal status, authority, and validity and is fundamental, overarching, unchanging, and enduring. All the people of China and all state organs, armed forces, political parties and social groups, and enterprises and public institutions must treat the Constitution as the fundamental code for their activities. They have a duty to safeguard the Constitution's sanctity and ensure its enforcement. No organization or individual has the right to overstep the Constitution or the law. All behavior in violation of the

Constitution or the law must be investigated.

...

The life and authority of the Constitution are in its implementation. We must work tirelessly to ensure that the Constitution is enforced and that its full implementation is raised to a new standard.

—*Ibid*, p. 88

The Constitution establishes the fundamental principles of China's socialist legal system. It stipulates that the People's Republic of China shall practice rule of law and develop socialist rule of law and that the state shall safeguard the unity and sanctity of the socialist legal system. To implement the fundamental policy of law-based governance and accelerate the development of socialist rule of law in China we must take comprehensive moves to ensure that legislation is well-conceived, law enforcement is strict, the administration of justice is impartial, and the law is honored by all.

—*Ibid*, p. 89

Acknowledging the Constitution as our supreme law, we must continue to improve the socialist system of laws with Chinese characteristics with the Constitution at its helm, and ensure that all state undertakings and work are brought onto

the tracks of law. We must work to see that laws are in place wherever necessary, are observed, are strictly enforced, and when broken are upheld by seeking accountability; that social equity and justice are safeguarded; and that state and public activities are increasingly institutionalized and law-based.

—*Ibid, pp. 89-90*

At present our country has, on the whole, laws applicable to all state and public activities, and in this we have made a great achievement. However, we also need to be aware that practice is the foundation of law; laws must evolve as practice changes. New demands will be placed on legislation as we work to transform the way our economy develops, expand socialist democracy, reform the administrative system, safeguard and improve living standards, strengthen and develop new forms of social governance, and protect the environment.

...

People's expectations for legislation already go beyond whether laws are in place; they want to know how good they are, how useful, and whether they can actually solve real problems. It is not just any law that can govern our country, let alone govern it well. So, the more you give prominence to the rule of law, the more you need to raise the quality of legislation. This makes perfect sense.

We must improve legislative planning with a focus on priorities for legislation, continue to make, revise, and

repeal laws as necessary, and ensure that the legislative process becomes more effective and democratic and that laws are more targeted, responsive, and systematic. We need to improve the mechanisms and procedures for legislative work, expand organized public participation, and give full consideration to the opinions of all sides, so as to ensure that the law accurately reflects the needs of economic and social development, different interests are better balanced, and legislation guides and promotes development.

...

All parties should consider legislative work from the perspective of the overarching concerns of the Party and the country; they must not become captive to their own so-called “interests,” or worse, interfere in legislative work on account of this. They need to understand that no matter how minor an issue may seem, once it involves the interests of the country and the people as a whole, it will always trump even the most vital interests of a department or industry. Comrade Peng Zhen once said that legislation is like a knife that can cut to the crux of a contradiction; in practice this means coordinating interests. During legislation, if those concerned are preoccupied with clinging to their own interests, making things difficult for others, or if everyone wants to tackle the easy and avoid the tough legislation, then laws needed in practice will not be formulated or revised in time, and even if they do end up being cobbled together, they may be ineffective and unworkable, or lead to buck passing and arguments back and forth, or even battling over being “in accordance with law.” This problem demands our

utmost attention.

...

We must strengthen enforcement of the Constitution and the law, and uphold the unity, dignity, and authority of the socialist legal system, so that people do not want to, are unable to, and do not dare to break the law. We must make sure that the requisite laws are in place, are observed and strictly enforced, and that those who break them are held to account.

—Speech at the Political Bureau of the 18th CPC Central Committee's fourth group study session, February 23, 2013

Wherever progress is made in transforming government functions, the rule of law must follow. We must ensure the rule of law serves to guide and create standards for this transformation of functions. We need to incorporate into new laws and regulations the achievements made in improving government functions so far and to guide and drive forward the next stage of the process. We also need to revise or repeal any inappropriate laws and regulations to clear the way for further transformation.

—Speech at the second full assembly of the Second Plenary Session of the 18th CPC Central Committee, February 28, 2013

We need to improve Party regulations for combating corruption and upholding integrity, strengthen national anti-corruption legislation, increase enforceability within the anti-corruption legal system, and ensure the legal system functions as it should. We need to move quickly to develop a well-designed anti-corruption system that incorporates rigorous procedures and comprehensive measures and is practicable and effective.

—Speech at the Political Bureau of the 18th CPC Central Committee's fifth group study session, April 19, 2013

All reforms need to have a legal basis. Where it is necessary for the law to be amended for reforms to work, laws may first be amended, first building then demolishing in that order. When major reform measures require legal authorization, this is to be granted in accordance with legal procedures.

—Speech at the second full assembly of the Third Plenary Session of the 18th CPC Central Committee, November 12, 2013

We need to promptly formulate a legislative plan for enacting or improving laws and regulations on monitoring internet content and protecting critical information infrastructure. Cyberspace must be governed in accordance

with law so as to safeguard citizens' legitimate rights and interests.

—*Speech at the inaugural meeting of the Central Leading Group for Cybersecurity and IT Application, February 27, 2014, People's Daily, February 28, 2014*

Throughout the reform process, we need to give high priority to operationalizing rule of law thinking and methods, let the rule of law guide and drive forward reform, and intensify coordination of legislative work between related areas so that reform progresses in accordance with the rule of law.

—*Speech at the second meeting of the Central Leading Group for Comprehensively Deepening Reform, February 28, 2014, People's Daily, March 1, 2014*

We need to promptly enact or improve related laws and regulations. To be specific, we need to complete the revision of the Law on Promoting the Application of Scientific and Technological Advances; move faster to revise the Law on Standardization, the Anti-Monopoly Law, the Company Law, and laws and regulations on intellectual property rights protection; and conduct research on formulating the Law on the Protection of Trade Secrets, the Regulations on on-the-

Job Invention, and the Regulations on Angel Investment.

—Speech at the seventh meeting of the Central Leading Group for Financial and Economic Affairs, August 18, 2014

We need to strengthen legislation in key fields to ensure the legal basis is in place for the country's development and reform and to better align decisions concerning development and reform with legislative decisions. We need to stay problem-oriented, make laws more targeted, responsive, systematic, and practicable, and ensure legislation guides and promotes development. We need to focus on the key task of improving the quality of legislation, devote greater effort to making legislation more effective and democratic, improve our legislative systems and procedures, and work hard to ensure every piece of legislation embodies the spirit of the Constitution, reflects the will of the people, and wins the support of the public.

—Speech at a conference commemorating the 60th anniversary of the founding of the National People's Congress, September 5, 2014, Beijing: People's Publishing House, separate edition, pp. 9-10

The Constitution is the fundamental law of the state. The authority of the rule of law depends, first and foremost, on the authority of the Constitution. Spreading knowledge

about and upholding the authority of the Constitution must be viewed as a major task in comprehensively advancing the country's law-based governance, and must be undertaken promptly and effectively. We must make solid moves to see that the Constitution is enforced and that its enforcement is subject to oversight.

—“*Explanation on the Draft Resolution of the Central Committee of the Communist Party of China on Certain Major Issues Concerning Comprehensively Advancing the Law-based Governance of China*,” October 20, 2014, Documents of the Fourth Plenary Session of the 18th Central Committee of the Communist Party of China, *Beijing: People's Publishing House, 2014, pp. 81-82*

The draft resolution of the Fourth Plenary Session of the 18th CPC Central Committee proposes the establishment of a pledge of allegiance to the Constitution. This is an institution adopted by most countries with written constitutions. Of the 142 countries that have written constitutions, 97 require that certain government employees pledge allegiance to their respective constitutions. Although those who take the oath and its content and procedures may vary from country to country, generally government employees make the pledge before beginning their duties or on assuming office. The draft resolution stipulates that all those elected or appointed to public office in China by people's congresses or their standing committees must

publicly pledge allegiance to the Constitution on officially assuming office. This pledge will help to demonstrate the authority of the Constitution, strengthen government employees' constitutional awareness, and encourage them to remain loyal to and safeguard the Constitution. It will also help to increase awareness of the Constitution and establish its authority throughout the whole of society.

—*Ibid*, pp. 82-83

We currently face prominent problems in legislation. The quality of legislation, for example, leaves much to be desired—some laws and regulations do not adequately reflect objective laws or the will of the people, others are not effective enough in solving real problems, while still others are inadequately focused and practicable; also, the efficiency of legislative work needs to be further improved. Departmentalism and departments engaging in power struggles while offloading responsibility are particularly prominent problems affecting legislative work, so that some legislation has in reality been reduced to game playing between different interests, with decision making being dragged out, and the laws and regulations that are formulated being of little use. Some use laws and regulations to practice local protectionism, thus hindering the establishment of a unified, open, competitive, and well-ordered market in China and harming the unity of the rule of law.

—*Ibid*, pp. 83-84

Legislating effectively and democratically is fundamental to improving the quality of legislation. Respecting and reflecting objective laws is central to legislating effectively, and working for and relying on the people is central to legislating democratically. We need to improve the mechanisms for making effective and democratic legislation, create new ways for the public to participate in legislation, and listen extensively to comments and suggestions from across society.

—*Ibid*, p. 84

We must be committed to putting legislation first; make, revise, repeal, and interpret laws as necessary; work faster to enact or improve laws, administrative regulations, and local regulations; and further refine the framework for social norms which includes codes of conduct for citizens, industry rules and regulations, and charters of organizations. These laws, regulations, and codes are fundamental for comprehensively advancing China's law-based governance. We must accelerate the development of systems and mechanisms for ensuring implementation of the Constitution, law enforcement, administration of justice, and legal compliance; maintain a commitment to law-based government administration and judicial impartiality; and ensure that the Constitution and the law are enforced fully and effectively.

To legislate effectively, it is crucial that we improve the legislative system, make legislation more effective and democratic, and tackle the key task of improving the quality of legislation. We need to allocate legislative functions and powers more effectively, ensure people's congresses and their standing committees play a leading role in legislative work, refine the mechanisms for drafting, debating, coordinating, and deliberating laws, and improve voting procedures for draft laws, so as to make legislation more responsive, systematic, targeted, and effective and increase the enforceability and practicability of laws and regulations. We need to define the boundaries of legislative power, and use systems, mechanisms, and procedures to prevent provisions that serve departmental interests or local protectionism from being written into law. We need to strengthen legislation in key areas, keeping laws current so that they serve the needs and tasks of the Party and the country and reflect the concerns and expectations of the people and promptly formulating and amending laws that are needed in comprehensively deepening reform, promoting economic development, improving social governance, ensuring people's wellbeing, and safeguarding national security.

...

It is a feature of reform in the area of rule of law that many issues touch on legal provisions. While it is true that reform must have a legal basis, we cannot shy away from pressing ahead with a reform because there is no provision for it in existing laws. If that were the case, reform would never get off the ground. It's just as the saying goes, "If

it benefits the people, one need not follow old practices; if it serves the matter at hand, one need not observe old conventions." In future when reform is required, existing laws can be revised to make it happen.

—*"Accelerating China's Development into a Socialist Rule of Law Country," October 23, 2014, Qiushi Journal, No. 1, 2015*

Effective legislation is crucial to maintaining the relationship between reform and the rule of law. We must facilitate coordination between legislative work and reform decisions so that reforms have a legal basis and legislation actively meets the needs of reform and development. When working on plans and measures for reform, we need to consider the legislative issues involved, and promptly set out legislative needs and proposals. What has proved effective should be made into law without delay. For areas where conditions are not yet ripe and trials must first be conducted, authorization must be granted in accordance with legal procedures before proceeding. Laws and regulations that stand in the way of reform should be revised or rescinded without delay. We also need to strengthen work related to legal interpretations, promptly clarifying the meaning of laws and the legal basis for their application.

—*Speech at the sixth meeting of the Central Leading Group for Comprehensively Deepening Reform, October 27, 2014,*

People's Daily, October 28, 2014

Right now, we need to focus on properly balancing reform and the rule of law. Reform and the rule of law complement and come hand in hand with each other. In Chinese history, reforms were always closely related to the rule of law and involved replacing old laws with new ones. This is true of the reforms undertaken by Shang Yang during the Warring States Period, Wang Anshi during the Song Dynasty, and Zhang Juzheng during the Ming Dynasty.

China's current reform has reached a difficult and critical stage. It is vital to address the new problems and misconceptions that have arisen concerning the relationship between reform and the rule of law. There is a view that reform means breaking free of the constraints of law, that the innumerable articles and provisions we have today are hindering and holding things up, and that law must make way for reform. Another view is that the law should be stable, authoritative, and slightly behind developments, and is thus not in a position to lead reform.

Neither of these views is complete. Reform should advance under the rule of law, and in advancing reform the rule of law should be developed—this is what is meant in saying that reform and the rule of law are like the two wheels of a chariot. We must align and coordinate decisions on legislation with those on reform, to ensure legislation meets the needs of reform and plays a positive role in leading, promoting, standardizing, and safeguarding it, while also

ensuring that reforms have a legal basis and advance in step with the rule of law such that their effectiveness is increased. Decisions that prove effective and reform measures that are successful should be promptly made into law. For important legislative issues over which there are major disputes between departments, we need to move quickly to facilitate and coordinate resolutions; such issues cannot be left to drag on endlessly. In the case of reforms for which conditions are not yet ripe and trials are still needed, authorization must be granted in accordance with legal procedures before proceeding. While it is not permitted to overstep the line of the law, it is also forbidden to hold up reform simply because there is no legal basis on which to implement it. Laws and regulations that do not meet the needs of reform should be revised or rescinded without delay; we must not allow outmoded legal provisions to become a drag on reform.

—Speech at a seminar for principal provincial and ministerial level leaders on the guiding principles from the Fourth Plenary Session of the 18th CPC Central Committee and on comprehensively advancing the law-based governance of China, February 2, 2015

IV

CARRYING OUT THE WORK OF GOVERNMENT STRICTLY IN ACCORDANCE WITH LAW AND BUILDING A RULE OF LAW GOVERNMENT

Comprehensively advancing China's law-based governance demands the strict enforcement of law. The vitality of law lies in its enforcement. If laws are not enforced or only weakly enforced, or if lawbreakers are not prosecuted, then no amount of laws will be enough to make a difference.

A story from the Warring States Period [475-221 BC] tells of how Shang Yang gained popular trust for his planned reforms in the State of Qin. Shang Yang ordered a log to be placed within the city and declared that anyone who could move it to the city's north gate would be awarded ten *yi* of gold. The people, however, did not believe he was serious about offering an award for such a simple task. Shang Yang raised the award to fifty *yi* of gold, whereupon someone came forward and moved the log to the city gate. The person was awarded the fifty *yi* of gold as promised. This story speaks to the importance of keeping one's word.

At present, of the many problems occurring in our society, some are due to insufficient legislation, but many more are the result of non-compliance with laws and regulations and even power being used and the law being bent for personal gain, and other activities that undermine the rule of law.

...

Given their primary role in implementing laws and regulations, administrative bodies must take the lead in strictly enforcing laws and safeguarding public interests, the people's rights and interests, and public order. Law enforcers must be faithful to the law; they must not place their

authority above it or defy it, nor should they show leniency beyond what the law permits or bend the law.

...

The enforcement of law relies on people; if law enforcers themselves do not observe the law, then what is the use of having good laws? To ensure that power comes with responsibility, the exercise of power is subject to oversight, and lawbreakers are held to account, we must strengthen oversight over law enforcement, eliminate unlawful intervention in law enforcement activities, prevent and overcome local and departmental protectionism, prevent and overcome special interest-driven law enforcement activities, and discipline all forms of corruption.

—Speech at the Political Bureau of the 18th CPC Central Committee's fourth group study session, February 23, 2013

Strict, civil, and impartial law enforcement constitute a single requirement that must be satisfied in its entirety. Civil and impartial law enforcement should be emphasized, as should strict law enforcement; we cannot stress one to the detriment of the other. If the law is not strictly enforced, it will be difficult to build public trust in law enforcement and the administration of justice. Many of the problems that emerge in everyday life are often closely related to lax law enforcement. In dealing with issues concerning people's interests, enforcers of the law must accurately grasp public sentiment and mood, be considerate of the

feelings of those subject to law enforcement, and ensure law enforcement is practiced in line with regulations. Law enforcement must be humanistic, adaptable, and transparent; it must not be uncivilized or commissioned to be carried out with violence. But however we do this, illegal behavior must be handled strictly and in accordance with law. At the moment in areas like environmental protection, food safety, and labor protection there is a certain disconnect between administrative enforcement and the criminal justice system, with some cases involving suspected criminal activity not making it past administrative law enforcement. The law's power of deterrence is therefore muted, making it difficult to keep the economy in good order. This phenomenon, which reflects insufficient stringency in law enforcement, must be solved by tightening oversight over law enforcement and strengthening the connection between administrative law enforcement and the administration of criminal justice.

— “Promoting Strict Law Enforcement and Judicial Impartiality,” January 7, 2014, Selected Documents the Communist Party of China Has Produced since Its 18th National Congress, vol. I, Beijing: Central Party Literature Publishing House, 2014, pp. 722-723

As long as law enforcement bodies are strictly enforcing the law in accordance with law and procedures, Party committees and governments at all levels must offer them their support and protection; they should not see these

bodies as being out to cause them trouble or negatively affect their image or achievements. We have said that we must have the courage to shoulder responsibility; enforcing law strictly is one very important responsibility. Without the support of Party committees and governments, how are law enforcement officers to do this? If everyone is preoccupied with avoiding trouble, who will work to strictly enforce the law? When those responsible for strictly enforcing the law do not do so, when those who should support and protect this work fail to offer support and protection, then we are talking about dereliction of duty, and those who are guilty must be held to account.

—*Ibid*, p. 723

Power, no matter how great or small, when not subject to checks and oversight will likely be abused. We must strengthen checks, divide powers reasonably, and allocate powers properly to see that different kinds of powers are exercised by different departments, organizations, and individuals and a sound power structure and operating mechanisms are established. In intensifying oversight over power, we must improve oversight over the exercise of power conducted by officials, especially the heads of localities and departments, while at the same time strengthening internal oversight within leading bodies, administrative supervision, and oversight through auditing and inspection tours. The Central Commission for

Discipline Inspection should station inspectors in all Party and government agencies at the central level for oversight purposes, and it should make inspection tours to oversee all localities, departments, enterprises, and public institutions. We need to increase transparency, ensure the powers of local governments at all levels and their departments are catalogued, and make the processes through which power is exercised public knowledge in accordance with law to see that power is exercised openly, and allow both officials and ordinary citizens to oversee the exercise of power, thus guaranteeing that power is exercised correctly.

—Speech at the Third Plenary Session of the 18th Central Commission for Discipline Inspection, January 14, 2014

Governments at all levels must operate strictly in accordance with law and carry out all duties fully, and must ensure everything under their charge is handled properly and thoroughly and the powers they are to let go of are delegated fully and as required. They should step back from areas they should not manage while working to address areas they do not manage sufficiently.

—Speech at the Political Bureau of the 18th CPC Central Committee's 15th group study session, May 25, 2014, People's Daily, May 28, 2014

Government is charged with enforcing the law. There is deep resentment among the people about prominent issues within law enforcement including laws being ignored or not strictly enforced and violations going unpunished, and even those charged with enforcement using their power as if it were beyond the law or for financial or other personal gain. We must take great pains to address these problems. The decision of this plenary session states that governments at all levels must carry out their work under the leadership of the Party and in line with the rule of law, and must move more quickly to build a rule of law government that has well-conceived functions and statutory powers and responsibilities, enforces the law strictly and impartially, and operates in an open, clean, and efficient way, with strong credibility.

—“*Explanation on the Draft Resolution of the Central Committee of the Communist Party of China on Certain Major Issues Concerning Comprehensively Advancing the Law-based Governance of China*,” October 20, 2014, Documents of the Fourth Plenary Session of the 18th Central Committee of the Communist Party of China, Beijing: People’s Publishing House, 2014, p. 86

We need to strengthen intraparty oversight, oversight through the people’s congress system, democratic oversight, administrative oversight, and judicial oversight, as well as oversight through auditing, public oversight, and public

opinion-based oversight. We need to work hard to develop well-designed and effective systems for the exercise and oversight of power, and ensure that all forms of oversight better complement each other and work more effectively.

...

Law-based governance is the fundamental approach to governance set forth in the Constitution of China. However, whether law-based governance is achievable rests on whether the Party is committed to the law-based exercise of power and whether the administration of government at every level is based on law. We must therefore strengthen awareness of the importance of exercising power in accordance with law, work in line with rule of law concepts, systems, and procedures, improve the way the CPC leads and exercises power, and make sure that institutions, standards, and procedures are followed in the law-based administration of government. Law enforcement is the primary means by which administrative agencies carry out government functions and administer economic and social affairs. Governments at all levels must fulfill all functions in accordance with law, carry out all statutory duties and responsibilities, and must not do anything the law does not authorize; they must improve law-based decision-making mechanisms, refine law enforcement procedures, strengthen law enforcement responsibilities, and work to ensure that law enforcement is carried out in a strict, standardized, impartial, and civil manner.

...

In ensuring that law is strictly enforced, the key concern

is solving prominent problems in law enforcement such as nonfeasance and malfeasance as well as a lack of stringency, transparency, civility, and adherence to regulations. With the goal of building a law-based government, we must establish a mechanism for administrative agencies to review the legality of their major decisions, actively implement the system of government legal advisors, codify government institutions, functions, powers, procedures, and responsibilities into law, and ensure that the powers of each level of government and the way they are exercised are rooted firmly in laws and procedures. We need to increase the transparency of government work across the board, strengthen both checks on and oversight over administrative powers, and establish an authoritative and effective system of law-based government administration under which power comes with responsibility. We also need to set strict qualification requirements for law enforcement, improve law enforcement procedures, and establish a sound system of fundamental standards for administrative discretionary powers so as to better ensure impartial and effective law enforcement.

—“*Accelerating China’s Development into a Socialist Rule of Law Country*,” October 23, 2014, *Qiushi Journal*, No. 1, 2015

At the Fourth Plenary Session of the 18th CPC Central Committee we introduced the overall objective of comprehensively advancing the law-based governance of the

country, and stressed that the practice of “one country, two systems” must be safeguarded in accordance with law, that Hong Kong and Macao must be supported to ensure lasting prosperity and stability, and that the interests of the people of Hong Kong and Macao must be protected in accordance with law. This is an important step in modernizing our country’s system and capacity for governance, and is of vital significance for fully and properly implementing the “one country, two systems” principle and the basic laws of these regions, as well as for promoting lasting stability in Hong Kong. The rule of law is the cornerstone of Hong Kong’s long-term peace and stability.

—Discussion during a meeting with Leung Chun-ying, chief executive of the Hong Kong Special Administrative Region, November 9, 2014, People’s Daily, November 10, 2014

The development of human society has proven law-based governance to be the most reliable and stable form of governance. We must be adept at applying rule of law thinking and approaches in governance, strengthen awareness of the rule of law, and in particular, we must improve the institutions and legal system used in support of the implementation of the Basic Law of the Macao Special Administrative Region, developing a more robust institutional foundation for law-based governance in Macao. We must strive to build a rule of law government that is clean, efficient, impartial, and hard-working, and ensure law-

based decision-making and administration of government, so that development in the special administrative region is always in line with the rule of law. We must strengthen the training and management of government employees, helping them become better able to perform their duties in compliance with the law. We must promote the rule of law throughout society, work together to preserve order based on the rule of law, train cohorts of rule of law professionals who are familiar with the basic law and who possess strong professional qualities, to provide a firm human resource guarantee for law-based governance in Macao.

—Speech at the ceremony to celebrate the 15th anniversary of China's resumption of the exercise of sovereignty over Macao and inaugurate the fourth government of the Macao Special Administrative Region, December 20, 2014, People's Daily, December 21, 2014

The government should do its utmost to reduce micro-management. For those items that continue to require government review and approval, we must implement the system of cataloguing government powers, make the process of review and approval open, increase its transparency, and reduce discretionary powers. In departments and positions where powers of review and approval are concentrated, powers must be broken down and personnel rotated to different positions periodically, and control over internal procedures must be

strengthened to prevent the abuse of power.

—Speech at the Fifth Plenary Session of the 18th Central Commission for Discipline Inspection, January 13, 2015

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V

**UPHOLDING THE FAIR
ADMINISTRATION OF JUSTICE AND
ENSURING THE PEOPLE CAN FEEL
JUSTICE IS SERVED IN EVERY CASE**

We must ensure that demands from the general public are handled impartially and in accordance with law, work to see that justice is served in every case, and prevent unfair trials and judgments from damaging public feeling or public interests.

—Speech at a meeting for people from all sectors of society based in Beijing to mark the 30th anniversary of the promulgation of the current Constitution, December 4, 2012, Selected Documents the Communist Party of China Has Produced since Its 18th National Congress, vol. I, Beijing: Central Party Literature Publishing House, 2014, p.91

To comprehensively advance law-based governance, we must uphold judicial impartiality. An impartial judiciary is the last line of defense protecting social equity and justice. Impartial administration of justice means that anyone whose rights and interests are infringed upon will be given protection and judicial remedy and anyone who engages in criminal activity will face punishment. If people cannot use the judicial process as a means to protect their legitimate rights, judicial credibility will be undermined and trust in the judiciary lost. The law is supposed to resolve differences and settle disputes and judicial verdicts are supposed to serve as the final word in a case. However, if the judiciary fails to deliver justice and is without the people's trust, fulfilling these functions will be almost impossible.

Much remains to be done to ensure impartial administration of justice. We have asked that greater efforts be made to ensure the people feel justice is served in every case; and achieving this should be the focus of all judiciary organs' efforts to improve their work, giving priority to addressing deep-seated problems that are affecting impartiality and impairing their capabilities. There has been complaint among the public that the civil and criminal cases which don't involve personal favors or *guanxi* are now in the minority. The situation is particularly serious for cases that go to trial, with meals and gifts being lavished on judiciary officers, and people who hold sway getting in touch with them or sending them "short notes." At present, cases of people escaping criminal punishment are apparently frequent, and it is claimed that a corruption case can be settled or a death sentence quashed if enough money is paid, with as much as several million yuan changing hands in some cases. Is this true? If yes, then where does this money go? How many people in how many different bodies have benefited? Wouldn't this mean that just by spending money someone can evade criminal punishment, or even a death sentence? Some in the judiciary are taking double portions of bribes, swallowing payments from not just the defendant but also the plaintiff. All of this has an extremely negative influence and has given rise to strong public resentment. The story of Lord Bao, a Song Dynasty official of great virtue, is recalled with special fondness by many ordinary Chinese people, which in certain a way reflects people's hope for an impartial judiciary.

We must remain committed to ensuring the judiciary serves the people, improves its work style, and provides effective services to address the problems people have in taking legal action. In particular, we should increase legal aid for people facing difficulties so as to protect their legal rights and interests; and we should work faster to resolve the problem of some areas not having any lawyers and some underdeveloped areas not having enough. If the people who need to take legal action are without the money or legal representation to do so, how can we achieve judicial impartiality? In addition, those working in the judiciary must maintain close ties with the people. If they have no understanding of the people, know nothing of their hardships, or are not familiar with their demands, they will not know which work practices are correct and will be unable to fulfill their required role. There is a common Chinese saying about Zhang Fei, a general from the Three Kingdoms Period, which goes like this, Zhang Fei tried his hand at selling tofu—though his strength was immense, his product was poor; in other words, one must have the requisite skills for the job at hand. The law should not be cold-hearted; judicial work after all involves working with the general public. Although a judgment might deliver justice for those involved, it might not fully untie the knot in their heart. If this has not been achieved, a case has not really been resolved.

...

We need to optimize the allocation of judicial functions and powers, regulate judicial activities, increase

judicial transparency, and respond to people's concerns and expectations in relation to open and impartial administration of justice. We must ensure that courts and procuratorates independently and impartially exercise their respective powers in accordance with law. This has consistently been the stance of the Party and the country, and is something that the 18th National Party Congress also reiterated. To prevent the judiciary being influenced by power, money, personal favors, or *guanxi*, we must have institutional safeguards in place.

—Speech at the Political Bureau of the 18th CPC Central Committee's fourth group study session, February 23, 2013

The Party unequivocally maintains the stance that the judiciary should independently and impartially exercise its functions and powers in accordance with law. Having learnt the lessons of the Cultural Revolution, the Party made it clear at the Third Plenary Session of the 11th Party Central Committee that procuratorates and courts must maintain an appropriate level of independence. China's Constitution also stipulates that People's Courts and People's Procuratorates shall exercise their respective judicial and procuratorial powers independently in accordance with law, and without interference from any administrative organs, social groups, or individuals. Some officials do not fully understand how to uphold the Party's leadership over judicial and law enforcement work, and as such have not properly handled

this task. There are those who are afraid, or do not know how, to appropriately exercise the Party's leadership and fear being accused of using their power as if it were beyond the law or of overriding the law by fiat. There are some who over-manage or micro-manage matters that are the duties of judicial and law enforcement bodies, managing specific professional work that they should not and are unable to manage, while others even go as far as interfering in the handling of certain cases in order to serve their own personal interests. Party organizations and officials at every level need to adapt to the requirements that governance must be appropriate, democratic, and law-based, and need to provide support to all judicial and law enforcement bodies as they exercise their respective responsibilities and work collectively together in accordance with the Constitution and the law.

—Speech at the Central Conference on Judicial and Law Enforcement Work, January 7, 2014

One of the greatest challenges for a country lies not in making laws but in implementing them. In law enforcement and judicial work, nonfeasance and misfeasance are prominent issues that have caused much complaint and great concern across all sectors of society. The problems of lax law enforcement and judicial injustice and judicial corruption are particularly serious. Some judicial and law enforcement bodies and officers enforce the law arbitrarily,

using inappropriate, unprincipled, or unauthorized means. Either they don't register cases or don't hold those guilty to account, or they do register cases, but violate regulations and exceed the limits of their authority in doing so. Some frequently resort to coercive measures and infringe upon citizen's legitimate rights and interests, some allow cases to be influenced by money, *guanxi*, or personal favors, and some even bend the law for personal gain or pervert the course of justice in exchange for a bribe. This kind of behavior tarnishes not only the image of our judicial and law enforcement bodies, but also that of the Party and the government.

—“Promoting Strict Law Enforcement and Judicial Impartiality,” January 7, 2014, Selected Documents the Communist Party of China Has Produced since Its 18th National Congress, vol. I, Beijing: Central Party Literature Publishing House, 2014, p. 717

The English philosopher Francis Bacon once said, “One foul sentence doth more hurt than many foul examples. For these do but corrupt the stream, the other corrupteth the fountain.” This is a profound truth. Judicial and law enforcement bodies interact with the general public on a daily basis, and as such they serve as a reflection of the Party and the government’s conduct for people. If every effort is not made to show the people that justice is being served in every case, they will lose trust in the judicial and

law enforcement bodies and as a result in the Party and government as well.

...

Justice is born of impartiality; authority is born of integrity. In assessing whether or not judicial and law-enforcement organs have public credibility there are two main elements one should focus on: one is impartiality and the other integrity. Achieving these, however, is easier said than done. That requires tireless and unremitting efforts to uphold professional ethics and the rule of law, strengthen institutional constraints, and ensure transparency.

—*Ibid*, p. 718

The vitality of institutions lies in their enforcement. To not strictly enforce the institutions we have would give rise to a broken windows effect. For example, in many countries there are strict rules limiting the contact a lawyer and a judge or procurator may have; they are forbidden from meeting in private, staying in the same hotel, visiting the same entertainment venues, or even taking the same elevator. Some of the lawyers we have here in China, however, collude with judges and procurators and play the role of “judicial middlemen.” People commonly describe judges and procurators who engage in such practices as wearing double-peaked caps, referring to their readiness to take bribes from both sides in a case. The impact of this behavior is extremely harmful. We need to strictly enforce existing systems

for handling these problems and make improvements to them where needed so as to ensure the strongest possible safeguards are in place. All involved in the legal process should feel there is an “electric fence” preventing them from crossing the line and engaging in collusion; anyone who breaches the rules should be subject to the strictest punishment of a lifetime ban from practicing law, and anyone who violates the law should be held accountable in accordance with law.

...

Transparency is the best antidote for corruption. Judicial credibility is impossible to establish if power is exercised in the dark or with selective transparency. The more open law-enforcement organs and the judiciary are, the more authority and public credibility they have. Of the cases that concern the interests of the public, how many really need to be kept confidential? Unless otherwise stipulated by law, all cases should be open to the public. We must continue to increase impartiality through openness and ensure integrity through transparency. We need to strengthen awareness of the need to proactively increase transparency and accept oversight, and strive to improve work mechanisms, innovate work practices, and open up more channels of communication so that law-enforcement and judicial documents concerning legal basis, procedures, proceedings, results, and rulings can be promptly made available to the public. We must increase the level of transparency in cases that receive significant public attention, so as to ensure there is no space for backroom deals.

or judicial corruption.

—*Ibid*, p. 720

If we are to ensure strict law enforcement and impartial administration of justice, we need to do more to resolve the problem of leading organs and officials violating laws and regulations by interfering in legal and judicial matters. This problem has been a deep-rooted cause of judicial corruption and injustice in law enforcement. Some leading Party and government officials, in pursuit of personal interests, interfere in certain cases by soliciting personal favors, signing off on improper requests, passing along extra materials, or engaging in other explicit or tacit behaviors. Some officials even push law enforcement organs and judicial bodies to breach their legally prescribed duties. In China, a socialist country under the leadership of the Communist Party of China, this is absolutely unacceptable. Officials at every level should take the lead in working in accordance with and abiding by the law, always maintaining reverence for the Constitution and the law and bearing firmly in mind that the line of the law is not to be crossed. They should never exercise power beyond what the law affords them and, moreover, should never override the law by fiat, use their power as if it were beyond the law, or attempt to bend the law for personal gain. Any officials who do not follow these rules are not qualified for their posts. If officials don't observe the law, then how can they expect the people to do

so? With regard to complaints from the public concerning problems with law enforcement or the handling of cases, leading Party and government officials may refer them to the relevant judicial and law enforcement bodies in line with procedures and the law, but should not give biased opinions, much less decide the outcome of a case on behalf of these bodies. Whether officials work in accordance with and observe the law should be an important criterion by which they are assessed and judged. We need to put in place a sound reporting, recording, and notification system for judicial interference in violation of statutory procedures along with a system for holding those responsible to account. We must see to it that all interference is punished in accordance with Party discipline and administrative regulations; furthermore, any interference that results in false charges, unjust and incorrect rulings, or other similarly serious consequences, must be dealt with in accordance with law.

—*Ibid, pp. 720-721*

The judicial and law enforcement bodies of our socialist country cannot operate like the courts of old China where although the magistrate's door was open to the public, those with legitimate grievance could not gain entry unless they had money. Actions speak louder than words. Starting with judicial and law enforcement bodies, we need to eliminate all unspoken practices, put an end to the occurrence of cases

where people escape punishment for breaking the law, and stop giving those with social connections and *guanxi* a free pass while placing those without in an extremely difficult situation. We must work to ensure that anyone who attempts to use *guanxi* to evade punishment not only fails but pays a price for their actions.

—*Ibid*, pp. 721-722

Nowadays, everyone has a camera, everyone has a microphone, and anyone can send a message. This means that law enforcement and judicial activities are under public scrutiny and the media spotlight at all times. For a while now, negative online reports and comments about the judiciary have been frequent; some of these have focused on the actual problems hindering law-enforcement and judicial work, others, however, have been written by the media or the parties involved in a case in an attempt to influence its outcome or create hype around it. Judicial and law enforcement bodies must conscientiously accept media oversight, promptly and appropriately inform the public about developments in law enforcement and judicial work, and adopt a targeted approach to better guide public opinion. The media certainly needs to strengthen its oversight over the work of law enforcement and the judiciary, but it also needs give its support to the positive work being done in this area, do more to explain issues and allay the concerns of the public, and provide reasonable guidance instead of parroting

the opinions of others, much less jumping to criticize before getting a clear picture of what's going on. We must effectively manage the relationship between oversight and intervention, continue to put the effect on society first, and avoid exaggeration and hype so as to prevent panic and even more importantly, to avoid providing criminals with models which they can copy.

—*Ibid*, p. 723

The fight against corruption is one judicial and law enforcement bodies absolutely must win. The reason people are able use power and money to escape criminal punishment, get out of jail, or have a death sentence quashed is because of the corruption that exists within the ranks of the judiciary. Some officers conspire with criminal groups and offer them protection, brazenly defying the law. Some criminal groups that slaughter and steal are not only not brought to justice, but their leading members are allowed to rise up in the world, some even go on to become political players, taking up positions as deputies to people's congresses, members of CPPCC committees, or community-level officials. This shows just how large an umbrella these criminals have to protect them. In many cases, corruption among judicial and law enforcement bodies and employees doesn't just involve interests, it also affects people's rights and lives. While some practice corruption and make personal gains, others who are innocent are sent to prison or even put

to death. When people see this sort of thing happening, they are bound to have doubts about whether China is even being run by the CPC anymore. We really need to wake ourselves up, and be fully determined to take all steps necessary to eliminate corruption from law enforcement and the judiciary. We need to improve the system for setting out the duties and responsibilities of judicial and law enforcement bodies and for ensuring cooperation and mutual checks between them. We need to tighten oversight over, and constraints on, the exercise of law-enforcement and judicial powers, implementing a sound system of oversight and management, an effective system of checks and balances, and a strict system of accountability so that as few opportunities as possible are available to abuse power or engage in rent seeking. We must take a zero-tolerance approach to judicial corruption, be determined to continue cracking down on both “tigers” and “flies,” and be resolute in ensuring anyone who has a damaging effect on others is removed.

...

The kind of judicial system a country chooses to adopt is ultimately determined by national conditions. The key to judging a country’s judicial system is to examine whether it accords with national conditions and whether it can resolve practical problems. In practice, our country’s judicial system has on the whole proven to be suitable to national conditions and development requirements, and so we must have greater confidence in the socialist judicial system with Chinese characteristics and strengthen our political resolve in this regard.

At the same time, as reform continues to be carried out, the judicial system will require constant development and improvement. There are some particularly prominent problems which are affecting the enforcement of laws and the administration of justice. The causes of these are multi-faceted, but one major factor is that the judicial system and its work mechanisms are not rational. For example, judicial organs' officers and financial resources are under the control of local authorities, making judicial activities susceptible to intervention; the problem of excessive administrative procedures within the judiciary is serious, with the judges who hear a case not deciding the sentence to be handed down and the judges who decide the sentence not hearing the case; judicial officers are managed in the same way as ordinary public servants are, which is not conducive to raising professionalism or ensuring cases are handled properly; and the administration of justice is not transparent, which means there is room for people to engage in backroom deals. These problems not only hinder the judiciary's ability to remedy infringements on rights, settle disputes, and check public power, but also make it difficult to achieve social equity and justice. If we want to solve these problems, then we must deepen judicial structural reform.

...

We are deepening reform of the judicial system so as to better uphold the Party's leadership, give greater play to the particular characteristics of China's judicial system, and more effectively promote social justice and equity. All reforms that are in line with these goals and that should and can be

implemented, we must resolutely implement; those that run contrary to these goals and should not be implemented, we absolutely must not undertake. Blind imitation or the transplanting of ideas will only leave us with systems that are not suited to China's conditions and may even result in catastrophic mistakes being made on fundamental issues.

...

One important goal we have in deepening judicial structural reform is to boost judicial credibility, so that the judiciary can genuinely play its role as the last line of defense for social equity and justice. We need to work hard to resolve deep-seated problems and eliminate obstacles that are impeding judicial institutions, mechanisms, and guarantees for ensuring judicial fairness and that are constraining judicial capabilities, with a focus on three areas: ensuring the independent and impartial exercise of judicial authority and prosecutorial powers in accordance with law; improving the mechanisms for the exercise of judicial powers; and improving the system of judicial guarantees for human rights.

...

At present, the judiciary in China is under a system in which human and financial resources at each level are allocated and regulated by the corresponding level of government, which means that the judiciary is under the control of the local authorities, making judicial activities susceptible to intervention. As China is a unitary state, the powers of the judiciary are essentially part of the administrative authority of the central government. Local

courts are not under local authority, but rather exercise judicial power on behalf of the state in that area. The human, financial, and material resources of all judicial organs should really be uniformly regulated and safeguarded by the central authorities. Most major countries have a system like this in which all administrative affairs of the judiciary, including matters of personnel and expenditure, are regulated by the national government or a national institution. Given the vast number of judges and procurators throughout the country, bringing all judicial organs under the unified regulation and safeguard of the central authorities is not possible at present. This current round of reform focuses mainly on establishing a provincial, unified management system for appointing judges and procurators to courts and procuratorates below the provincial level as well as a system for the provincial-level nomination, management, appointment, and dismissal of judges and procurators in accordance with legal procedures; and explores the possibility of incorporating the expenditures of local courts and procuratorates below the provincial level into provincial-level budgets.

—Speech at the Central Conference on Judicial and Law Enforcement Work, January 7, 2014

An increase in social problems in recent years has meant that courts across the country must hear an ever-growing number of cases. In particular, a large number of cases end up in the Supreme People's Court, which has

increased the pressure it is under to handle judicial cases and receive visits and the difficulties it faces in settling litigation-related complaints through visits. This prevents the Supreme People's Court from properly overseeing and guiding the work of the courts throughout the country, and is neither conducive to safeguarding social stability nor to facilitating litigation.

The draft resolution of this plenary session proposes that the Supreme People's Court establish circuit courts to handle major administrative, civil, and commercial cases that extend across administrative divisions. This will help to bring judicial bodies closer to communities, resolve disputes in the locality where they have occurred, and make it easier for people to take legal action, so that the Supreme People's Court can concentrate on formulating judicial policies, making judicial interpretations, and handling major cases which provide guidance in ensuring the consistent application of law.

— *Explanation on the Draft Resolution of the Central Committee of the Communist Party of China on Certain Major Issues Concerning Comprehensively Advancing the Law-based Governance of China*, October 20, 2014, Documents of the Fourth Plenary Session of the 18th Central Committee of the Communist Party of China, Beijing: People's Publishing House, 2014, p. 90

As the socialist market economy has continued to

develop and administrative litigation has become more common, the number of cases that involve parties from different administrative regions and even transnational cases, has also grown, as have the sums of money involved in such cases. As a result, relevant government agencies and officials are showing increased concern for how local courts handle such cases, with some agencies and officials even abusing their power and connections to interfere in their handling, resulting in a situation where the “home team” is given an unfair advantage. This is not conducive to ensuring equality in the protection of non-local litigants’ legitimate rights and interests, to guaranteeing the independence of court judgments, to overseeing the law-based administration of government, or to ensuring impartial enforcement of the law.

It is stated in the draft resolution of this plenary session that we should explore the possibility of establishing people’s courts and people’s procuratorates whose jurisdiction extends beyond administrative divisions. This would help to eliminate interference in judicial and procuratorial work and ensure that courts and procuratorates exercise their respective judicial and procuratorial powers independently and impartially in accordance with law. It would also help to create a situation in which ordinary cases are heard by local courts while special cases are heard by cross-divisional courts.

—*Ibid*, pp. 90-91

At present, oversight by procuratorates over

administrative activities mainly involves investigating and handling, in accordance with law, criminal cases concerning embezzlement, bribery, dereliction of duty, and infringements on rights by administrative workers, making the scope of oversight relatively narrow. In reality, the number of unlawful administrative actions which constitute an offence under criminal law is actually very small, most offences amount to either nonfeasance or misfeasance. If we continue to ignore offences from the latter group and just allow them to develop, then not only will administrative problems at local level and in government departments be impossible to fundamentally address, but we may also find that what were originally minor problems have evolved into serious criminal offences.

It is stated in the draft resolution of this plenary session that if in the course of its duties a procuratorate discovers an administrative body has exercised power in violation of the law or has neglected its duties, the procuratorate should urge that body to take corrective action. This aim of this regulation is to ensure that when a procuratorate discovers during the course of law enforcement and investigation that an administrative body, or personnel within that body, have acted unlawfully, it promptly offers advice and urges that corrective measures be taken. We can begin this reform by establishing a system to press for the filing of litigation and by improving the mechanism through which procuratorates carry out investigative and advisory work.

Because certain administrative bodies use their power illegally or neglect their duties, cases occur where the public interests of the state and society, such as those concerning the protection of state assets, the transfer of rights to use state-owned land, and the protection of the environment and resources, are either infringed upon or are in danger of being infringed upon. In practice, because they have no direct involvement in these cases, citizens, legal persons, or other social organizations do not or cannot file public interest litigation. This has resulted in a lack of effective judicial oversight over administrative activities, and has damaged our efforts to promote law-based government administration and strict law enforcement and to better protect public interests. Allowing procuratorates to file public interest litigation would ensure better allocation of judicial functions and powers, improve the administrative litigation system, and advance efforts to build a rule of law government.

—*Ibid*, p. 92

It is crucial that we make full use of judicial proceedings, especially court trials, to ensure quality handling of cases and judicial impartiality. China's Criminal Procedure Law prescribes that during the criminal litigation process public security organs, procuratorates, and courts, in carrying out their respective duties, must both support and place a check on one another. This is a litigation system

that incorporates Chinese characteristics and conforms to national conditions; it must be upheld. In practice however, many officers that handle cases attach little importance to trials and there are often instances where key evidence is missing or has been illegally obtained, which results in cases falling short of the statutory requirement that "facts should be clearly ascertained and evidence should be firm and substantial." This prevents the smooth operation of court proceedings.

In stating that reform of the litigation system must put court proceedings at its core, the draft resolution of this plenary session aims to ensure that officers are aware that their handling of a case must stand the test of law, that the factual evidence from investigations and reviews is also able to stand the test of law, and that court trials play the decisive role in establishing the truth, examining evidence, protecting the right to litigation, and delivering fair judgment. This reform will encourage officers handling cases to strengthen their sense of responsibility, ensure that the procedural justice administered through court proceedings results in substantive justice being delivered through the rulings of cases, and effectively prevent false charges or unjust and incorrect rulings.

—*Ibid*, pp. 93-94

To ensure impartial administration of justice, we need to further improve the way in which systems for delegating

powers and for ensuring coordination and mutual checks within the judiciary are set up, with a particular focus on optimizing the allocation of judicial functions and powers. Party organizations and officials at every level should unequivocally support the lawful and independent exercise of power by the judiciary, and under no circumstances are they permitted to exploit their power to interfere in the administration of justice. Confucius once said, “Promote the righteous and dismiss the morally corrupt and the people will trust in you; do the opposite and they will reject you.” Officials in the judiciary must be strong in principle and be willing to fully assume responsibility, having the courage to lawfully eliminate both internal and external interference in the work of judicial bodies and to stand their ground in defense of judicial impartiality. We must remain committed to furthering judicial impartiality and credibility through greater openness, work to build an open, dynamic, and transparent judicial system that is accessible to the public, put an end to backroom deals, and resolutely stamp out judicial corruption.

—“*Accelerating China’s Development into a Socialist Rule of Law Country*,” October 23, 2014, *Qiushi Journal*, No. 1, 2015

VI

RAISING PUBLIC AWARENESS OF THE RULE OF LAW AND ENSURING ALL ACT CONSCIOUSLY TO RESPECT AND ABIDE BY THE LAW

We should increase society-wide publicity and education on the Constitution and increase awareness of it and the legal system among the public, and particularly among officials and government employees, so as to promote socialist rule of law, cultivate a law-based socialist culture in which every household is well informed about the Constitution, and foster throughout society an atmosphere of studying, respecting, obeying, and applying the law.

...

We should make constitutional education an important part of the training for Party members and officials so as to ensure that all officials and government employees gain a fundamental knowledge of the Constitution and develop an awareness of the need to be loyal to, observe, and uphold the Constitution.

—Speech at a meeting for people from all sectors of society based in Beijing to mark the 30th anniversary of the promulgation of the current Constitution, December 4, 2012, Selected Documents the Communist Party of China Has Produced since Its 18th National Congress, vol. I, Beijing: Central Party Literature Publishing House, 2014, p. 91

To fully advance the law-based governance of China, we must ensure every citizen abides by the law. This means that every organization and individual must act within the confines of the Constitution and the law and that every citizen, social organization, and state organ must take the

Constitution and the law as their code of conduct, exercising their powers and rights and performing their obligations in accordance with these. We need to intensify publicity and education on the legal system, promoting socialist rule of law, spreading legal knowledge, and cultivating legal awareness throughout society, so as to create a positive social environment in which the Constitution is regarded as paramount and to observe the law is regarded as noble. We should continue to combine the tasks of promoting education on the legal system and putting the rule of law into practice, carry out extensive campaigns to promote law-based governance, and ensure that social governance also becomes increasingly law-based.

...

We need to encourage everybody to observe the law and to rely on it to resolve their problems. We absolutely cannot tolerate the spread of the practice whereby the response taken to a problem is dictated by the level of outcry that problem generates; otherwise, there will be no rule of law to speak of. We must work to change the perception that the cost of breaking the law is too low and the cost of observing it too high. People who break the law must be forced to pay a far higher price than those who observe the law, as much as several, a dozen, or several dozen times higher. Of course, this is a process. It requires us to gradually build the authority of the law among officials and the public and to convince people that all legitimate demands will be met through legal procedures.

—*Speech at the Political Bureau of the 18th CPC Central*

Committee's fourth group study session, February 23, 2013

For the law to fully play its role, the whole of society must first believe in it. The French philosopher Jean-Jacques Rousseau once said that the most important kind of law is not graven on tablets of marble or brass, but on the hearts of the citizens. Our society greatly values personal relationships, and people tend to have extensive social connections. Relations with superiors and subordinates, relatives and friends, former comrades-in-arms, colleagues, and schoolmates are generally close, and many are used to relying on such relations when they encounter difficulties. But every time personal favors are allowed to impinge on the law or on authority, it results in problems, some of which may be extremely serious.

— “Promoting Strict Law Enforcement and Judicial Impartiality,” January 7, 2014, Selected Documents the Communist Party of China Has Produced since Its 18th National Congress, vol. I, Beijing: Central Party Literature Publishing House, 2014, p. 721

We need to carry out extensive publicity and education in relation to the legal system, promote socialist rule of law, and encourage people to use and rely on the law to solve their problems, so as to gradually do away with the practice of relying on acquaintances rather than the law when

things go wrong. Of course, this will all require a process, throughout which the key will be to take concrete action that makes it clear to ordinary people that the law does not make allowances for personal feelings and is not partial to those with power, which is to say that as long as people's demands are legitimate they will be met through legal procedures.

—*Ibid*, p. 722

Only by establishing a firm faith in the law among Chinese people of all ethnic groups and ensuring everyone conscientiously observes the law can solidarity between ethnic groups be guaranteed and strong relations between them be ensured. Many conflicts and problems involving ethnic groups arise because people do not understand, or do not observe the law. Although these conflicts and problems tend to be labeled as “ethnic problems,” not all of them are. We need to raise legal awareness among all ethnic groups so as to ensure everyone knows that all are equal before the law and no one holds special privileges that puts him or her above the law.

—*Speech at the Central Conference on Ethnic Affairs held in conjunction with the Sixth National Awards Ceremony for Fostering Ethnic Unity and Progress hosted by the State Council, September 28, 2014*

Just as people's rights and interests need legal protection, the authority of the law needs the protection of the people. We should encourage everyone to take the initiative and get actively involved in the law-based governance of the country, becoming faithful advocates, conscious adherents, and staunch defenders of socialist rule of law and joining together in the pursuit to ensure that the law is respected, believed in, observed, applied, and defended.

...

Comprehensively advancing the law-based governance of China requires involvement from the whole of society and increased public awareness in relation to the rule of law. We must strive to develop socialist rule of law and to foster a socialist rule of law culture throughout society. By establishing the authority of the law in society, we can ensure people understand that the law is not only an effective tool for safeguarding rights, but also a code of conduct to be observed; we can foster a sound social environment in which all members of society act in accordance with law, look to the law when in difficulty, and rely on the law to solve problems; and we can ensure that people make a conscious effort to oppose illegal activities and uphold the authority of the rule of law.

...

To ensure that the law is observed by all, public awareness of the rule of law must be strengthened. In recognizing that our work to promote universal understanding and observance of the law is a long-term,

fundamental part of ensuring the rule of law, we need to take effective measures to strengthen publicity and education on the legal system. We should remain committed to ensuring education on the rule of law begins at an early age. It should be incorporated into the national education syllabus and into initiatives to advance cultural and ethical progress, with efforts being targeted toward continuously improving young people's awareness of rules and regulations, starting with simple requirements before progressing onto more difficult ones. We should also compile credit records for checking citizens' and organizations' compliance with the law and improve mechanisms for rewarding those who act in good faith and follow the law, while punishing those who do not. This can help to develop a social atmosphere in which to observe the law is honorable while to violate it is contemptible, thereby ensuring the law is respected and consciously observed by all.

—“*Accelerating China’s Development into a Socialist Rule of Law Country*,” October 23, 2014, *Qiushi Journal*, No. 1, 2015

Communities have an indispensable role and position in the work to comprehensively advance the law-based governance of China. We need to make use of more engaging ways to inform the public about the Constitution and the law, give play to the role that urban and rural civic codes of conduct and other community-level standards can

play in social governance, and work to further cultivate an awareness and habit of abiding by, and acting in accordance with, the law among community members, so that everyone becomes a faithful advocate, conscious adherent, and staunch defender of socialist rule of law.

—*Speech given during an inspection tour to Fujian, November 1, 2014, People's Daily, November 3, 2014*

The establishment of China's Constitution Day presents us with an opportunity to increase publicity and education on the Constitution, further promote the Constitution, raise public awareness of its importance, encourage its full implementation, and ensure it plays a greater role in the work to build a moderately prosperous society in all respects, deepen reform across the board, and fully advance the law-based governance of China.

—*Directive issued on the eve of China's first Constitution Day, December 2014, People's Daily, December 4, 2014*

VII

BUILDING A CONTINGENT OF RULE OF LAW PROFESSIONALS WITH STRONG INTEGRITY AND ABILITY

Judicial and law enforcement bodies are vital for ensuring people can live and work in peace for serving economic and social development, and for safeguarding national security and social stability. All judicial and law enforcement bodies around the country should fully implement the guiding principles of the CPC's 18th National Congress, uphold the fundamental policy of law-based governance, and make the overall work of the Party and the country as well as the interests of the overwhelming majority of the people their primary concern, as they dedicate themselves to the mission of developing and safeguarding socialism with Chinese characteristics.

...

To meet people's new expectations concerning public security, judicial impartiality, and the protection of rights and interests, judicial and law enforcement bodies throughout the country should channel all efforts toward building a peaceful and law-based China and cultivating a strong contingent of judicial and law enforcement professionals. We should deepen reform of judicial institutions and mechanisms, ensure strict supervision of the police, and always stand opposed to unjust law enforcement and judicial corruption. We should work to raise law enforcement capabilities, increase the public's sense of satisfaction and security, and strengthen the approachability and credibility of judicial and law enforcement bodies. We must work hard to ensure the people feel every case is handled both fairly and justly, so that socialism with Chinese characteristics can move forward

in a harmonious and stable social environment.

—Directive on carrying out judicial and law enforcement work effectively under the new circumstances, January 2013, People's Daily, January 8, 2013

We should see to it that judicial professionals become more capable of delivering justice, that loyalty building initiatives and professional training are strengthened, that the cultivation of community-level professionals in particular is strengthened, that systems related to judicial officers and the provision of funding for the judiciary are strengthened, and that the working and living conditions of judicial officers—particularly those working at community level—are improved so that they can better perform their duties.

—Speech at the Political Bureau of the 18th CPC Central Committee's fourth group study session, February 23, 2013

In upholding social equity and justice, judicial and law enforcement bodies must live by the principle that all are equal before the law. If these bodies have little regard for ordinary people but think much of those with money and influence there will be no social equity or justice to speak of.

In China there has long been the view that “good people” don’t go to court; legal action has traditionally been looked upon with reluctance, disgust, and even

shame. Except as a last resort, ordinary people are often unwilling to take a dispute to court, and when they do, it is because they believe that justice will be served. Every time ordinary members of the public seek but find no recourse to justice; every time they experience wrongful accusations, falsification, or incorrect rulings in a case it undermines not only their legitimate rights and interests, but also the sanctity and authority of the law and their confidence in social equity and justice. The consequences of even one incorrect verdict can destroy the positive image built up from 99 correct ones; when it comes to social equity and justice, we must understand that 100 minus 1 equals zero. One mistake per ten thousand judicial and law enforcement decisions is one hundred percent harmful to the parties involved.

With a sword in one hand and scales in the other, judicial and law enforcement professionals should take concrete action to safeguard social equity and justice so that the people feel they are being readily served. We must resolve major infringements upon people's rights and interests. Under no circumstances will we accept people's calls for help from the police going unheeded, litigation being unaffordable for ordinary people, misuse of power infringing on the people's rights and interests, or law illegal behavior by enforcement professionals leading to wrongful accusations or unjust and incorrect rulings.

—Speech at the Central Conference on Judicial and Law Enforcement Work, January 7, 2014

One primary reason for lax law enforcement and judicial injustice is that a small number of judicial and law enforcement officers lack the necessary professional conscience. In many cases, right and wrong can be determined not by drawing on a vast trove of legal knowledge, but by relying on conscience. The line between right and wrong, however, has been blurred in some cases. Professional conscience must be observed whatever the line of work. Without professional, or at the very least human, conscience, how can someone do their job well? For judicial and law enforcement officers, the most important part of professional conscience is enforcing the law for the benefit of the people.

— “Promoting Strict Law Enforcement and Judicial Impartiality,” January 7, 2014, Selected Documents the Communist Party of China Has Produced since Its 18th National Congress, vol. I, Beijing: Central Party Literature Publishing House, 2014, p. 718

Professional conscience comes from professional ethics. Judicial and law enforcement officers must treat it as a must to develop stronger professional ethics based on a sense of justice and integrity and be guided to consciously use professional ethics to govern their actions. Officers must recognize that there is no greater disgrace than injustice and dishonesty, have zero tolerance for the problems detested by the people, do their utmost to respond to people’s

urgent needs, and cultivate uprightness as they punish vice, encourage virtue, and strictly enforce the law.

—*Ibid, pp. 718-719*

To strictly enforce the law and administer justice impartially, we must believe in and adhere to the rule of law. As the Chinese saying puts it: "The law does not submit to power, just as a measuring tape does not bend to a curve." This is the essence of the rule of law. If judicial and law enforcement professionals do not believe in, or do not have the resolve to adhere to, the rule of law, then they will be unable to resist temptation when they come face to face with power, money, or social connections. No country or system can wholly separate its judicial and law enforcement professionals from society, and so there will always be a certain degree of interference in the enforcement of law and the administration of justice. What counts is that when judicial and law enforcement professionals are faced with these kinds of situations, they are able to eliminate any interference by remaining committed to the rule of law.

...

Our judicial and law enforcement officers must treat the rule of law as a core pillar; they must know the law well, understand it, observe it, and safeguard it; they must stand firm and remain upright, serve only the truth and the law, and be straightforward and clear and they must be impartial, true to the law, free from selfish interest, and just. Of course,

in today's society, doing this can come with a cost—those who do may find their own immediate interests are affected or even suffer threats and intimidation. But for the sake of the Party and the people, they must do what they must do, and they must trust that the justice of the heart will prevail.

—*Ibid.* p. 719

In the last few years, disciplinary and legal violations by judicial and law enforcement officers have posed a serious problem. Wielding great power at the same time as facing numerous trials and temptations, China's more than three million judicial and law enforcement officers cannot be without strict supervision for even a second. An ancient Chinese sage once wrote, "If a government has the people, but not the laws, it will never make progress in its tasks; if it has the laws, but not the people, its laws will be of little use. It must have both to govern the nation effectively." In order to implement the fundamental policy of law-based governance and build socialist rule of law, China must have high-caliber judicial and law enforcement professionals. While keeping in mind the requirement that these professionals be politically upstanding, competent, responsible, disciplined, and committed to good conduct, we should work hard to cultivate a contingent of judicial and law enforcement personnel who carry out their duties for the people and with conviction, who possess the courage to shoulder responsibility, and who conduct themselves with

integrity and honesty.

...

Firm ideals and convictions constitute the political soul of judicial and law enforcement professionals. I have always stressed that ideals and convictions are the marrow of Communist Party members' faith; without these, we Communists would suffer from a "lack of backbone." This is of particular practical significance for judicial and law enforcement bodies. As it has been said, "Strong winds test the hardiness of grass" and "blazing fires test the purity of gold." In times of peace, it is judicial and law enforcement professionals who are among those most exposed to strong winds and blazing fires. For this reason, their ideals and convictions must meet higher standards and stricter requirements. We must give top priority to strengthening the ideals and convictions of judicial and law enforcement professionals when developing their ranks, making ever stronger their theoretical foundation for holding high the banner of socialism with Chinese characteristics, following the direction of the Party, and staying committed to their mission. They must make the cause of the Party, the interests of the people, and the safeguarding of the Constitution and the law their highest concerns, strive to develop an incorruptible character, and remain ever faithful to the Party, the country, the people, and the law.

...

It is of particular importance that judicial and law enforcement professionals are willing to assume responsibility. There is a Chinese saying that goes: "An

army may be maintained for a thousand days, only to be used for a moment.” When it comes to judicial and law enforcement professionals, however, we could say that they are maintained for a thousand days and are put to use each and every day. When faced with major political tests, these professionals must take a clear-cut stance and move decisively forward, never becoming fence-sitters. When witnessing unhealthy practices, they must dare to draw their swords and never just look the other way. When confronted with urgent, difficult, dangerous, or weighty tasks, they must be ready to act, be capable of assuming responsibility, and never shirk their duty. Professionals must dare to struggle at the frontlines and take up challenges for the sake of stability, resolving issues in the toughest, most challenging areas with high-concentrations of problems, for it is through struggle and dedication that they can realize the true value of life and earn the trust and support of the people.

...

The nature of judicial and law enforcement work demands that judicial and law enforcement professionals observe the strictest levels of discipline. Political discipline is the most important and most fundamental kind of discipline; it must always be observed by judicial and law enforcement professionals. These professionals should set an example and be models for safeguarding and observing all disciplinary standards. Presently, many of our professionals are young people with considerable academic experience and expertise, yet many of them have undergone few political tests and have insufficient practical experience. We need to

step up education on discipline, improve mechanisms for enforcing discipline, ensure that all actions comply with disciplinary standards, and see that discipline acts as both a constraint on judicial and law enforcement professionals as well as a safeguard for officials. We need to guide judicial and law enforcement officers so that discipline becomes engraved on their hearts and imprinted on their minds, and see that ironclad discipline forges a contingent of highly disciplined professionals.

...

Compared with the situations and tasks that judicial and law enforcement professionals face, their capabilities remain inadequate, and problems such as being at a disadvantage in investigating and arresting suspects, in judicial debate, and in making judgments are yet to be fully solved. When confronted with the fear of incompetence, professionals must do all they can to raise their professional competence. As the saying goes, "Ability aids morality, and morality guides ability." While competence without morality would be ruinous to the cause of the Party and the people, morality without competence would also be a serious impediment. We often stress the need to unsheathe the sword; this is not just about having the courage to take action, but also about having the skill to carry it out and win the battle. Judicial and law enforcement bodies at all levels should make improving professional competence a key task. This work should start at the source, strengthening legal education, reforming and improving the judicial examination system, and establishing a sound on-the-job education and training system so as

to boost the capabilities of judicial and law enforcement officers and bring about an all-around improvement in judicial and law enforcement work.

...

We must give priority to the key task of establishing a system for managing judicial officers that is suitable to the characteristics of the profession and that can play a fundamental role in deepening judicial reform. Judicial activities are unique in nature and in the way they function. Judicial power is the authority to rule on issues of fact and law within cases. To wield such power, judicial officers are required to have the corresponding professional and social experience, be well versed in law, and possess professional integrity.

...

For many years, judicial officers in China have been treated as civil servants and have thus been managed in a similar way, which has given rise to many problems. According to reports I have read, some judges and procuratorate personnel are willing to take up non-judicial positions in administrative offices, or give up directly handling cases and move into management, in order to move up in administrative rank.

The country's courts have nearly 340,000 employees, but less than 200,000 of these are qualified judges and less than 170,000 are directly handling cases. In many areas, judges 52 years of age employed at the deputy section chief level and judges 55 years of age employed at the section-chief level—probably the most experienced and competent judicial

officers we have—must withdraw to the “second line” in order to make way for the appointment and advancement of younger colleagues; this results in talent being wasted. Other issues are particularly noticeable in county-level courts, procuratorates, and public security bureaus, where presidents, procurator-generals, and directors who are more than qualified for positions at deputy-department chief level still remain at section chief level. With only so many section chief and deputy section chief positions available, many community-level judges, procurators, and police officers, who are not just over-worked and under pressure, but also stuck in low-level positions, underpaid, and facing limited prospects for career development, end up choosing to be transferred to other Party and government departments, become lawyers, or engage in business. As a result, the loss and depletion of judicial and law enforcement professionals has become a serious problem. If it is allowed to continue, there is no point in even beginning to talk about creating a strong contingent of professionals, improving officers’ professional competence, or handling cases effectively.

For this reason, we must carry out reforms to establish a system for managing judicial officers suitable to their profession, improve the system for the categorized management of judicial officers, put in place professional ranking and wage systems for judges, procurators, and police officers, and work to ensure that judicial officers can take more pride in their profession and gain a greater sense of mission.

Enforcement Work, January 7, 2014

To comprehensively advance the rule of law, it is of critical importance that we build a contingent of rule of law professionals who have both moral integrity and professional competence. China's contingent of such professionals consists mainly of law makers in people's congresses and the government; law enforcers working in administrative agencies; and judicial workers within judicial bodies. To comprehensively advance the rule of law, we must first build up a strong contingent of professionals within each of these fields.

...

Those charged with legislation, law enforcement, and the administration of justice share certain things in common while also having their own characteristics; all are extremely important.

Legislation is a sacred task that sets out the rules for our country and society. Legislators must have a strong sense of political integrity, and be capable of following natural law, advancing democracy, strengthening coordination, and thus building consensus.

Law enforcement is the crucial process of taking laws off the page and bringing them to life. Law enforcement personnel must be faithful to the law, safeguard it, and enforce it strictly, and must have the courage to take up responsibility.

The administration of justice is the last line of defense for social equity and justice. Judicial officers must believe in

the law and uphold the rule of law. They must keep the scales in balance, grip the gavel firmly, and be just and impartial in exercising the law.

To meet the requirements that legislative, law enforcement, and judicial personnel be politically upstanding, professionally competent, responsible, disciplined, and diligent, we should provide officers with guidance and education so that they fully embrace socialist rule of law, strictly abide by professional ethics, and remain loyal to the Party, the country, the people, and the law.

...

Lawyers are an important force for implementing law-based governance of the country. We must devote major efforts to improving the political integrity of lawyers, and see that upholding both the leadership by the CPC and socialist rule of law becomes a fundamental requirement for those in the legal profession.

—“*Accelerating China’s Development into a Socialist Rule of Law Country*,” October 23, 2014, *Qiushi Journal*, No. 1, 2015

We must strictly supervise the police, see that the Party’s political and organizational discipline standards are scrupulously observed, stand firmly opposed to the use of public resources for personal gain as well as corruption within the judiciary, and work to ensure that social stability is safeguarded, social equity and justice are promoted, and that the

people can go about their lives and work with peace of mind.

—*Directive on judicial and law enforcement work, January 2015*, People's Daily, January 21, 2015

Zou Bihua was an accomplished judge and able official who, in this new era, impartially administered justice for the people and boldly shouldered responsibility. He had reverence for law and virtue, worked in line with the Party's purpose, and safeguarded equity and justice. When it came to judicial reform, he was particularly bold in taking on formidable tasks, showing a willingness to make sacrifices so as to light the way for others, and truly epitomizing the loyalty a Communist Party member should have to the cause of the Party and the people. In comprehensively deepening reform and advancing law-based governance, all Party members and officials, particularly judicial and law enforcement personnel, should follow Zou Bihua's example as they work to strengthen their ideals and convictions and uphold the rule of law. They should remain loyal and dedicated throughout the course of their work, have the determination to forge ahead, be bold in making innovations, and be willing to dedicate themselves to their duties, working hard to accomplish feats that are worthy of the times, the people, and history.

—*Comments made on a report on Comrade Zou Bihua's positive contribution, January 2015*, People's Daily, March 3, 2015

VIII

ENSURING THE “CRITICAL MINORITY” (OFFICIALS) WORK IN SUPPORT OF COMPREHENSIVELY ADVANCING LAW-BASED GOVERNANCE

If the Party is to fulfill the major tasks of governing and rejuvenating the country under the new circumstances, it must carry out strict self-governance in accordance with the Party Constitution and national governance in accordance with the country's Constitution. The Party has led the people in writing and enforcing the Constitution and leads them in making and enforcing laws. It must itself act within the scope of the Constitution and the law and properly guide legislation, guarantee the law is fully enforced, and lead the way in observing the law.

—Speech at a meeting for people from all sectors of society based in Beijing to mark the 30th anniversary of the promulgation of the current Constitution, December 4, 2012, Selected Documents the Communist Party of China Has Produced since Its 18th National Congress, vol. I, Beijing: Central Party Literature Publishing House, 2014, p. 91

Party organizations and officials at every level should lead the way in strictly enforcing the rule of law, continue to increase their capacity to carry out law-based governance, and work to ensure all governance activities become more firmly rooted in laws and institutions. Officials at every level should better apply rule of law thinking and approaches to the tasks of deepening reform, promoting development, resolving conflicts, and ensuring stability; foster a positive rule of law environment in which matters are handled according to law, when difficulties are encountered people

look to the law, problems are solved using law, and conflicts are resolved relying on law; and advance all aspects of work in line with the rule of law.

—*Ibid*, p. 92

Officials at every level should keep firmly in mind that no one enjoys absolute power above the law, and anyone who exercises power should do so in such a way as to serve, be responsible to, and be overseen by the people. We need to strengthen oversight over top officials, uphold democratic centralism, and improve the system by which administrative behavior is open for the public to see so as to ensure that officials in leadership positions do not abuse their high rank by using power arbitrarily or exploit their considerable power to pursue personal interests.

—“*Punishing Corruption in accordance with Law and Discipline and Solving Major Problems of Public Concern*,” January 22, 2013, Selected Documents the Communist Party of China Has Produced since Its 18th National Congress, vol. I, Beijing: Central Party Literature Publishing House, 2014, p. 136

Leading bodies and officials at every level need to become more adept at using rule of law thinking and approaches to build consensus on reform, regulate

development activities, facilitate the settlement of disputes, and safeguard social harmony.

...

Our Party is a governing party. And our commitment to governing according to law, providing proper guidance in legislation, taking the lead in observing the law, and guaranteeing its enforcement is critically important to promoting the law-based governance of the country in all respects. We need to preserve unity between leadership by the Party, the position of the people as the masters of the country, and the law-based governance of the country, and ensure that the Party provides leadership in all aspects of law-based governance.

Party organizations at every level must act within the limits of the Constitution and the law. Officials at every level must lead by example in working in accordance with and observing the law, have reverence for the Constitution and the law, and bear firmly in mind that the line of the law is not to be overstepped or challenged. Officials must not exercise power beyond what the law grants them, interfere where the law does not permit, or override the law by fiat; nor should they use their power as if it were beyond the law or bend it for personal gain. They must adhere to the principle that in the face of the law one is not to be influenced by personal concerns, favors, connections, or any other personal interests. Anyone who does not understand this is unfit to be an official. How can we expect the public to observe the law if our officials fail to do so? Is it not the case that people follow the example set by their leaders? Whether or not

officials work in accordance with and observe the law should be treated as an important criterion by which organization departments assess and judge officials.

—Speech at the Political Bureau of the 18th CPC Central Committee's fourth group study session, February 23, 2013

The Party exercising leadership over the work of judicial and law enforcement bodies entails conducting supervision to ensure work is carried out as required and by the right people and follows all relevant policies and principles; it does not mean that Party officials should manage specific affairs, and it certainly does not mean they should interfere in judicial work under the pretext of upholding leadership by the Party. Party organizations within judicial and law enforcement bodies should establish sound systems for reporting major matters to their corresponding Party committee, for ensuring they fulfill their role as the leading political core in judicial and law enforcement work, and for seeing that members of Party committees, or leading Party members' groups, participate in the handling of major affairs and the making of major decisions in line with procedures, so as to ensure judicial and law enforcement work proceeds in the right direction.

...

Political and legal affairs committees are the functional bodies through which Party committees exercise leadership and supervision over judicial and law enforcement work—

as such, they serve as an important organizational means for ensuring the Party's leadership of this work. Some have targeted political and legal affairs committees and demanded their dissolution; their aim is to dismantle the system through which the Party leads this work. Political and legal affairs committees must be clear about their functions, be adept at deliberating and handling major issues and taking account of the overall situation. They must maintain political orientation, coordinate the duties of all relevant departments, carry out across-the-board planning for judicial and law enforcement work, develop the abilities of judicial and law enforcement officers, conduct supervision to ensure all affairs are handled in accordance with law, and foster a favorable environment for law enforcement. They must ensure the Party's line, principles, and policies are implemented and the Constitution and the law are correctly and consistently applied, and drive forward implementation of the fundamental policy of law-based governance as well as China's development as a rule of law country. They must take the lead in working within the scope of the Constitution and the law, better apply rule of law thinking and approaches in leading judicial and law enforcement work, and fulfill their due role in the efforts to modernize China's governance system and capacity.

—Speech at the Central Conference on Judicial and Law Enforcement Work, January 7, 2014

In China the law applies to all citizens and Party rules and regulations apply to all Party members; in many respects Party rules and regulations are more stringent than state laws. Our Party is the vanguard of the Chinese people and so expects more from its members. To comprehensively advance the law-based governance of the country, we must work hard to ensure that state laws and Party rules and regulations complement, reinforce, and safeguard each other.

— “*Explanation on the Draft Resolution of the Central Committee of the Communist Party of China on Certain Major Issues Concerning Comprehensively Advancing the Law-based Governance of China*,” October 20, 2014, Documents of the Fourth Plenary Session of the 18th Central Committee of the Communist Party of China, Beijing: People’s Publishing House, 2014, p. 85

In advancing the law-based governance of the country, officials at every level have important responsibilities. At present, there are still Party members and officials who believe in the rule of man, thinking that they should be the ones in charge, and that conducting affairs in accordance with law is overly complicated and unnecessarily restricting. Convinced that they have the final say in everything, they are completely oblivious to the existence of the law, overriding it by fiat and placing their power above it. If this problem is not addressed, we stand no chance of truly achieving law-based governance. It is therefore absolutely necessary that

we focus on the “critical minority” constituting officials. First, we need to make sure they have the right mindset. We must ensure officials at every level understand that upholding the authority of the Constitution and the law means upholding the authority of the common will of the Party and the people; that safeguarding the inviolability of the Constitution and the law means safeguarding the inviolability of the common will of the Party and the people; and that guaranteeing the enforcement of the Constitution and the law means guaranteeing the realization of the common will of the Party and the people.

...

We must act in earnest to promote and enforce the rule of law. Officials at every level must have reverence for law, lead the way in conducting affairs in accordance with law, and set a good example in observing the law. They must strive to become more adept at using rule of law thinking and methods in the tasks of deepening reform, promoting development, resolving conflicts, and ensuring stability. In the short term, it might seem harmless to merely shout out slogans, complete trivial tasks, and put up appearances, pretending to be hard working, but never delivering any real results. If problems grow beyond our ability to deal with them, however, the consequences will be catastrophic. Regardless of who they may be or who is involved, officials who break the law must be held legally accountable for their actions. Under no circumstances can we allow law enforcement and judicial practice to cruise along in neutral. We need to take progress in advancing rule of law as an

important criterion for assessing leading bodies and officials at every level. At the same time, we also need to assess officials on the basis of whether they observe the law and conduct their affairs in accordance with law.

...

We need to improve the systems and mechanisms for formulating intra-Party regulations. With greater emphasis on ensuring their coordination with national laws, we need to establish a system of rules and regulations that is based on the Party Constitution and is bolstered by supporting regulations, so as to enhance the Party's capacity for regulation enforcement. The Party Constitution and other Party regulations ask more of Party members than state laws do. Party members are not only required to strictly abide by China's laws and regulations, but are also required to strictly observe the Constitution and regulations of the Party and to hold themselves to a higher standard.

...

The comprehensive advancement of law-based governance is a systemic undertaking and a profound and far-reaching revolution in the governance of our country. It is absolutely necessary that we strengthen the Party's leadership over initiatives concerning the rule of law. On the one hand, Party committees at every level must improve the systems and work mechanisms by which the Party exercises leadership over law-based governance, and fulfill their leadership responsibilities for implementing the rule of law in their respective regions and departments. Once they have clearly identified work priorities, they must quickly

formulate detailed guidelines and plans for putting the guiding principles of this plenary session into effect. On the other hand, we must focus our efforts on comprehensively advancing law-based governance at the community level. We need to make full use of the primary role of community-level Party organizations in advancing law-based governance; enhance the competence of community-level organizations and personnel with responsibility for enforcing the rule of law; guide community-level Party members and officials in increasing their awareness of the rule of law and their capacity to work in accordance with it; and work hard to ensure all tasks and measures proposed at this plenary session are put into effect at community level.

—“*Accelerating China’s Development into a Socialist Rule of Law Country*,” October 23, 2014, *Qiushi Journal*, No. 1, 2015

The socialist market economy is, in essence, a rule of law economy. Economic disorder most often occurs because of a failure to obey laws and punish illegal behavior. We must, therefore, remain committed to rule of law thinking and strengthen our awareness of the rule of law so as to ensure economic regulation and governance are law based. A rule of law economy essentially requires us to grasp and conform to objective laws. Officials at every level must become better able to look beyond the surface to get to the crux of an issue, and must develop a firmer grasp of

the objective laws that govern the economy, society, and nature so that they can more consciously and effectively lead the economic work for which they are responsible. Some localities and departments are still accustomed to relying entirely on government regulation to direct the economy, employing methods and policies that breach laws and regulations to manage enterprises, implement projects, and simulate economic development and using outdated planning methods and mandatory measures to reach revenue targets. All this must change. Officials in positions of leadership must take the lead in handling matters in accordance with law and apply rule of law thinking and approaches in their work to deepen reform, promote development, resolve conflicts, and safeguard stability.

—*Speech at the Central Economic Work Conference, December 9, 2014*

We must work to effectively advance law-based, strict governance of the military. The rule of law and strict military discipline are fundamental to running the armed forces, commanding troops, and building military strength. We need to redouble efforts to ensure officers and soldiers comprehensively and thoroughly study the policies and guiding principles of the Fourth Plenary Session of the 18th Central Committee so that they develop a deeper understanding of the meaning and significance of strictly governing the military in accordance with law and so that

their actions and thinking are in accord with the policies and principles of the Central Committee. We must strengthen awareness of the rule of law and ensure strict management practices are employed and rules and regulations are enforced to the letter so as to ensure conduct within the military is more standardized. Leading bodies and officers at every level should make plans for securing improvement at the primary level and should give guidance in this regard, ensuring work proceeds in strict accordance with the program for primary-level army building and delivers comprehensive progress and solid results.

—Speech given during an inspection tour to the Nanjing Military Area Command, December 14, 2014, People's Daily, December 16, 2014

The foundation of China's law-based governance lies at the primary level. County Party secretaries need to lead the way in studying, respecting, abiding by, and applying the law. Therefore, when you are making decisions and carrying out work, you should more carefully consider the need to observe the law and legal procedure as well as the consequences of taking illegal actions. In short, you need to work purposefully to protect and promote the law-based governance of the country.

—Speech at a meeting with secretaries of county-level CPC committees attending a seminar at the Central Party School,

January 12, 2015, People's Daily, January 13, 2015

The codes and rules for governing conduct must be observed by all Party members and Party organizations at all levels. So, what do these codes and rules consist of? First, there is the Party Constitution that sets out the general rules all Party members must observe. Second are the Party's discipline standards that are binding for all Party members; they consist of political standards that regulate the political orientation, stance, speech, and behavior of all Party members. Third are state laws which are also rules that all Party members and officials must observe—the Party must not only lead the people in making laws but must also set an example in abiding by them. Finally, there are the fine traditions and practices that the Party has developed over years of work.

...

In revising the Regulations on Disciplinary Action, we need to make sure that Party discipline and regulations ask more of Party members than the law does and give full expression to the characteristics of Party discipline, and we particularly need to include provisions for dealing with violations of the Party's political, organizational, financial, and work discipline, as well as violations of social morality.

—Speech at the Fifth Plenary Session of the 18th Central Commission for Discipline Inspection, January 13, 2015

Party committees at every level need to assume political responsibility for ensuring stability within their locality, incorporate judicial and law enforcement work into their plans for economic and social development, and take active measures to solve any problems that seriously hinder this work. They need to set a leading example in handling matters in accordance with law; support courts and procuratorates in exercising their respective judicial and procuratorial powers independently and impartially in accordance with law; see to it that all judicial and law enforcement bodies work in an independent but concerted manner and in accordance with the Constitution and the law; and create a favorable atmosphere which is conducive to the lawful performance of duties by these bodies. They need to strengthen and improve their leadership over judicial and law enforcement work, selecting and appointing suitable personnel to take up leading positions and improving the political integrity and professional competence of those working in these bodies so as to help cultivate a workforce loyal to the Party, the country, the people, and the law, and ensure that the sword protecting social stability remains firmly in the hands of the Party and the people.

—Directive on judicial and law enforcement work, January 2015, People's Daily, January 21, 2015

It was stressed at the Fourth Plenary Session of the 18th Central Committee that Party members and officials

need to develop their ability to think in terms of the rule of law and work in accordance with law—senior officials in particular should set an example for the rest of the Party in this regard. As I stated at the session, officials at every level have a major responsibility to promote the law-based governance of the country. In order to comprehensively advance law-based governance, we must gain a hold of the “critical minority” constituting officials. As our Party has always emphasized, after a political line has been decided upon, it is officials who are the decisive factor in its implementation.

...

In reality, quite a few officials have a poor awareness of the rule of law, either ignoring the law and not properly investigating cases of illegal conduct, or even knowingly breaking the law. A small number of officials in particular have neither reverence for the Constitution and the law nor faith in the rule of law; instead, they worship power, money, and *guanxi*, abusing their powers in collusion with others and trading power for money and sex. Such behavior has engendered a poisonous atmosphere and seriously harmed the political environment in some localities and departments. It has also tarnished the image and prestige of the Party and the country, disrupted our efforts to promote political, economic, cultural, social, and ecological progress, hampered the smooth operation of the institutions and systems of the Party and the country, and undermined the people’s confidence in the rule of law, giving rise to many problems affecting the efforts to comprehensively advance law-based

governance, some of which have very serious consequences.

...

If the law and Party discipline are not upheld, both the Party and the country will face ruin. We must reiterate to all Party members, especially senior officials, that the law-based governance of the country, the law-based exercise of state power, and the law-based administration of government must be upheld. No one is permitted to disregard the Central Committee's major policies or to establish their own "private fiefdom" where they may act as they wish; no one is permitted to treat the Party's political discipline and rules cavalierly or to act in flagrant violation of them; and no one is permitted to place themselves above the law or to use judicial power as an instrument to obtain personal benefits or satisfy selfish desires. The lines of the law and Party discipline are not to be crossed.

...

Facts prove that officials can either play a crucial role in the endeavor to advance the rule of law or fatally undermine it. If officials fail to respect, study, abide by, and apply the law, the law-based governance of the country cannot progress and the Two Centenary Goals and the Chinese Dream of the rejuvenation of the Chinese nation cannot be realized, not to mention the harm and destruction that could be caused to the leadership of the Party and China's socialist system. As Deng Xiaoping once remarked, if systems are sound, they can restrain the actions of bad people; if not, they may hamper the honest efforts of the good and in some cases, may even push them in the wrong direction. All

officials must stir themselves into action and get to work to tackle and resolve the problems hindering China's rule of law.

...

Officials at every level play a highly influential role in determining the direction, path, and progress of our efforts to comprehensively advance law-based governance, because it is through them that the Party governs the country and it is they who exercise China's legislative, administrative, and judicial power. It is through their actions and work that the Party is able to provide leadership to legislation, ensure law enforcement, support the administration of justice, and lead the way in observing the law.

...

In working to achieve the objectives and tasks of comprehensively advancing law-based governance, it is crucial that senior officials set an example in respecting, studying, abiding by, and applying the law. In the past, we usually placed studying the law before respecting it. When preparing this speech, however, I thought about this carefully and came to the conclusion that respecting the law should be first, because before officials can develop a stronger awareness of the rule of law and become better versed in it, they must first learn to respect the law. It is only by having a heartfelt respect for the rule of law that a person can uphold the law in practice; and it is only when the rule of law has been inscribed on the hearts of the people that it becomes truly enduring.

...

Having great reverence for both the rule of law and the law is a must for all officials in leadership positions. Every official in a position of leadership must fully understand that upholding the authority of the Constitution and the law means upholding the authority of the common will of the Party and the people; that safeguarding the inviolability of the Constitution and the law means safeguarding the inviolability of the common will of the Party and the people; and that guaranteeing the enforcement of the Constitution and the law means guaranteeing the realization of the common will of the Party and the people. All officials in leadership positions must adhere to the concepts underpinning the rule of law that hold that the Constitution and the law are above all else, all are equal before the law, and power is defined by the law and exercised in accordance with it. They must abandon the idea that China is a country under the rule of man and that they are the ones in charge, and they must never override the law by fiat or use their power as if it were beyond the law. Instead, they should step forward and fight against any behavior that harms, undermines, or tramples upon the rule of law.

...

As the saying goes, "By three a man is made; by seven his destiny is certain." To ensure officials have a thorough understanding of the rule of law, efforts must begin on officials' very first day on the job, providing them with the education and guidance needed to ensure the essential building blocks are in place. Competence may vary between officials, but in terms of discipline standards and the law

everyone must be up to the mark—no allowances will be made in this respect. Regardless of ability, those who do not have a strong awareness of the rule of law and those who do not abide by the rules must not be put in leadership positions. We must first see to it that this principle is upheld. On the one hand, efforts must be stepped up to educate officials about the rule of law and encourage them to continuously strengthen their awareness of the rule of law so that it is instilled within them as an established idea and approach. On the other hand, we must strengthen management and supervision and set clear requirements for officials in leadership positions in terms of the rule of law, so that problems concerning conduct can be strictly dealt with and those who fall short of requirements can be removed from leadership positions. Those who lack awareness of the rule of law and who disregard moral and legal codes must not be allowed to climb up the ranks; the higher the position they hold, the more danger they pose to the Party and the country.

...

Studying and understanding the law is a prerequisite for abiding by and applying it. Of the officials who are guilty of flagrantly violating the law and discipline standards, a large number have not studied the law in a long time and so do not understand it. Many officials prosecuted for corruption have admitted in their confessions that their poor legal knowledge was a major reason for their descent into the abyss of corruption. Officials at every level have, to some extent, acquired legal knowledge, but this falls far

short of what is needed to comprehensively advance law-based governance. They must intensify their study so as to acquire the fundamental theories and knowledge necessary for working in accordance with law. They need to undertake systematic study of the theory of socialist rule of law with Chinese characteristics and gain a correct understanding of the Party's basic stance on issues concerning the rule of law. First and foremost, however, they must study the Constitution and study the laws and regulations that govern the areas in which they exercise leadership. Party committees at every level need to give priority to training related to the rule of law and improve their systems for undertaking legal study, while Party schools, academies of governance, and executive leadership academies need to provide better legal education to officials in leadership positions.

...

Ignorance of the law cannot be tolerated—officials at all levels need to be clear about what the law stipulates concerning their exercise of power and know what is and is not permitted of them. Party regulations and state laws have laid out clear provisions for the majority of matters, so officials who carefully study the law on a regular basis and refer to it before making decisions can avoid making mistakes or taking a wrong path.

...

The provisions of the law are written in black and white. Officials must intensify their study of the law, consciously work to reflect the requirements of the law, always subject themselves to its constraints, and be

completely clear about the conduct required of them as officials. Only by upholding the principle that power must be exercised on the basis of the law can we carry out our work correctly. Putting blind trust in intuition will only cause us to stray from the rule of law.

...

The disciplinarian must first discipline himself before turning to others. Officials in leadership positions must remain ever mindful not to cross or challenge the line of the law, set a good example in observing and enforcing the law, and lead the way in cultivating a favorable rule of law environment in which matters are handled according to law, when troubles are encountered people turn to law, problems are solved using law, and conflicts are resolved relying on law. Those in leadership positions need to keep the rule of law in mind when planning work and put it to use when dealing with problems, and must always first consider the legality of their intended words and deeds before deciding to act, referring to Party discipline standards and state laws when they are uncertain and consulting legal experts or advisors as necessary.

...

It was stated at the 18th National Party Congress that officials in leadership positions must strengthen their ability to employ rule of law thinking and approaches. This requires that they turn the reverence they have for the rule of law and the law into a way of thinking and acting, so that they consider problems, make decisions, and administer affairs within the limits of the rule of law, and not beyond or above

them. At present, both the public and officials are becoming increasingly aware of democracy, the rule of law, and rights, and the desire throughout society for equity and justice is stronger than ever before. Officials who continue to cling to a rule of man mentality and who remain obsessed with using their power to override the law will all inevitably meet their downfall.

...

In order to improve their ability to think and work in accordance with law, it is crucial that officials in leadership positions abide by the following requirements. First, they need to observe the law and act in accordance with procedures. This is the principal requirement of the rule of law. Second, they need to remember that their duties and powers are defined by the law, understand where their powers come from and where the limits of those powers lie, and perform all statutory duties while refraining from any actions not authorized by law. Third, they need to safeguard the rights and interests of the people, as this is the fundamental purpose of the rule of law. Fourth, they need to accept oversight; this is an institutional arrangement designed to ensure officials exercise power correctly.

...

An ancient Chinese sage once said that the people learn from officials. People see and remember whether officials respect, study, abide by, and apply the law, and then follow suit. So, if officials respect, study, abide by, and apply the law, so will the people; if officials make a pretense of the law and behave one way in public and another in private,

ordinary people will not be fooled. It's just as the saying goes, "An upright official will be followed without having to issue orders; a dishonest one will not be followed regardless of the orders he issues."

...

It was clearly stated at the Fourth Plenary Session of the 18th Central Committee that the primary responsibility for advancing the rule of law lies with principal Party and government leaders. This requirement puts in place an important organizational guarantee. Officials at every level need to shoulder their respective responsibilities and must not engage in posturing or putting on appearances, only holding a few meetings and making a few speeches during the year. Principal Party and government leaders should be hands-on, instead of foisting responsibility onto others. They need to provide stronger and better leadership to the task of advancing the rule of law—carrying out overall planning to ensure that laws are enacted through well-conceived processes and are strictly enforced, justly administered, and observed by all; and setting key annual tasks with definite timetables for completion, delegating responsibility at the start of the year, undertaking mid-year inspections, and carrying out end-of-year assessments, so as to ensure progress is being made on work concerning the rule of law year round. If any principal Party or government leader fails to conscientiously fulfill his or her primary responsibilities relating to work on the rule of law, the Party committee at the next level up should promptly meet with him or her to discuss the matter and issue a stern warning or

criticism. For cases where major violations of the law have occurred repeatedly within a locality or department resulting in serious social consequences, the principal leaders must be held accountable and punished in accordance with law.

...

It was clearly stated at the Fourth Plenary Session of the 18th Central Committee that the ability of officials to observe and work in accordance with law should be an important criterion in assessing their overall performance. If officials in contention for a promotion are equally qualified in all other respects, then the one selected should be the official who is most knowledgeable about the rule of law and has the strongest ability to work within the law. A combination of integrity and ability is the criterion our Party uses to select and appoint officials, and possessing a consciousness and understanding of the rule of law is an important part of this. Having sound criteria in place is not only the most important and fundamental requirement but also the most effective means for ensuring officials are selected correctly. If we promote officials who have no qualms about riding roughshod over the law and discipline standards, instead of those who rigorously uphold Party discipline and strictly observe state law, we will see how "bad money drives out the good." We need to promptly get to work on designing a system for assessing officials' performance in advancing the rule of law, and formulate regulations for ensuring assessment results are put to use. We also need detailed regulations that set out the specific duties of principal Party and government leaders in advancing the

rule of law, so that they know what they need to do and how to do it.

...

Certain officials in positions of leadership have extremely misguided ideas about power. Some consider power to be the result of decades of personal struggle and hard work. Some believe it is acquired through endless efforts of exploiting personal relationships and seeking out patrons. Others just simply believe that power can be bought and must be fully exploited before it is lost. Under the influence of such thinking, how can these officials not make mistakes? By emphasizing that power must be confined to an institutional cage, we aim to ensure that powers are defined, standardized, constrained, and subject to oversight in accordance with law. Like a river that bursts its banks, once the rule of law is broken, the abuse of power has the potential to cause great devastation. The power held by Party and government organizations and officials at every level has been entrusted to them by the Party and the people and is subject to boundaries and restrictions—it is not to be used to do as one pleases. Strict enforcement of the rule of law must serve as our fundamental approach, and rules regulating the exercise of power must be well established, upheld, and observed. We must ensure that anyone who takes a cavalier attitude to the law and acts in violation of it is punished accordingly. The arm of the law is long and anyone who is guilty cannot avoid its reach.

—*Speech at a seminar for principal provincial and ministerial*

level leaders on the guiding principles from the Fourth Plenary Session of the 18th CPC Central Committee and on comprehensively advancing the law-based governance of China, February 2, 2015

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