

Comparative study of the current goals and reforms in the area of judiciary in North Macedonia and China (part 2).

Subtitle

- **A deeper analysis and overview of the specifics of the concept of “Socialist rule of law with Chinese characteristics” and law based Governance trough “Xi Jinping Thought on the Rule of Law”**
- **Overview and analysis of the following goals: the conception of an international law theory on “socialist rule of law with Chinese characteristics”, expanding Chinese international law expertise, promoting the Chinese concept of the "rule of law" internationally, promoting international legal cooperation, active participation in the formulation of international rules in order to establish a “fair” and “reasonable” international legal system, as a defined general goals in the plan of the Chinese leadership lead by those President Xi Jinping thoughts on the Rule of Law.**

Subject of the study

The primary goal, in the previous Comparative study of the current goals and reforms in the area of judiciary in North Macedonia and China (part 1) were the analysis of the substance and comparison of the measures and activities that the authorities undertake to make judicial reform with Chinese characteristics aiming to built “socialist rule of law with Chinese characteristics”, to be more understandable, to be approachable or subject of analyses, to be inspiration for the law science in Republic of North Macedonia in a way of contribution of the Chinese wisdom to the world for advancing the rule of law.

As I wrote in the previous study “better understanding of the specifics, comparison of the similarities and differences, undoubtedly in legal science, are the driving force for better solutions and good practices”, the primary goal of this sequel or of the second part of the study will be a deeper analysis and overview of the specifics of the concept of “Socialist rule of law with Chinese characteristics” and law based Governance trough “Xi Jinping Thought on the Rule of Law” and the comparison with the Macedonian specifics of the rule of law. By making the conclusions out of the analysis the purpose of this study will be to show that in its purest essence, the rule of law is a universal concept, which has universal but also specific, special features and values, specific standards for certain principles arising from this fundamental value for each state and legal order. But what matters is that despite the indisputable fact that there are fundamental differences in different concepts of the rule of law, the end goal is the same for everyone and everywhere. That ultimate goal is the protection of human rights.

Secondary goal of this study, is an analysis of the developments and achievements of the goals foreseen in the Chinese leadership plan for promoting the Chinese concept of the "rule of law" internationally, promoting international legal cooperation and strengthening bilateral and multilateral dialogue on the rule of law. Purpose for this objective is in my opinion necessary because in a times when the world undergoes momentous changes unseen in a century, promoting international legal cooperation and strengthening bilateral and multilateral dialogue on the rule of law, became urgent need. I see this necessity through the prism of what I have accepted as a life philosophy, “I never lose, I either win or I learn”. We all have to accept differences and specifics, not to tolerate them but to respect them in their entirety, to cooperate and learn to use them to improve the standards we have accepted trough the wisdom of President Xi Jinping and his famous saying: “Only the wearer knows if the shoe fits his foot”!

Thus, this part of the study, promoting international legal cooperation and strengthening bilateral and multilateral dialogue on the rule of law by respecting and learning from the specifics and differences rather than confronting them, I find it extremely useful and needed, but also still very challenging.

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Introduction

The concept of a theory of international law on "socialist rule of law with Chinese characteristics" is a relatively new and according to western commentators "controversial" idea in the field of international law. The concept of "socialist rule of law with Chinese characteristics" since his introduction has been a central concept in China's legal system. In his nature and essence it means governing the country by law and building a socialist country under the rule of law as a fundamental principle for the Communist Party of China (CPC) to lead the people and effectively govern the country. When In 1997 the socialist market economy was gradually put in place, the level of opening up was constantly enhanced, the efforts to improve democracy and the legal system were advanced, and all undertakings were developing, to advance the cause of building socialism with Chinese characteristics in all aspects in the 21st century at its 15th National Congress, CPC set the first ten-year target for the national economic and social development for the new century, established a basic strategy of "governing the country according to law and building a socialist country ruled by law" and set the goal of completing the socialist system of laws with Chinese characteristics by the year 2010 ¹. Advancing the cause of building socialism with Chinese characteristics in all aspects, means undoubtedly and especially building the concept of "socialist rule of law with Chinese characteristics" for the purpose of legal basis to secure the fundamental principle for the Communist Party of China (CPC), governing the country by law and building a socialist country under the rule of law. Main objective for the CPC was to bring into being a socialist system of laws with Chinese characteristics so as to ensure there are laws to abide by for the carrying on of state affairs and social life, as a precondition and foundation to implement the fundamental principle of the rule of law in all respects, to serve as institutional guarantee for China's development and progress. Since then the concept is in a constant process of upgrading and adjusting to new realities. That means like the law in his nature is, the same, law systems and law doctrines like the "socialist rule of law with Chinese characteristics" undoubtedly is, are exposed to constant changes for the reason to be in compliance with the constant overall changes in every society. This is normal and absolutely needed constatation since the socialist system of laws with Chinese characteristics represents a legal foundation for socialism with Chinese characteristics to retain its nature, it is a legal reflection of the innovative practice of socialism with Chinese characteristics, and a legal guarantee for the prosperity of socialism with Chinese characteristics.

The basic idea behind this concept is that China's socialist legal system is based on a unique set of principles that reflect the country's specific historical, cultural, and economic conditions. In particular, the concept emphasizes the importance of the rule of law in promoting economic and social development, while also taking into account the role of the state in maintaining social stability and protecting national sovereignty.

Critics of the concept argue that it is an attempt by the Chinese leadership to justify its own specific "China characteristics" for their political system and its own seeing on the human rights. They also argue that the concept is inconsistent with established principles of international law, which prioritize individual rights and freedoms over state power. However, critics argue that China's version of the "rule of law" differs significantly from international norms and standards, specifically those related to freedom of speech, assembly, and association, as well as those related

¹ The Information Office of the State Council on Thursday published a white paper on the Socialist System of Laws with Chinese Characteristics.

<http://www.npc.gov.cn/englishnpc/c2761/201110/cea25fcbc9894e51861732d15bacb163.shtml#:~:text=All%20laws%2C%20administrative%20and%20local,of%20laws%20with%20Chinese%20characteristics>

to the independence of the judiciary, transparency in legal proceedings. Critics are taking these factors to raise questions about the extent to which China's promotion of the rule of law aligns with international expectations. But are those critics reasonable and sustainable? Are those critics in touch with realities? Why those who critics are raising and questioning the issue “compliance with international law” rather than the issue “to contribute to the international law, to diversified and enhance the international law standards”?

Supporters of the concept, on the other hand, argue that it represents a new and innovative approach to legal theory that takes into account the unique circumstances of developing countries like China. They also argue that the concept is consistent with China's commitment to economic and social development and provides a useful model for other developing countries to follow. Despite the controversy surrounding the concept, it is clear that "socialist rule of law with Chinese characteristics" is likely to be a fundamental concept in the future development of China's legal system and in the field of international law more broadly. Its implications for individual rights and freedoms, as well as for the role of the state in promoting economic and social development, will continue to be a subject of debate and discussion in the years to come. It is clear that rivalry between the western law doctrine with the Chinese law doctrine will remain, it is clear that the questioning its compliance with international law standards will continue, but it is also clear that the differences will not be as sharp as they were. Having in mind the obvious, and that is that this concept provide visible results, for example China is the second biggest economy in the world, for example world have seen the results of dealing with the Covid-19 virus, for example Belt and Road Initiative, etc., it is more likely that we will enter in a phase in which there will be more cooperation, more harmonization and reduction of differences by accepting and taking what is advanced and innovative from one to other concept and vice versa. China in the last 20 years has prove its readiness and capacities to adjusts to the changes and new realties which new era brings. Having in mind the famous quote of Confucius that “There is only one thing in life which never changes, and it is change”, our previous predictions are in touch with realities.

For that reason and goal, it is clear that China has been actively advocating its own interpretation of the "rule of law," with a advanced socialist characteristics, with the unique Chinese characteristics, which emphasizes social stability, economic development. That it's a model of the rule of law which is unique and tailored to its specific political and cultural context. China has engaged in various forms of international legal cooperation, including participating in international legal frameworks, signing bilateral and multilateral agreements, and promoting regional legal cooperation mechanisms. For instance, China has become an active participant in international organizations like the United Nations and has ratified or acceded to numerous international treaties. China's engagement in international legal cooperation has resulted in increased collaboration on issues such as trade, investment, intellectual property rights, and environmental protection. These efforts have been particularly evident through initiatives like the Belt and Road Initiative (BRI), where China seeks to align its legal and regulatory systems with those of partner countries to facilitate economic cooperation.

China has prioritized strengthening bilateral and multilateral dialogues on the rule of law through various mechanisms, including high-level exchanges, legal forums, and judicial cooperation agreements. These dialogues aim to enhance understanding, exchange experiences, and explore areas of cooperation with other countries. China has established bilateral rule-of-law dialogues with several nations, including the United States, Germany, and Australia. Additionally, it has actively participated in multilateral platforms such as the United Nations General Assembly and the World Trade Organization to engage in rule of law discussions and share its perspectives.

However, critics argue that China's dialogue and cooperation efforts often focus on promoting its own interests. They contend that China's engagement in these dialogues may not

always prioritize the fundamental principles of human rights, transparency, and accountability that underpin the rule of law. But then, logical question is why China is involved in such international exchange within the international organizations and bilaterally? Aren't international cooperation and exchange two way street? The nature of exchange is to give and receive, to offer and to accept what is possible and realistically in terms of rule of law and law science standards and innovations.

Overall, China's efforts to promote its concept of the rule of law and enhance international legal cooperation have yielded achievements. Its participation in international organizations, engagement in legal cooperation agreements, and establishment of dialogue mechanisms demonstrate its commitment to engaging with the international community on legal issues.

1. The specifics of the concept of "Socialist Rule of Law with Chinese Characteristics"

The essence of the rule of law as a concept originally attributed to Aristotle is a “government by law and not by man”. The concept, interacting with western culture and tradition, has been developed into a mature system framework and diversified cultural identity after generations of evolution from the ancient times to the contemporary era. Today, rule of law has been a universal measure of social progress and political advancement. The concept can be interpreted from the broaden sense and narrow sense. But what is meant by “government by law and not by man”? The Rule of Law comprises a number of principles of a formal and procedural character, addressing the way in which a community is governed. The formal principles concern the generality, clarity, publicity, stability, and prospectivity of the norms that govern a society. The procedural principles concern the processes by which these norms are administered, and the institutions—like courts and an independent judiciary that their administration requires. The most important demand of the Rule of Law is that people in positions of authority should exercise their power within a constraining framework of well-established public norms rather than in an arbitrary discretionary manner. That's beside others are the key element of the legal security. But the Rule of Law is not just about government. It requires also that citizens should respect and comply with legal norms, even when they disagree with them, they should accept legal determinations of what their rights and duties are. Also, the law should be the same for everyone, so that no one is above the law, and everyone has access to the law's protection. In his 1964 book *The Morality of Law*, Lon Fuller formulated principles of what he called “the inner morality of law”—principles requiring that laws be general, public, prospective, coherent, clear, stable, and practicable—and he argued that these were indispensable to law-making. Lon Fuller believed that government in accordance with the forms and procedures of law had a distinctive value that could help close the gap of separation between positive law, on the one hand, and morality and justice on the other.² And it is well known in theory and practice that the morality and justice in one society is designed be the many complex factors, historical heritage, cultural and customary heritage that create a political and legal philosophy from which emerges a political and legal culture and doctrine with its own unique specifics and context. After all, all law is made by people, interpreted by people, applied by people. Concept itself can not be rule us by itself, without taking in account specifics.

There was and there I still a big debate³ between the theorists about drawing a distinction between the “Rule of Law” and “Rule by law”. In the nature of this debate and distinction is that the Rule of Law is supposed to lift law above politics. The idea is that the law should stand above

² 1964 book *The Morality of Law*, Lon Fuller

³ Similar debate is aw well the debate of the many jurists that follow Raz 1977 in thinking that the Rule of Law is a purely formal/procedural ideal, others believe in adding a more substantive dimension. They do not think it is possible to sharply separate our political ideals in the way Raz seems to suppose. At the very least, the formal/procedural aspects generate a certain momentum in a substantive direction.

every state institution or powerful person. Rule by law, in contrast, connotes the instrumental use of law as a tool of political power. It means that the state uses law to control its citizens but tries never to allow law to be used to control the state. So it is clear that there are differences but it is clear that it is also possible between these two distinctions to create a sui generis concept in which the meaning of both concepts will erase the basic lines of demarcation and will create a unique specific system in which the essential components of both of them will be incorporate in one. However, the distinction may not be so clear-cut. And we can see it in different legal system trough the world. Such a unique system can be the concept of "socialist rule of law with Chinese characteristics". If we analyze the white paper on the Socialist System of Laws with Chinese Characteristics, published by the China State Council, in his foreword we can see elements of both concepts, namely, it says: "Governing the country by law and building a socialist country under the rule of law is a fundamental principle for the Communist Party of China (CPC) to lead the people and effectively govern the country. We need to bring into being a socialist system of laws with Chinese characteristics so as to ensure there are laws to abide by for the carrying on of state affairs and social life; this is a precondition and foundation for us to implement the fundamental principle of the rule of law in all respects, and an institutional guarantee for China's development and progress". So its speaks for "Governing the country by law", and "building a socialist country under the rule of law", and the leadership of China, sets these two concepts as a fundamental principle for the Communist Party of China (CPC) to lead the people and effectively govern the country. Beside previously mentioned specifics which create "China characteristics", this is another one specific that should be taken into consideration.

When studying Chinese legal doctrine, different expressions including the words rule of law or similar expressions are used by scholars:⁴ rule by man, rule by people, the socialist rule of law, rule by law, rule of law with Chinese characteristics, socialist rule of law with Chinese characteristics, etc.⁵ The preamble to the constitution includes the expression socialist rule of law.⁶

It follows from the previously mentioned, that the rule of law in advanced 21 century societies is complex and in some law doctrines finely balanced concept. Specifics of some legal systems and legal cultures can add complexity in the meaning formatting and practicing of the concept of law and this put vis a vis with international law and international law standards should be accepted as a living and on going process of compliance of differences. That's why everyone should be careful in arguing and critics just not to upset the equilibrium.

Rule of Law is a dynamic concept for the expansion and fulfilment of which jurists are primarily responsible and which should be employed not only to safeguard and advance the civil and political rights of the individual in a free society, but also to establish social, economic, educational and cultural conditions under which his legitimate aspirations and dignity may be realized.

⁴ Extensive research has been carried out in regard to the rule of law and China; see, for example, L. Li, *Building the Rule of Law in China* (Elsevier, 2017); K.G. Turner et al. (eds) *The Limits of the Rule of Law in China* (University of Washington Press, 2015); L. Buyun, *Constitutionalism and China* (Law Press China, 2006); R. Peerenboom, *China's Long March toward Rule of Law* (Cambridge University Press, 2002); K. Blasek (n 1); A.H.Y. Chen, 'China's Long March towards Rule of Law or China's Turn against Law', *The Chinese Journal of Comparative Law* 4 (2016) 1–35, about whether China has a rule of law or not; R. Peerenboom, 'Fly High the Banner of Socialist Rule of Law with Chinese Characteristics!', *Hague Journal on the Rule of Law* 7 (2015) 49–74; A.H.Y. Chen (n 97), in which he describes the debate among Chinese legal scholars; R. Peerenboom, 'Competing conceptions of rule of law in China', in: R. Peerenboom (ed.) (n 1) 109–141, L. Lin et al. (n 98); I. Castelucci, 'Rule of Law with Chinese Characteristics' *Annual Survey of International & Comparative Law* (2007) 35–92; T. Ruskola, 'Law without law, or is 'Chinese law' an oxymoron?' *William & Mary Bill of Rights Journal* 11 (2003) 655; R. Ye, 'Shifting meanings of fazhi and China's journey towards socialist rule of law', *International Journal of Constitutional Law*, 09 (2021) 1–23

⁵ R. Peerenboom (n 109) (2015) 49–74; J. Husa, *A New Introduction to Comparative Law* (Bloomsbury, 2015) 162; A.Y.H. Chen (n 109); R. Peerenboom (n 29) 109–141; L. Li (n 109). White paper (2008), Concluding section.

⁶ Constitution of the People's Republic of China (npc.gov.cn) (retrieved 24 August 2021).

The Rule of Law applies not only within national polities but also increasingly between them, but in this arena its use remains under-theorized. Anyway, the liberty of an individual state is not such an important value as the liberty of an individual person. It is not clear that national states need protection from international law and the power that it represents in the way that ordinary men and women need protection from the exercise of political power in society.

Moreover, in areas like international human rights law, any presumption based on the Rule of Law in favor of the liberty of national states will tend to have detrimental effects on the liberty or well-being of individual men and women. We have to be careful therefore that invocation of the Rule of Law in the international realm does not undermine the values that are supposed to be secured by this ideal within national polities. But as we previously mention, it is necessary in the international arena the ongoing process of cooperation and exchange to continue and to be made even deepen.

For those specifics we already discussed here to be understood better, (but even more in detail in the previous study), a brief historical overview of the development and implications of the rule of law in China will be made briefly. The first legal rules in China date back to the Xia Dynasty (2070–1600 bce). These were unwritten and unpublished. However, the concept of rule of law was introduced in China much later. Officially, the concept of rule of law was questioned in the beginning of the establishment of the People’s Republic of China. Chairman Mao stated that China should “depend on the rule of man, not the rule of law”, and courts were regarded as “bastions of bourgeoisie justice”; furthermore, “lawlessness” was seen as good for society.⁷ However, the discussion on rule of law in China re-emerged in the late 1970s, when Deng Xiaoping launched the reform Opening Up China (1978). During the past 40 years, an uninterrupted development towards administration by law and preparation for legal governance has taken place. Thousands of laws have been enacted concerning governance, law making, judiciary, etc. as well as in all kinds of legal areas.⁸ In retro perspective, legislation and the building of institutions was a focus in the 1980s. In 1982, a new constitution was approved. It was regarded as a milestone in the course of China’s legal reforms. In the early 1990s, focus shifted to quantity and quality of laws and legal reforms. The opening-up reform included the introduction of a socialist market economy and socialist policies.⁹ In the mid-1990s the rule of law was a central topic in politics, and the official policy was to rule the country according to law and to establish a socialist rule-of-law state. The rule of law was incorporated in the constitution in 1999. In Article 5, paragraph 1, of the constitution (1999) an addition was made, which today reads as follows:¹⁰ “The People’s Republic of China shall practice law-based governance and build a socialist state under the rule of law.”¹¹ Moreover, the Chinese Communist Party (cc) wanted to improve living standards for the people, strengthen the economy of the country and benefit from the effects of globalization as well as joining the wto. These were all driving forces to implement the rule of law in China. In 2004, President Hu Jintao introduced a new governing strategy to foster scientific progress and fostering human-oriented, harmonious society by emphasizing “unifying Party leadership, popular sovereignty, and administration by law to construct a socialist democratic regime”. At the same

⁷ A.H.Y. Chen, ‘Towards a legal enlightenment: Discussion in contemporary China on the rule of law’, *UCLA Pacific Basin Law Journal* 17 (1999) 125, 126 f., and M. Salter (n 1) 6.

⁸ L. Lin et al., ‘Comprehensive development of rule of law in China. On the 30th anniversary of reform and opening’, *China Legal Dev YB* 4 (2010) 1, 8–35

⁹ L. Li et al., L. Lin, et. al., (n 98) 1 f Earlier translations can be found in literature, K. Blasek (n 1) 15: “The People’s Republic of China practices ruling the country in accordance with the law and building a socialist country of law.” For slightly different translations, see A.H.Y. Chen (n 97) 128, and M. Salter (n 1) 8

¹⁰ Constitution of the People’s Republic of China (npc.gov.cn) (retrieved 27 January 2021).

¹¹ Earlier translations can be found in literature, K. Blasek (n 1) 15: “The People’s Republic of China practices ruling the country in accordance with the law and building a socialist country of law.” For slightly different translations, see A.H.Y. Chen (n 97) 128, and M. Salter (n 1) 8

time, human rights were introduced into the constitution. The Information Office of the State Council published a White Paper entitled China's Efforts and Achievements in Promoting the Rule of Law in February 2008. In this White Paper on China's rule of law (2008) there is a Chapter (ii) on "Legislation and Legal System with Chinese Characteristics", stating that the Chinese socialist legal system is open and developing. It also contains a Chapter (v) on "Administration by Law and Building Government under the Rule of Law", stressing changes that have been conducted to improve the rule of law. To illustrate the importance of the Chinese characteristics and the socialist system, Article 1, paragraph 2, of the Chinese Constitution (cc) states: "The socialist system is the fundamental system of the People's Republic of China. Leadership by the Communist Party of China is the defining feature of socialism with Chinese characteristics. It is prohibited for any organization or individual to damage the socialist system." In 2011, the same office published a White Paper on The Socialist System of Laws with Chinese Characteristics.

The theory of socialist rule of law with Chinese characteristics stems from an integration of Marxism on the principles of establishing socialist rule of law and China's pursuit in socialist rule of law. The theory is a system centered with building a socialist country under the rule of law at the backdrop of the reality and circumstances of socialist modern country, the review of China's efforts in establishing the rule of law, the cream of Chinese traditional legal culture, and the theoretical advancement in implementing the rule of law in foreign countries. The socialist system with Chinese characteristics is the fundamental institution in implementing socialist rule of law with Chinese characteristics and advancing the all-round law-based governance. All the laws, regulations, institutions, mechanisms, thoughts and theories should be built on this foundation. It is rational to perceive the superiority of socialism in three respects: the evolution of human social development, the course of socialist advancement, and the progressive and dynamic view. The theory of socialist rule of law with Chinese characteristics by no means touches upon the general rule of law, but how to establish socialist rule of law in contemporary China, a complicated reality the theory addressed and also the source for improving the theory.

The concept of "Socialist rule of law with Chinese characteristics" is a fundamental principle that guides the legal system in China. It emphasizes the integration of socialist ideology and Chinese cultural traditions with the rule of law. At its core, the idea of Socialist rule of law with Chinese characteristics emphasizes the importance of the Communist Party of China (CPC) in guiding and supervising the legal system. According to this concept, the CPC is responsible for ensuring that the rule of law is implemented in a way that is consistent with the values of socialism, and that the legal system serves the best interests of the people.

So it's clear that the concept of "Socialist rule of law with Chinese characteristics" represents China's attempt to integrate its socialist ideology, cultural traditions, and unique socio-political context into a legal framework that serves the interests of the state, the collective, and the individual. It emphasizes the role of the CPC in shaping and guiding the legal system and aims to strike a balance between individual rights and social stability. It is an important component of the broader concept of "Xi Jinping Thought," which guides the CPC's policies and governance strategies. "Xi Jinping Thought on the Rule of Law" emphasizes the importance of the rule of law as a tool for maintaining social stability and promoting economic development. The concept emphasizes the role of the CPC in promoting the rule of law, rather than the rule of law as an independent concept. The CPC views the rule of law as a means of achieving its political and economic objectives, rather than as an end in itself. And because of all these fact, and many others for which its necessary much bigger study, the concept of "socialist rule of law with Chinese characteristics" have its own unique specifics applicable for the substance of both the "Rule of Law" and "Rule by law".

The idea of socialist rule of law is rooted in Marxist philosophy and is based on the belief that the law must serve the interests of the people and the state.

Xi Jinping, the current President of China, has introduced his own unique perspective on the rule of law, known as "Xi Jinping Thought on the Rule of Law." This concept emphasizes the importance of the rule of law in promoting social stability and economic development. It also highlights the role of the Communist Party of China (CPC) in ensuring that the law is implemented in a way that serves the interests of the people and the state.

One of the key features of the Chinese legal system is its emphasis on collective interests over individual rights. This approach is reflected in the legal principle of "people's democracy," which stresses that the law should reflect the collective will of the people. This principle is also reflected in China's legal system, which places a high value on social harmony and stability. This represent important specific of the Chaines' legal doctrine, can not be ignored. But at the same time, can not be understood that individual rights will be affected. People's democracy it will be positive in laws that should be in the best interests of the individuals to protect their rights.

Several important principles can be extracted from the White Paper, required if the country was to be ruled by law. In brief, these are¹² 1. adhering to the leadership of the cpc the people as the masters and ruling the country by law; 2. focusing on both construction and the rule of law, continuously improving the legal system in the light of the objective needs of economic and social development and making legal construction serve economic and social development as well as the construction of a harmonious society; 3. striving to root the legal construction in the reality of Chinese society; and 4. basing legal construction on institution building and enhancing the public's awareness of the rule of law. In addition, the will to improve the quality of legislation and strengthen the implementation of the constitution and law as well as the people's rights and interest and social justice is expressed. These principles (2008) are to some extent to be reconciled with the general principles found in the White Paper (2011) and the Decision made by the Central Committee of the CPC in 2014. The White Paper (2011) can also be seen as a development of what had been stated in 2008. In the White Paper (2011), five elements of the socialist system of laws with Chinese characteristics are established; the system should¹³ 1. embody the essential requirements of socialism with Chinese characteristics, 2. meet the demand of the reform Opening Up and socialist modernization of the current times, 3. reflect the requirements of an inherently unified and structurally multilevel legal system, 4. meet the cultural demand of carrying forward the fine traditions of Chinese legal culture and drawing on the achievements of human legal civilizations and 5. reflect the development demand of being dynamic and open, and of advancing with the times. The first element seems to stress the fundamental interest of the majority of people. The second element can be interpreted as taking credit for prior reforms. The third element can be interpreted as explaining and perhaps even defending the multilevel and pluralistic legal system in China, constituting the scientific, harmonious, and unified whole of the system. The fourth stress the cultural and historical traditions, however, allows inspiration from the legislative experience of other countries, while dismissing legal transplants. The fifth element can be interpreted as embracing self-improvement and development as well as the reform in law-making already made. At the 2014 plenum on the rule of law, the Committee established the socialist rule of law with Chinese characteristics as the basis for all legal reforms and laid out five general principles in the Decision. The principles were: 1. the leadership of the Party, 2. the dominant position of the people, 3. equality before the law, 4. the combining of the rule of law with the rule of virtue, and

¹² White paper (2008), Concluding section.

¹³ White paper (n 108), Section iii. For earlier analysis on the topic, see B. Xiaoping, 'Ruling the Country by Law and Building Socialist State under Rule of Law', in: L. Buyun (n 109) 143–162.

5. the need to chart China's own path. These principles represent the main meaning of the expression of Chinese characteristics.

Summary

It is clear that ruling the country according to law is an important symbol to the Chinese leadership,¹⁴ and that there is a continuous process of improving the legal system, as such, while maintaining the Chinese legal culture (China's own path). It also seems important that the legal system will be dynamic, enabling it to adjust in a world that constantly is changing. The combination of the "rule of law" with "rule by law", plus having in mind all specifics previously mentioned which undoubtedly influenced both concept putting them in one with sui generis nature, can be seen as a way to end the years' long rivalry between the two schools of thoughts. However, the combination of the two schools can also provide some ideas for the rest of the law doctrines, and to the concept of the rule of law in international arena. In November 2021, a communiqué was released regarding a resolution passed by the sixth plenary session of the 19th cc Central Committee. It is held that after the Party's 18th National Congress, socialism with Chinese characteristics entered a new era, referred to as Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era. These thoughts emphasize Marxism. In addition, it is held in the communiqué that the socialist rule of law with Chinese characteristics has constantly been improving, and a fundamental shift has been seen in the ideological domain. Preparation for the next stage, are set¹⁵. This communiqué illustrates the ongoing process!

2. Law-Based Governance through "Xi Jinping Thought on the Rule of Law"

The 20th National Congress of the Communist Party of China was a meeting of great importance. It takes place at a critical time on a way to new journey to build China into a modern socialist country in all respects and advance toward the Second Centenary Goal. The central focus of this Congress was holding high the great banner of socialism with Chinese characteristics, fully implementing the Thought on Socialism with Chinese Characteristics for a New Era, upholding fundamental principles and breaking new ground, and striving in unity to build a modern socialist country in all respects and advance the great rejuvenation of the Chinese nation on all fronts.

a) The Work of the Past Five Years and the Great Changes in the First Decade of the New Era

The five years since the 19th National Congress have been truly momentous since the Party Central Committee has pursued a strategy of national rejuvenation amid global changes of a magnitude not seen in a century. It has convened seven plenary sessions, at which it adopted decisions and resolutions on major issues such as revising China's Constitution, deepening reform of Party and state institutions, upholding and improving the system of socialism with Chinese characteristics and modernizing China's system and capacity for governance, formulating the 14th Five-Year Plan for Economic and Social Development and the Long-Range Objectives through the Year 2035.

¹⁴ B. Xiaoqing, 'Theoretical Basis and Significance of Ruling the Country by Law', in: L. Buyun (n 109) 113–126.

¹⁵ cpc plenum passes landmark resolution (www.gov.cn) (retrieved 18 November 2021).

b) New Frontier in Adapting Marxism to the Chinese Context and the Needs of the Times

Marxism is the fundamental guiding ideology upon which China is founded. Adapting Marxism to the Chinese context and the needs of the times is a process of seeking, revealing, and applying truth. With new changes and practical demands emerging both in and outside of China since the 18th National Congress, there was an urgent need for the CPC to provide in-depth theoretical and practical answers to a series of epochal questions on the cause of the Party and the country as well as the Party's governance of China.

With the courage to make theoretical explorations and innovations, CPC has, from an entirely new perspective, deepened its understanding of the laws that underlie governance by a communist party, the development of socialism, and the evolution of human society. It has achieved major theoretical innovations, which are encapsulated in the Thought on Socialism with Chinese Characteristics for a New Era. The main elements of this theory are summarized in the 10 affirmations, the 14 commitments, and the 13 areas of achievement that were articulated at the 19th National Congress and the Sixth Plenary Session of the 19th Party Central Committee.

For that reason, CPC continue to build and strengthen and crystalize its own specifics based on uphold and develop Marxism, integrate it with China's specific realities. That according to CPC means "We must continue to free our minds, seek truth from facts, move with the times, and take a realistic and pragmatic approach. We must base everything we do on actual conditions and focus on solving real problems arising in our reform, opening up, and socialist modernization endeavors in the new era. We must keep responding to the questions posed by China, by the world, by the people, and by the times; in doing so, we should find the right answers suited to the realities of China and the needs of our day, reach conclusions that are compatible with objective laws, and develop new theories that are in step with the times, so as to provide better guidance for China's practice".

Why China is proud of its attributes China characteristics which make the country and people different than others? Because with a history stretching back to antiquity, China's fine traditional culture is extensive and profound, because it is the crystallization of the wisdom of Chinese civilization. China traditional culture espouses many important principles and concepts, including pursuing common good for all; regarding the people as the foundation of the state; governing by virtue; discarding the outdated in favor of the new; selecting officials on the basis of merit; promoting harmony between humanity and nature; ceaselessly pursuing self-improvement; embracing the world with virtue; acting in good faith and being friendly to others; and fostering neighborliness. These maxims, which have taken shape over centuries of work and life, reflect the Chinese people's way of viewing the universe, the world, society, and morality and are highly consistent with the values and propositions of scientific socialism.

And just as there are no bounds to practice, there is no end to theoretical innovation. That's why CPC to keep advancing theoretical innovation on the basis of practical experience, first of all, it must gain a good command of the worldview and methodology of the Thought on Socialism with Chinese Characteristics for a New Era and adhere to and make good use of its stances, viewpoints, and methods. To do so, CPC has put following objectives as necessary ones:

" - We must put the people first. People-centeredness is an essential attribute of Marxism. Our Party's theories are from the people, for the people, and beneficial to the people.

- We must maintain self-confidence and stand on our own feet. We must remain firm in our conviction in Marxism and socialism with Chinese characteristics and strengthen our confidence in the path, theory, system, and culture of socialism with Chinese characteristics. We

should never act blindly without assessing how conditions have evolved or allow ourselves to become ossified or closed off, nor should we mechanically imitate others or indiscriminately absorb foreign ideas.

- *We must uphold fundamental principles and break new ground.* We are advancing a great cause that none have attempted before. Only by upholding fundamental principles can we avoid losing our bearings or making catastrophic mistakes. Only by breaking new ground can we meet the call of the day and shape the trends of our times. We should approach Marxism with a respect for science and in the spirit of seeking truth.

- *We must adopt a problem-oriented approach.* Problems represent the voice of the times. The fundamental task of theory is to respond to problems and provide guidelines for finding solutions. The problems we face today are considerably more complex, and resolving them has become much more difficult. This presents a completely new challenge for theoretical innovation. We should keep developing new thinking, new approaches, and new ways to effectively resolve problems.

- *We must apply systems thinking.* All things are interconnected and interdependent. We must view them with the understanding that they are universally connected, part of a complete system, and constantly evolving if we are to grasp the laws governing their development.

- *We must maintain a global vision.* The Communist Party of China is dedicated to pursuing happiness for the Chinese people and rejuvenation for the Chinese nation. It is also dedicated to human progress and world harmony. We should expand our global vision and develop keen insight into the trends of human development and progress, respond to the general concerns of people of all countries, and play our part in resolving the common issues facing humankind. With an open mind, we should draw inspiration from all of human civilization's outstanding achievements and work to build an even better world.”

c) The New Journey of the New Era: Missions and Tasks of the Communist Party of China

The essential requirements of Chinese modernization are as follows: upholding the leadership of the Communist Party of China and socialism with Chinese characteristics, pursuing high-quality development, developing whole-process people's democracy, enriching the people's cultural lives, achieving common prosperity for all, promoting harmony between humanity and nature, building a human community with a shared future, and creating a new form of human advancement.

To build China into a great modern socialist country in all respects, China leadership have adopted a two-step strategic plan:

- Basically realize socialist modernization from 2020 through 2035
- Build China into a great modern socialist country that is prosperous, strong, democratic, culturally advanced, harmonious, and beautiful from 2035 through the middle of this century

China's overall development objectives for the year 2035 are as follows:

- Significantly increase economic strength, scientific and technological capabilities, and composite national strength; substantially grow the per capita GDP to be on par with that of a mid-level developed country
- Join the ranks of the world's most innovative countries, with great self-reliance and strength in science and technology

- Build a modernized economy; form a new pattern of development; basically achieve new industrialization, informatization, urbanization, and agricultural modernization
- Basically modernize the system and capacity for governance; improve the system for whole-process people's democracy; build a law-based country, government, and society
- Become a leading country in education, science and technology, talent, culture, sports, and health; significantly enhance national soft power
- Ensure that the people are leading better and happier lives; bring per capita disposable income to new heights; substantially grow the middle-income group as a share of the total population; guarantee equitable access to basic public services; ensure modern standards of living in rural areas; achieve long-term social stability; make more notable and substantive progress in promoting the people's well-rounded development and prosperity for all
- Broadly establish eco-friendly ways of work and life; steadily lower carbon emissions after reaching a peak; fundamentally improve the environment; largely accomplish the goal of building a Beautiful China
- Comprehensively strengthen the national security system and national security capabilities; achieve basic modernization of national defense and the armed forces
- Further increase China's international standing and influence; enable China to play a greater role in global governance

On the journey ahead, CPC have firmly adhere to the following major principles.

“- Upholding and strengthening the Party's overall leadership. We must resolutely uphold the Party Central Committee's authority and its centralized, unified leadership and see that Party leadership is exercised in all aspects and every stage of the endeavors of the Party and the country. This will ensure that our Party always remains the pillar that the Chinese people can lean on in times of difficulty, that our socialist modernization advances along the right path, and that we have the political cohesion and confidence in our development to inspire the people to strive in unity. It will see us forming a mighty force to overcome all difficulties with one heart and one mind.

- Following the path of socialism with Chinese characteristics. We must continue to pursue economic development as our central task, uphold the Four Cardinal Principles,¹⁶ remain committed to reform and opening up, and stay independent and self-reliant. We must keep to our path and not sway in our commitment. We must not return to the isolation and rigidity of the past, or veer off course by changing our nature or abandoning our system. We must develop our country and our nation with our own strength, and we must maintain a firm grasp on the future of China's development and progress.

- Applying a people-centered development philosophy. We must protect the people's fundamental interests, improve their wellbeing, and work tirelessly to ensure that development is for the people and by the people and that its fruits are shared by the people. We must do a better job of seeing that the gains of modernization benefit all our people fairly.

- Remaining committed to deepening reform and opening up. We must intensify efforts to advance reform and explore new ground, and we must remain steadfast in expanding opening up. We must work hard to remove deep-seated institutional barriers so as to fully tap into the strengths of socialism with Chinese characteristics and continuously imbue our socialist modernization endeavors with fresh dynamism and vitality. We must do better in translating our country's

¹⁶ The Four Cardinal Principles are keeping to the path of socialism, upholding the people's democratic dictatorship, upholding the leadership of the Communist Party of China, and upholding Marxism-Leninism and Mao Zedong Thought.

institutional strengths into effective governance.

- *Carrying forward our fighting spirit.* We must foster a firmer sense of purpose, fortitude, and self-belief in the whole Party and the Chinese people so that we cannot be swayed by fallacies, deterred by intimidation, or cowed by pressure. We must meet obstacles and difficulties head on, ensure both development and security, and dig deep to surmount the difficulties and challenges on the road ahead. Let us harness our indomitable fighting spirit to open up new horizons for our cause”.

d) Exercising Law-Based Governance on All Fronts and Advancing the Rule of Law in China

The comprehensive advancement of law-based governance has been a profound revolution in China’s governance. The China leadership has put its own goals in relation to the rule of law, as any other country make his own priorities. In those terms CPC acknowledge that “We must give better play to the role of the rule of law in consolidating foundations, ensuring stable expectations, and delivering long-term benefits, and we must strive to build a modern socialist country in all respects under the rule of law. We must follow a path of socialist rule of law with Chinese characteristics, develop a Chinese system of socialist rule of law, and establish China as a socialist country under the rule of law. We must, with a focus on protecting and promoting social fairness and justice, pursue coordinated progress in law-based governance, law-based exercise of state power, and law-based government administration and take integrated steps to build a country, government, and society based on the rule of law. We will make all-around efforts to ensure sound legislation, strict law enforcement, impartial administration of justice, and society-wide observance of the law and see that all work of the state is carried out under the rule of law”. For that objective key focus will be on:

1. Improving the socialist legal system with Chinese characteristics with the Constitution at its core

Law-based governance and law-based exercise of state power begin with compliance with the Constitution, as in other countries, same in China. For that reason it is clear that CPC remain firmly committed to leadership of the Party, to the state system of people’s democratic dictatorship, and to the political system of people’s congresses, all of which are mandated by the Constitution. “We will better implement the Constitution and conduct constitutional oversight, and we will improve the systems for ensuring full compliance with the Constitution, so as to give better play to the Constitution’s important role in China’s governance and uphold its authority. We will step up legislation in key, emerging, and foreign-related fields and advance the rule of law in domestic and foreign-related affairs in a coordinated manner, so that good laws are made to promote development and ensure good governance. We will make further headway in making laws in a well-conceived and democratic way and in accordance with the law; we will take coordinated steps to enact, revise, abolish, interpret, and codify laws; and we will see that legislative work is more systematic, holistic, coordinated, and responsive” are some of the objectives set by China leadership.

2. Steadily advancing law-based government administration

Building a law-based government is a key task and major part of comprehensively advancing law-based governance. For that objective it is clearly put as a priority “We will transform government functions, improve the government responsibility system and organizational structure, and establish legal footing for government institutions, functions, powers,

procedures, and responsibilities, so as to enhance the efficiency and credibility of government administration. We will deepen reform of public institutions. We will refine law enforcement procedures and the standards for administrative discretion, enhance oversight mechanisms and oversight capacity, and strictly implement responsibility and accountability systems”.

3. Ensuring strict and impartial administration of justice

An impartial judiciary is the last line of defense for social fairness and justice. For that objective China's leadership committed itself to “We will deepen comprehensive and integrated reform of the judicial system, fully and faithfully enforce judicial accountability, and accelerate the development of a fair, efficient, and authoritative socialist judicial system. We will see that the people feel justice has been served in each and every judicial case. We will ensure the well-regulated exercise of judicial power and improve the systems and mechanisms that enable public security organs, procuratorates, courts, and administrative agencies for justice to perform their respective functions and to coordinate with and check one another. Checks and oversight on judicial activities will be enhanced to ensure judicial justice. Procuratorial organs will step up legal oversight, and the system of public-interest litigation will be improved”.

4. Stepping up efforts to establish the rule of law throughout society

A society based on the rule of law is the foundation on which we can build a country under the rule of law. For that reason CPC committed to “We will promote socialist rule of law and carry forward fine traditional Chinese legal culture, and we will encourage all our people to truly revere, readily observe, and firmly defend socialist rule of law. We will develop a modern public legal service system that covers both urban and rural populations and carry out intensive activities to raise public awareness of the rule of law. We will advance law-based governance at multiple levels and in multiple areas and enhance the rule of law in social governance. We will see that leading officials play an exemplary role and work hard to make respecting, learning about, observing, and applying the law common practice throughout society”.

All above mentioned findings and connotations including the commitments and objectives set by the China leadership, not only says a lot and identified the “China specifics and china characteristics”, which in their core have the socialism and Marxism as a political and legal philosophy, but all of them at the same time will undoubtedly keep on reflecting and formatting the legal doctrine of China type of rule of law. Even more through the international cooperation in today's interdependent world, through the objective of the China leadership “We will strengthen our international communications capabilities, make our communications more effective, and strive to strengthen China's voice in international affairs so it is commensurate with our composite national strength and international status. We will deepen exchanges and mutual learning with other civilizations and better present Chinese culture to the world”, China legal doctrine “Socialist rule of law with Chinese characteristics” and law based Governance, will undoubtedly have its impact on the other legal system's and doctrines.

3. Goals and Objectives in Promoting the Chinese Concept of "Rule of Law" Internationally

The conception of an international law theory on “socialist rule of law with Chinese characteristics” is rooted in the idea that China's legal system is distinct from that of other countries, and reflects its socialist ideology and unique historical and cultural context. This concept has been developed by Chinese legal scholars and policymakers, and is closely linked to China's broader political and economic goals.

At its core, the theory emphasizes the importance of maintaining social stability, promoting economic development, and protecting national sovereignty and security. It places a strong emphasis on the role of the state in ensuring compliance with the law, and emphasizes the importance of judicial independence while also recognizing the need for judicial accountability and supervision.

One key element of this theory is the notion of "balance," which refers to the idea that the state should balance the interests of different groups in society in order to promote overall social harmony and stability. This includes balancing the interests of individuals with the interests of the collective, and balancing the interests of different levels of government and different regions.

Another important aspect of this theory is the emphasis on "rule of law with Chinese characteristics," and on "rule by law" which recognizes that China's legal system is not and can not be simply a copy of Western legal systems, but rather reflects China's unique historical and cultural context, with unique characteristics. This approach emphasizes the importance of adapting international legal norms and standards to fit China's specific circumstances, rather than simply adopting them wholesale.

In recent years, China has been actively expanding its international law expertise, both through its engagement with international organizations and through the training of Chinese legal scholars and policymakers. This has included efforts to increase China's influence in international legal forums such as the United Nations, as well as efforts to strengthen China's capacity to engage in international legal disputes and negotiations.

Overall, the conception of an international law theory on "socialist rule of law with Chinese characteristics" reflects China's broader goals of promoting its own distinct vision of global governance, while also seeking to engage with and contribute to the development of international law and institutions.

China's degree of compliance with and influence over international law are complex and contested subjects. The meaning of international legal rules can be vague, illusory, and open to dispute. Like other powerful nations, China may refuse to comply with the law when doing so suits its perceived interests. Nonetheless, international law matters to China. It can be a tool for accomplishing objectives, a source of legitimation or delegitimation, and a constitutive element of China's interests.

China exhibits a flexible and functional approach to international law that enables it to benefit from and exploit the international order without the need to advocate fundamental changes to the letter of the law in most areas. Second, China is increasingly seeking to shape legal norms across various domains of international relations. Third, despite its malleability and limitations, international law can also shape the context for the choices of Chinese leaders and their perceptions of their interests. These conclusions highlight the need to strengthen systems of international rules in order to better manage increasing competition and multipolarity among nations.

In 2014, Chinese President Xi Jinping introduced the term "rule of law in international relations" to describe the Chinese government's vision for the interaction between states within the international order. He said:

„We should jointly promote the rule of law in international relations We should urge all parties to abide by international law and well-recognised basic principles governing international relations ... There should not be double standards when applying the law. We should jointly uphold the authority and sanctity of international law and the international order“.

The term is related to – but used in distinction from – existing concepts of international law and international rule of law .The Chinese government's application of "rule of law" to "international relations" specifically indicates a new concept in its global governance lexicon. But what does it mean? Does China believe and are ready tu work on international relations

characterised by the rule of law? The reference to “double standards” is also telling. The Chinese government frequently arguing and not by accident and no by no reason other states of having “double standards”!

The timing of the introduction and dissemination of “rule of law in international relations” coincides with China’s domestic heavy focus on the concept “rule of law” in domestic arena. Plenty of that have been said previously in this study. Following the 18th Party Congress, Foreign Minister Wang Yi praised Xi’s introduction of “rule of law in international relations”, writing in an opinion piece for state media that: „*diplomacy is an extension of domestic politics; China, with its firm commitment to promote rule of law internally, is inevitably a firm protector and active builder of international rule of law*“.

This strongly suggests that the Chinese government’s understanding of the rule of law in its domestic context informs its international approach.

China has already begun promoting the notion of “rule of law in international relations” at the UN.

In its 2017 national statement at the UN General Assembly, China argued that the UN should “follow current trends and work to make international relations more ... rule-of-law-based”.

China, today, is an active participant in the major international institutions — the United Nations (where it holds a permanent, veto-wielding seat on the Security Council), the WTO, the International Monetary Fund, and various specialized bodies. China is a signatory to hundreds of multilateral treaties and thousands of bilateral treaties, covering everything from arms control to human rights to environmental protection to trade and commerce.¹⁷ Chinese officials regularly invoke the importance of international law and seek to portray China as a “staunch defender and builder” of international rule of law. Chinese President Xi Jinping’s recent speeches routinely endorse the universality of international law while cautioning that all countries should “reject double standards” and selective application of international norms.¹⁸ Other official statements have argued against a “one-size fits-all” approach to protection of international human rights.¹⁹ But China’s desire to influence the trajectory of international law is a relatively new phenom

Conclusion

The examples sketched above are partial illustrations of China’s approach toward international law. For a more comprehensive treatment it would be necessary much bigger study than this one. Nonetheless, a few tentative conclusions can be drawn. First, China exhibits a flexible and functional approach to international law that enables it to benefit from and exploit the international order in most areas. Second, China is increasingly active in seeking to shape legal norms in ways that advance its interests in areas, such as trade, the law of the sea and human rights, environment, etc. a Third, despite its malleability and limitations, international law can also shape the context for the choices of Chin leadership and their national interests. International law can be a source of legitimation or delegitimation. Four, China has been increasingly expanding its expertise in international law in recent years. This is evident from the growing number of Chinese legal scholars and practitioners who specialize in international law, as well as the country's active

¹⁷ Congyan Cai, *The Rise of China and International Law*, 101.

¹⁸ Xi Jinping, “Work Together to Build a Community of Shared Future for Mankind,” (speech, Geneva, January 19, 2017), http://www.xinhuanet.com/english/2017-01/19/c_135994707.htm.

¹⁹ Letter from Chinese Mission to the United Nations Office at Geneva, “Win-Win Cooperation for the Common Cause of Human Rights,” Ministry of Foreign Affairs of the People’s Republic of China, March 1, 2018, https://www.fmprc.gov.cn/mfa_eng/wjwb_663304/zwjg_665342/zwbj_665378/t1538785.shtml.

participation in international legal forums and the increased use of international legal tools in China's foreign policy.

One of the key factors driving China's expanding international law expertise is its growing economic and political influence on the global stage. As China's economy continues to grow and its global presence expands, the country has become increasingly involved in international legal disputes and negotiations. This has led to a greater need for legal experts who are knowledgeable about international law and can represent China's interests in these forums.

Another factor contributing to China's expanding international law expertise is the country's efforts to promote its own legal system on the global stage. Chinese legal scholars and practitioners are actively engaging with international legal scholarship and developing their own interpretations of international legal principles, with a Chinese perspective, China characteristics.

In addition, the Chinese government has been actively promoting the study of international law within China's legal education system. Chinese law schools are increasingly offering courses in international law, and the government has established a number of research institutes focused on international law issues.

While China's expanding expertise in international law presents opportunities for greater cooperation and collaboration on global legal issues, it also raises concerns about the country's intentions and approach to international law. We have discussed and rise this issues in the introduction to this study.

Overall, China's expanding expertise in international law is a significant development that will continue to shape the country's role in the global legal order, and will necessarily have its impact and influence towards the international law.

4. The State of Rule of Law in the Republic of North Macedonia

Regarding the state of judicial reforms and the rule of law in the Republic of North Macedonia, the previous study²⁰ identified numerous weaknesses that were expected to be improved with the reform strategy and action plan for the period 2017-2023. Unfortunately, the results were minor, and the situation has worsened after two years since the previous study's writing. The indicator that reflects the state of the rule of law is the public trust in the judiciary, which stands at 4%, as determined through independent and objective pull opinion surveys. Despite the necessary reforms in the judicial system, we still face key challenges in ensuring the rule of law.

As author of this study, it is appropriate to mention that I was for 18 years diplomatic advisor to tree Macedonian presidents starting from 2001 till 2018 when I was elected for the constitutional judge. So, in the capacity of diplomatic advisor a very close associate to the Presidents of the country which according to our Constitution is a part of the executive power, I participate and witness the EU accession process of my country towards EU. We sign Stabilization and accession agreement with EU in 2001, than in 2005 we became a candidate country. Year after year, we received positive reports from the European Commission (first in 2009 with the recommendation to start with the accession process) in which the country's progress in all spheres relevant and significant for the EU was noted, particularly in political stabilization and the establishment of the rule of law, where the rule of law prevails. We truly had significant progress, objective, recognized and acknowledged by the EU. We went down the path with Croatia and Albania. The desire of the citizens of Macedonia to be part of the by values and criteria Euro-

²⁰ „Comparative study of the current goals and reforms in the area of judiciary in North Macedonia and China“. <https://www.pravdiko.mk/wp-content/uploads/2022/07/China-Macedona-Rule-of-law-study-final-07.07.2022.pdf>

Atlantic family, in the family of the EU, was the top obligation of politicians, regardless of whether they were in power or opposition. This was a topic for which there was the broadest possible consensus, and things were moving in a positive direction, there was positive momentum, there was reform energy. The EC reports became action plans for the government, the parliament, literally for all authorities in the country, executive, legislative, and judicial. Year after year, we created European criteria and standards in all spheres, particularly in the pillar of those values, the rule of law. But then came the blockades and disappointments, first with the failure of the NATO Summit in Bucharest 2008, and then with the blocked European integrations starting from 2009, and the process took the paradox and phenomenon dimension.

So, the upward trajectory of progress that reached serious success in terms of the rule of law (I will only focus on this segment) due to unfulfilled expectations, failures, and blockades, lost its breath, took away the reform power and energy, and started the retrogressive processes. What did not move towards progress, suddenly the process of accession toward EU became an empty shell, a declarative determination, in which there was no real reform energy. Everything that had been achieved in terms of the rule of law began to atrophy and degrade. The prolonged waiting in front of the doors of NATO and the EU led to apathy, abuse by political elites, a significant decline in progress in political culture, and a resulting decline in the constitutional legal culture, with the rule of law being the victim. The consequences are probably felt most strongly today, and the challenges arising from this are probably greatest today. The consequences in terms of building a rule of law in which the law prevails have been devastating, as evidenced by the trust in the judicial system at 4%. This is precisely the phenomenon I pointed out. If the essence of the EU integrative process is the rule of law that drives that process, how is it possible for that same process to undergo such devastation, so that we are now once again in a phase of reaching the level we have already had and achieved? For me, this is the paradox of prolonged waiting, prolonged blockades, and the phenomenon of progression of hope. When hope for a better life, for membership in the EU, reaches its maximum without being realized, we are faced with the paradox of progression of disappointment and apathy. This is my personal evaluation, from the perspective of my role as one of the participants in the EU integrative process that was supposed to help build the rule of law.

In the past 4.5 years, my engagement has been reversed, as a constitutional judge, I do everything in my power to contribute to the rebuilding of the rule of law, and to contribute to the EU integration process of my country. So, for 18 years, I contributed to the goal that was supposed to result in a stable order in which the law prevails, and in recent years, I have been dealing with the result of that goal, with the consequences, building a rule of law in which the law prevails, which should facilitate and accelerate our integration into the EU. And I have already said that the consequences and challenges are serious. In circumstances where legal, especially constitutional culture, will face a serious decline, the rule of law and the law will be the victim.

And precisely the rule of the law is what I often like to say in my discussions and in my separate opinions is such a fundamental value that essentially represents a value that has an imperative to guarantee, secure and affirm all other fundamental values, constitutional principles, and norms.

Now, let me state what the key challenges are:

1. Since the entry into force of the Constitution of the Republic of Macedonia in 1991, until today, without any dilemma, the Constitutional Court remains the most unreformed institution in our constitutional order, in terms of the legal framework that regulates it. The legal framework consists of the Constitution and the Act of the Court. In such circumstances, the dilemma that arises is why and to whom is such a status quo state of the constitutional judiciary in our country needed? This raises the question of whether the Constitutional Court has fulfilled the expectations of the past 32 years, specifically whose expectations have been fulfilled? And when the rule of law

is faced with a challenge, without a doubt, the Constitutional Court, with its authority and jurisdiction, is the first to be called upon to stabilize the legal order, with the authority of its arguments in its decisions reflecting the rule of law. It is the first on that pyramid, at the top of the pyramid, which is called the rule of law. It should move the process forward. Regardless of the challenges it faces, it must restore the legal and constitutional culture that will restore the political culture, i.e. it will put into legal frameworks the political incivility that has been damaging and bullying the legal culture for years.

2. The second task of the Constitutional Court is to restore the situation to normalcy regarding the malfunctioning and continuous violations of the constitutional fundamental value of the separation of powers. It is objectively established that one of the branches of government, the executive, has been characterized by disproportionate excessive power, usurpation, and influence on all other branches of government throughout the entire period. Such a situation inevitably leads to continuous challenges and violations of yet another fundamental value of our constitutional order, the rule of law. The principle of "checks and balances" is displaced. All these findings are multiplied in their manifestations and have a negative impact on social reality.

3. The relationship between the rule of law and the fundamental value of the separation of powers is essentially causal, interdependent, and conditioned. The separation of powers into legislative, executive, and judicial, with clearly defined powers and responsibilities for their demarcation, but also for mutual control in accordance with the principle of "checks and balances," is a precondition for the rule of law, and vice versa, the rule of law is the fundamental value that ensures the limitation, i.e., the separation of powers. Adherence to the constitutional boundaries of each of the authorities, their mutual control, which should lead to balance, is a precondition for limiting the authorities and a precondition for a functional legal state in which the rule of law will prevail. None of the three authorities should exceed their constitutional and legal powers and enter into the jurisdiction of another authority, as this violates the principle of separation of powers into legislative, executive, and judicial. In this context, the Constitutional Court has two challenges: to fight for its own independence and autonomy, to guarantee and ensure the independence of the judicial system, without which the construction of the legal state in which the rule of law will prevail is unthinkable.

4. A special challenge for the rule of law and for the Constitutional Court is the introduction of constitutional appeal. For those who are not familiar, the Macedonian Constitution provides an extremely limited direct constitutional judicial protection of human rights and freedoms, protecting only the freedoms and rights related to freedom of belief, conscience, thought, and public expression of thought, political association and action, and prohibition of discrimination against citizens on the grounds of gender, race, religion, national, social, and political affiliation. Why is the introduction of this institution, for example, not a precondition for the continuation of Macedonia's Euro-integrative process? If the rule of law is the cornerstone of EU integration, the introduction of this institution would undoubtedly make a strong contribution to the rule of law and the establishment of the rule of law. With direct constitutional judicial protection of all freedoms and rights guaranteed by the Constitution, with a constitutional judicial sanction of all acts of public authority (legislative, executive, judicial) to be subordinated to the Constitution, i.e. to the rights guaranteed by the Constitution, such protection will undoubtedly provide unity in the constitutional legal order, the state will gain another effective authoritative filter before citizens' complaints end up in the European Court of Human Rights in Strasbourg. With such a constitutional instrument, another extremely important achievement is achieved for compliance with European standards for the protection of human freedoms and rights and compliance with the practice of the ECHR, because the decisions of the Constitutional Court will have to respect such

practice and standards developed by Strasbourg. This means another complementarily in the “rule of law” in Macedonia with European standards and criteria.

5. For all that I have said, it is essential that the political culture be at the necessary level to advance the legal culture, which will certainly lead to what has long been called by Habermas constitutional patriotism. This means that politicians must be aware of the necessity for the Constitutional Court to obtain the position assigned to it by the constitution makers, to ensure its independence and autonomy, and with legislative action and awareness of the quality and integrity of judges who are proposed and selected. This is yet another sub-phenomenon within the phenomenon. These are mutually conditional processes, they nourish each other, and can only move complementarily, never exclusively. This means that the political culture must advance the legal one, and at the same time the legal culture must advance the political one. Failure in either of these two necessities only leads to status quo or stagnation. The same applies to the relationship between EU integration and the rule of law.

6. To conclude again, only the European idea, only the EU integration process has the capacity to restore the necessary reform power and energy today. My expectation is that both the EU and the member states are aware of the objectivity in our reality and can certainly help. I have seen and know the EU's file, and essentially it becomes a matter of the most successful file in its history of Europe.

7. And finally, to be self-critical about the role and characteristics of judges in this process. For a proper understanding of politics and its bearers, it is necessary to recall what Max Weber pointed out as the qualities that the politician should possess - passion, responsibility, and measuredness. For a proper understanding of the rule of law, including the judiciary, the following key characteristics must be possessed - conscience, independence, and uncompromisingness. Commitment to these qualities will undoubtedly advance political culture, affect the advancement of legal and constitutional culture, and all of this will inevitably move us towards the desired goal - constitutional patriotism. Only in this way will citizens regain trust in politics, the rule of law, in institutions as guarantors, not manipulators of their freedoms and rights. Only in this way will the EU integrative process achieve its essence. The absence of loyalty to these qualities is not only a "mortal sin," as Weber considers for the politician, I consider it for the judges, even more so, it will not hold us in the vortex of uncertainty, insecurity, permanent crises will continue, distorted values will be accepted as a way of life, erosion of the legal order and atrophy of the credibility of the institutions will continue. We need to learn, grow and mature as a society, as a community. The basic postulate of the concept, the rule of law, over time, will become a source of constitutional patriotism in its most correct sense. The success and speed of this process, which will encounter obstacles of different types (nationalism, populism, wrong application of key characteristics of the politician and judge, etc.), will depend on the first step that will change the mentality and awareness of citizens, slowly setting new standards under which no next one will be able to go. No one says it will be easy or fast. But it has to start again!

The judicial reforms identified in the previous study remain relevant today. A new strategy for judicial reforms is being prepared since the strategy and action plan for 2017-2023 did not yield the expected results. It is hoped that the next strategy and action plan for the period 2023-2028 will address the aforementioned challenges.

Final conclusion

The concept of an international law theory on the "socialist rule of law with Chinese characteristics" is a term used by the Chinese government to describe its approach to the rule of

law. This approach combines the principles of socialism with the rule of law or rule by law and its aim is to reflect the unique characteristics of China's legal system.

The Chinese government has been actively promoting this concept internationally, seeking to expand its expertise in international law and to promote its approach to the rule of law on the global stage, as well as increased participation in international legal forums.

However, the Chinese concept of the rule of law has been met with criticism from some quarters, that the Chinese approach to the rule of law is not truly in line with international standards.

Overall, the conception of an international law theory on the "socialist rule of law with Chinese characteristics" is a complex topic and one that is likely to continue to be debated in legal and political circles both within China and internationally.

The conception of an international law theory on the "socialist rule of law with Chinese characteristics" is a goal that reflects China's desire to develop its own legal framework that aligns with its socialist ideology and unique societal context. This goal is part of China's broader efforts to increase its soft power and influence in the international community by presenting an alternative to the Western legal system. The development of this theory is likely to involve a critical examination of China's existing legal framework and the integration of socialist principles into its legal system. This goal could also involve promoting the Chinese legal system as a model for other countries to follow.

Critics of the concept argue that it is an attempt by the Chinese leadership to justify its own specific "China characteristics" for its political system and its own seeing of human rights. They also argue that the concept is inconsistent with established principles of international law, which prioritize individual rights and freedoms over state power. However, critics argue that China's version of the "rule of law" differs significantly from international norms and standards, specifically those related to freedom of speech, assembly, and association, as well as those related to the independence of the judiciary, and transparency in legal proceedings. Critics are taking these factors to raise questions about the extent to which China's promotion of the rule of law aligns with international expectations. But are those critics reasonable and sustainable? Are those critics in touch with realities? Why those critics are raising and questioning the issue of "compliance with international law" rather than the issue of "to contribute to the international law, to diversify and enhance the international law standards"?

Supporters of the concept, on the other hand, argue that it represents a new and innovative approach to legal theory that takes into account the unique circumstances of developing countries like China. They also argue that the concept is consistent with China's commitment to economic and social development and provides a useful model for other developing countries to follow. Despite the controversy surrounding the concept, it is clear that the "socialist rule of law with Chinese characteristics" is likely to be a fundamental concept in the future development of China's legal system and in the field of international law more broadly. Its implications for individual rights and freedoms, as well as for the role of the state in promoting economic and social development, will continue to be a subject of debate and discussion in the years to come. The rivalry between the Western law doctrine with the Chinese law doctrine will remain, questioning its compliance with international law standards will continue, but it is also clear that the differences will not be as sharp as they were. Having in mind the obvious, that is that this concept provides visible results, for example, China is the second biggest economy in the world, the world has seen the results of dealing with the Covid-19 virus, Belt and Road Initiative, etc., it is more likely that we will enter in a phase in which there will be more cooperation, more harmonization, and reduction of differences by accepting and taking what is advanced and innovative from one to other concept and vice versa. China in the last 20 years has proven its readiness and capacity to adjust to the

changes and new realities which the new era brings. Having in mind the famous quote of Confucius that “There is only one thing in life which never changes, and it is change”, our previous predictions are in touch with realities. And as we already conclude, one of the most challenging specific China legal doctrines pose and which make the unique system of "socialist rule of law with Chinese characteristics" is the acceptance of the characteristics of both concepts "the rule of law" and “the rule by law”. That harmony of both concepts makes in reality China's doctrine really unique. Besides previously mentioned specifics that create “China characteristics”, this is another one specific that should be taken into consideration.

For that reason and goal, it is clear that China has been actively advocating its own interpretation of the "rule of law," with advanced socialist characteristics, with unique Chinese characteristics, which emphasize social stability, and economic development. That it's a model of the rule of law which is unique and tailored to its specific political and cultural context. China has engaged in various forms of international legal cooperation, including participating in international legal frameworks, signing bilateral and multilateral agreements, and promoting regional legal cooperation mechanisms. For instance, China has become an active participant in international organizations like the United Nations and has ratified or acceded to numerous international treaties. China's engagement in international legal cooperation has resulted in increased collaboration on issues such as trade, investment, intellectual property rights, and environmental protection. These efforts have been particularly evident through initiatives like the Belt and Road Initiative (BRI), where China seeks to align its legal and regulatory systems with those of partner countries to facilitate economic cooperation.

China has prioritized strengthening bilateral and multilateral dialogues on the rule of law through various mechanisms, including high-level exchanges, legal forums, and judicial cooperation agreements. These dialogues aim to enhance understanding, exchange experiences, and explore areas of cooperation with other countries. China has established bilateral rule-of-law dialogues with several nations, including the United States, Germany, and Australia. Additionally, it has actively participated in multilateral platforms such as the United Nations General Assembly and the World Trade Organization to engage in rule of law discussions and share its perspectives.

Overall, China's efforts to promote its concept of the rule of law and enhance international legal cooperation have yielded achievements. Its participation in international organizations, engagement in legal cooperation agreements, and establishment of dialogue mechanisms demonstrate its commitment to engaging with the international community on legal issues.

Expanding Chinese international law expertise is another goal that highlights China's desire to increase its role in shaping international law. China has traditionally been a recipient of international law, but its growing economic and political power has led to an increased interest in shaping global legal norms. This goal could involve increasing the number of Chinese legal experts who specialize in international law, as well as increasing the number of Chinese legal scholars who participate in international legal forums.

Promoting the Chinese concept of the "rule of law" internationally is a goal that reflects China's desire to counter criticisms that it does not respect the rule of law. This goal could involve promoting the idea that the rule of law should not be interpreted in a one-size-fits-all manner and that China's unique societal context requires a different approach to the rule of law.

Promoting international legal cooperation is a goal that reflects China's desire to work with other countries to develop a more harmonious and effective international legal system. This goal could involve increasing China's participation in international legal forums and treaties, as well as promoting cooperation between China and other countries on legal issues such as intellectual property rights, trade, and human rights. This goal is likely to be seen as a positive step by many

in the international community, as it demonstrates a willingness to engage in constructive dialogue and work together to address global challenges.

Overall, these goals reflect China's desire to increase its influence in the international legal system and promote its unique legal system and ideology. While some may view these goals with suspicion or concern, they also offer opportunities for increased cooperation and dialogue between China and the international community on legal issues.

By establishing legal frameworks and commitments with other countries, China aims to enhance economic cooperation and ensure mutual compliance with international legal standards. China actively participates in international discussions on legal norms and principles, including areas such as human rights, cyber governance, and climate change. While there may be differences in positions, China's engagement contributes to the global dialogue on these issues. China's perspectives and experiences shape the evolution of international legal norms and demonstrate its commitment to participating in global governance.

The Chinese leadership, under President Xi Jinping, has set a goal to actively participate in the formulation of international rules to establish a "fair" and "reasonable" international legal system. This is in line with Xi Jinping's thoughts on the Rule of Law, which emphasize the importance of legal governance and the rule of law in ensuring social stability and sustainable economic development.