UNDERSTANDING XI JINPING’S “RULE OF LAW” CAMPAIGN

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Executive Summary

1. In October 2014, the Chinese Communist Party passed a reform plan to build the “rule of law” (法治) in the country. This is the first time party leaders have made this topic the focal point of discussions at a central committee plenum.

2. Several major reform initiatives have been proposed. First, circuit courts and cross-region courts will be established to lessen local officials’ authority over the legal system and reduce their intervention in legal affairs.

3. Second, interventions in legal affairs by party cadres and government officials at different levels will be recorded for them to bear responsibility for all the consequences of their intervention during their lifetime.

4. Third, professionalism will be promoted in the judicial system. Judges must be recruited from among law graduates or law professionals.

5. Three factors underlie Beijing’s current move. First, Xi needs a more institutionalised form of party rule to facilitate his anti-corruption campaign. Second, the leaders hope that by improving the legal system it will help curb social dissatisfaction and boost regime popularity. Third, this is also part of Xi’s efforts to build his own political legacy being the most powerful leader since Mao and Deng.

6. In the short term these reforms may improve the judicial system. However, China still has a long way to go before the rule of law truly exists.

7. The Chinese concept of the rule of law differs from that of the West. In the West no one or political organisation is above the law. While the rule of law is for restraining the arbitrary actions of power holders in the West, Chinese leaders see it as a means to control society, contain social unrest and rein in unruly local officials.
8. Most importantly, the rule of law in China affirms that the Party is above the law and dominates the legal system.

9. Cultural, organisational and structural challenges also exist. Culturally, the rule of law goes counter to China’s Confucian or Legalist traditions.

10. Organisationally, the law making body is weak and the judicial system is not independent from the Party’s authority. Structurally, economic development has pushed the state to impose its own “rational order” on society instead of following existing laws and rules.

11. Yet, the expectations of many Chinese citizens have been raised by the official discourses on the rule of law. They are likely to pressure the Party to deliver further reforms in the long run.