

Discussion

The Judicial System of China

XIN HE SIDA LIU MENGLIANG DAI XU JIANHUA

This contribution presents a series of statements on the published book *The Judicial System of China*. Framed by the author's introductory and concluding comments are contributions by Liu, Dai and Xu. This debate, originating from a Faculty Seminar Series at the University of Macau Faculty of Law in 2025, is designed to initiate a broader dialogue between the author and readers. Positions advanced by individual contributors should be assigned only to them and not to the group of contributors as a whole.

Speech by Xin He, Author, University of Hong Kong

I have spoken about this book on several occasions at various universities. We began this project some years ago, and I am often reluctant to repeat myself. This time, I aim to discuss aspects of the book that have not been covered previously, focusing on different chapters and perspectives.

Regarding the library system here in Macau, I am not fully acquainted with its details. In Hong Kong, our system remains somewhat outdated. For instance, my own library still does not possess the complete version of this book. I hope that Macau's library system is more advanced and that the full version is accessible to everyone for free download, which would be ideal.

The origin of this book dates back many years. Before I transferred to HKU, roughly seven or eight years ago, a former colleague, Professor David Law, approached me. He was working on a project concerning a global theory of judicial systems, covering major jurisdictions such as the United States, France, India, Russia, and China. He asked me to write a book on China's legal system. At the time, he emphasised that there was no urgency and that I could take my time and only begin when I felt ready.

Given my extensive research in this field—over two decades—I initially believed this would be a manageable task. I thought I could build upon my previous work, update it with recent secondary literature, and add a few new insights to my curriculum vitae.

However, as I began working on the project, I realised that the task was more complex than anticipated. Despite my expertise, I discovered many areas with which I was less familiar. The book aimed to be comprehensive, intending to serve readers who might not have prior knowledge of the Chinese legal system, including colleagues and students curious about its operation, particularly regarding the court system.

One of the challenges was that, although I had long studied Chinese courts, I lacked a unifying theoretical framework for the system as a whole. It is difficult to position the Chinese courts precisely in comparison to other legal systems globally. Additionally, the rapidly changing nature of the Chinese system meant that I constantly had to revise and update the content. Recent regulations and interpretations issued by the Supreme People's Court further complicated the writing process.

Despite these challenges, I am satisfied that the final manuscript has been completed and published. The book is now available, and I leave it to you to assess the extent to which it has achieved its original goals. I hope that the book is accessible and engaging, rather than doctrinally dense or overly technical. If I can persuade you that it is worth reading, then I consider it a success; if not, I hope at least it will not bore you.

My aim was to produce a book that provides a clear entry point for those seeking to understand the Chinese legal system, including its major debates and theoretical issues. I also reviewed existing literature, noting that much of the English-language scholarship tends to be highly critical, often focusing on issues such as judicial independence and rights protection.

Much of this criticism is based on Western liberal democratic standards, which serve as an idealised benchmark. Even in mature systems like the United States, the UK, or Hong Kong, the judicial system is not without flaws. However, these critiques tend to highlight only the shortcomings of the Chinese system through this Western lens, implying that China's judiciary is backward and should move toward Western-style liberal democracy.

In contrast, many experts now agree that China's legal system is unlikely to follow this path. Therefore, it is crucial to understand the system on its own terms—to grasp its unique logic and operational principles. This involves situating China's system within its specific social,

political, and cultural context, rather than comparing it exclusively to Western models.

A key insight from my earlier work, such as my book *Embedded Courts*, is that judicial decision-making in China is deeply embedded within social and political influences, rather than being entirely autonomous. To truly understand the Chinese judiciary, one must analyse how it enforces government policies and maintains social stability, rather than viewing it solely through the lens of Western notions of independence and justice.

Over the past decade, significant changes have occurred. Initially, Chinese courts were closely linked to local governments, often serving as their agents. Today, there is a clear trend indicating that local courts have become more aligned with central government policies, reflecting a shift in their role and function.

This transformation is evident across various areas of judicial activity. For example, in criminal justice, issues such as the use of torture—once widespread—have significantly declined.

The rights of defence lawyers have greatly improved; historically, defence attorneys faced difficulties in meeting clients, reviewing case files, or collecting evidence. Now, many of these obstacles have been reduced or eliminated. The use of the death penalty has also decreased markedly, even though China still executes more people annually than any other country.

In civil justice, local protectionism has diminished, and judicial enforcement has improved considerably. The enforcement rate of judgments is now higher than in many other developing countries, as confirmed by United Nations data. These developments indicate that the Chinese legal system is evolving along its own trajectory, following its internal logic.

Fundamentally, the Chinese judiciary remains primarily a tool for implementing government and party policies. While the pursuit of justice is a broad and somewhat vague concept, the courts predominantly serve as instruments to enforce state policies—whether originating from the central or local governments. This policy-driven nature is evident in several concrete examples.

For instance, in recent years, the Chinese government has prioritised economic development and social stability, which directly influences judicial priorities. Cases related to environmental protection, labour disputes, and intellectual property rights have seen increased attention, reflecting policy objectives aligned with national strategies. The

courts have also been instrumental in cracking down on corruption, implementing policies aimed at consolidating party control and maintaining social order.

Another example concerns the handling of politically sensitive cases. During certain periods, courts have been directed to suppress dissent or manage social unrest, demonstrating that judicial functions are often aligned with broader political and social goals. This shows that the judiciary's primary role is not necessarily to serve as an independent arbiter, but to act as a facilitator of state policies, ensuring social stability and political control.

Furthermore, in areas such as administrative law, courts tend to uphold government decisions, even when challenged by individuals or organisations. For example, judgments in cases involving land expropriation or environmental regulations often favour government authorities, reflecting the system's role in supporting state policy implementation.

This policy enforcement function is not unique to China; many authoritarian regimes rely on their judiciary as an instrument of governance. However, in the Chinese context, this role is particularly pronounced and institutionalised. Courts are often seen as extensions of administrative agencies, and their decisions tend to serve the interests of the ruling party and government.

Some scholars argue that translating *fa yuan* as 'court' may be misleading, as it does not precisely align with Western notions of judicial independence or impartiality. In fact, *fa yuan* may be more akin to an administrative or governmental agency, tasked primarily with policy implementation rather than dispute resolution in the traditional sense.

Drawing inspiration from Damaška, I note that courts serve two primary functions: dispute resolution and policy enforcement. In China, courts predominantly focus on the latter. Although they handle a large volume of cases—around 45 million annually—their primary role remains policy implementation rather than dispute resolution *per se*.

Historically, the scope of cases handled by Chinese courts has fluctuated. During periods of heightened political or social demands, courts might handle few or no cases at all, depending on policy needs. The current trend suggests that the core function of policy enforcement remains unchanged, and I do not foresee substantial changes in this trend in the foreseeable future.

In summary, the Chinese judiciary's fundamental role continues to be enforcing government and party policies within a specific social

and political context that differs markedly from Western models. This understanding is essential when analysing the system's development and reforms.

Comments

By Sida Liu, University of Hong Kong

I can safely say I am among the first to have used this book in my own teaching. As the Chinese saying goes, 'A waterfront pavilion gets the moonlight first' (近水樓臺先得月). Since Professor He and I are colleagues at the University of Hong Kong (HKU), I began using his book, *The Judicial System of China*, in my own course soon after its publication in the autumn of 2024. At HKU, I have been co-teaching a compulsory LLB course, Introduction to the Chinese Legal System, with my colleague Professor Ying Xia. This book is the perfect reference for our course. In the past semester, Professor Xia and I used four chapters of the book to teach different topics, and I would like to share my reflections on its value for teaching and for the broader field of Chinese legal studies.

To appreciate the contribution of Professor He's book, it is helpful to place it in the context of the evolution of scholarship on Chinese law over the past few decades. Earlier foundational works, such as Jerome Cohen's *The Criminal Process in the People's Republic of China, 1949-1963* (1968) and Stanley Lubman's *Bird in a Cage: Legal Reform in China after Mao* (1999), provided broad historical overviews of China's legal reform after 1949, including the post-Mao reform period. These studies often painted with a broad brush, identifying general patterns and trends, and were frequently authored by scholars who were generalists of Chinese law—proficient in a wide range of legal topics, from civil and criminal law to the legal profession.

Over the past twenty-five years, the field has become markedly more specialised. Scholars now focus on specific areas such as the courts, criminal justice, corruption, or the legal profession. For example, much of my own work has been on lawyers: corporate lawyers, 'barefoot' lawyers, criminal defence lawyers, and so forth. This trend toward specialisation has greatly enriched the research literature, yielding in-depth studies on a variety of topics.

However, this specialisation has also created a challenge. While we now have many excellent studies on particular topics, it has become increasingly difficult to find comprehensive yet accessible English-

language teaching materials suitable for both undergraduate and postgraduate courses on Chinese law. When I first taught the 'Introduction to the Chinese Legal System' course, I struggled to find readings that were both sophisticated enough for top research universities like HKU and the University of Macau, yet not so specialised as to be inaccessible to students new to the field.

Take administrative law as an example. There is a rich body of scholarship in Chinese, but relatively little in English that is both current and sufficiently broad for teaching purposes. Some Chinese scholars have provided valuable overviews of the reforms of the Administrative Litigation Law, but much of the available work is either too general or too narrowly focused on specific legal reforms or procedures. The same issue arises in other areas, including criminal law and the legal profession. In some cases, I had to assign my own decade-old articles or book chapters simply because there were few other suitable options.

Against this backdrop, the publication of Professor Xin He's book was a delight. It fills a major gap in the teaching literature by providing a comprehensive, thoughtful, and accessible overview of China's judicial system, suitable for a wide range of courses. Almost every topic is covered with both depth and clarity, providing not just a summary of existing research but also insightful analysis grounded in Professor He's own fieldwork and decades of scholarship.

Let me give an example using administrative law. Professor He's chapter on administrative litigation provides an excellent overview of the historical evolution of China's administrative legal system, particularly the stratification of the courts and the functioning of administrative litigation. Importantly, he highlights the persistent tension between the intentions of legal elites and policymakers in Beijing, who may design legal reforms with certain ideals and norms in mind, and the realities of implementation at the local level. This tension between 'law on the books' and 'law in action' is a fundamental theme in understanding China's judicial system, and Professor He presents it with both clarity and nuance.

Students responded very well to this discussion. Many of our law students at HKU are among the best in Hong Kong, but most have little prior knowledge of the Chinese legal system. For many, the 'Introduction to the Chinese Legal System' course is their only formal exposure to Chinese law. Professor He's book makes the system approachable, providing students with not only key facts and institutional analysis but also real cases, contemporary examples, and sophisticated theoretical insights. This book achieves the rare feat in a textbook of possessing the

ability to engage both newcomers and more advanced students.

Another strength of the book is its exemplary use of existing literature. Professor He is modest about this, but I want to highlight that his literature reviews are models for postgraduate students and junior scholars. He provides thorough and balanced overviews of different schools of thought and perspectives, showing how they relate to each other and to his own findings. More importantly, he weaves together his own empirical research with that of others, producing a comprehensive and authoritative account of each topic. This balanced and integrative approach is something we should all aspire to in our scholarship and teaching.

Given the increasing interest in Chinese law in Macau, especially with the launch of new undergraduate programmes like Global Legal Studies at the University of Macau, Professor He's book will be invaluable for faculty and students alike. It can be used in a variety of courses, not only as a textbook but also as a reference for case studies, group discussions, and research projects. I encourage colleagues here and elsewhere to use it in their teaching.

As part of this discussion, I would also like to pose two broader questions for Professor He and for all of us working in the field.

First, what is the current direction of China's legal reform? When I was an undergraduate student more than two decades ago, there was a general sense, though not universal agreement, about the trajectory of China's legal system. There was a shared belief in the need for judicial reform, greater professionalism, and the strengthening of legal institutions. Today, however, the landscape feels less certain. While reforms continue, such as the ongoing revisions to the Criminal Procedure Law, the overall direction is much less clear. For example, although there is official rhetoric about 'putting trials at the centre' of criminal procedure, actual practice has often not matched these aims. A good example is the 'prosecution centeredness' in the plea leniency system that Professor He discusses in one of his recent articles. The system seems increasingly pragmatic, with courts often functioning primarily as policy-implementing bodies for the Party. In this context, is it still meaningful to speak of a coherent direction for legal reform? Or have we entered an era of greater uncertainty and fragmentation?

Second, I would like to return to the question of continuity versus change. Professor He's earlier work, such as his co-authored book *Embedded Courts*, identified enduring features of the Chinese judiciary, such as the emphasis on efficiency and performance metrics for judges.

While many recent reforms and technological innovations, such as widespread audio and video recording in courtrooms, have transformed aspects of the legal process, I wonder whether he views these recent changes as core or peripheral characteristics. What, in Professor He's view, are today the most important enduring features of China's judicial system? Are there particular institutional logics or practices that persist, even as the system evolves in response to new challenges?

In sum, Professor He's book is a significant contribution to both scholarship and teaching on the Chinese legal system. It fills a longstanding gap in the literature, offering a comprehensive, accessible, and insightful overview that will benefit students and instructors for years to come. I look forward to hearing Professor He's responses to these questions, and to continued dialogue on the future of Chinese law.

Review

By Mengliang Dai, Macau University of Science and Technology

Professor Xin He's new book, *The Judicial System of China*, is such an insightful book representing the latest research in the field of China's judicial system. It provides a valuable theoretical framework and practical case studies for studying the system, and it is packed with high quality reading for both scholars and practitioners in understanding the role of Chinese courts in national governance.

As I read the book, many points left a deep impression on me. To start with, Professor He begins by summarising two classic perspectives in academic discussions about the Chinese judicial system: the 'independence perspective' and the 'rights approach'. He argues that both of these approaches fall short when it comes to explaining how Chinese courts actually operate—they simply do not hold up. First, in relation to the 'independence perspective', Professor He digs into how Chinese courts operate under political control. He points out that political factors play a decisive role in everything, from the appointment and promotion of judges to court budgets, and even rulings on specific cases. The Party's complete control over the judiciary makes judicial independence an impossible goal. This control is not only institutional but also present in everyday practices. For example, leaders of higher courts often hold Party positions within local Party committees, and ultimate decision-making power in the court system is subject to Party leadership. Chapter 8 discusses the 'iron triangle' relationship between the police, procuratorate,

and courts. This relationship is often described as an assembly line, where collaboration is key to ensuring convictions. According to data from 2023, China's conviction rate was a staggering 99.95%.¹ Now, compare that to Hong Kong, where the conviction rate after trial in Magistrates' Courts was 60.7% in 2023, and in District Courts was 79.8%.² This comparison shows just how abnormally low China's acquittal rate is. Once a suspect enters the judicial system, there is almost no way out. The system essentially creates guilty verdicts—sometimes even wrongful convictions—one after another. This reality challenges the Western ideal of 'judicial independence' based on the separation of powers and shows that China's judicial system follows a completely different logic.

Second, in relation to the 'rights approach', Professor He critiques the common assumption among Western scholars that authoritarian judicial systems can be understood as 'law versus the state'. He argues that this assumption does not apply to China. In China, laws and courts are not in opposition to the state—they are tools for governance. The primary duty of the courts is not to protect individual rights but to serve the state's policy goals. This dynamic is further explained in Chapter 4, where he discusses lawyers. For example, the suppression of *weiquan* lawyers clearly reflects how courts prioritise state control over individual rights. As the saying goes, 'they don't solve the problem; they solve the person who raises the problem'. Similarly, Chapter 8 examines the plea bargaining system and raises the question: What role do lawyers play? What role should they play? In reality, most defence lawyers have become little more than 'persuaders' or 'observers'. Their main responsibility is to convince defendants to accept plea deals rather than to defend their rights. These contradictions show that the core goal of China's judicial system is not to highlight or protect citizens' rights—it is rather to serve the needs of state governance.

Building on these critiques of traditional perspectives, Professor He proposes a highly insightful framework: the governance model. This model focuses on how courts balance two key goals: policy implementation and legitimacy enhancement. This perspective is much closer to how Chinese courts actually work. The governance model sees courts as agents of the state and tools of Party control. Their primary

¹ The innocence rate is so low, how many of these are wrongful convictions? Sina Finance, accessed June 6, 2025, <http://finance.sina.com.cn/cj/2024-11-28/doc-incxquyv3025947.shtml> (《無罪率這麼低，其中多少冤案？》，載新浪財經網，<http://finance.sina.com.cn/cj/2024-11-28/doc-incxquyv3025947.shtml>，2025年6月6日訪問）。

² 'Prosecutions Hong Kong 2023', accessed June 6, 2025, https://www.doj.gov.hk/en/publications/pdf/doj2023pd_statistics.pdf.

function is to promote governance by implementing Party policies—or, to put it more bluntly, to achieve the Party's goals through the legal system. Chapter 2 points out that when judges handle cases, they often prioritise social stability and political concerns, trying to avoid outcomes that could threaten stability or lead to petitions and other forms of unrest. While some judicial reforms have been introduced, they have been largely superficial and have not brought about real change. For example, He highlights the limitations of the judicial quota system reform. While it has improved professionalism and efficiency, it has also created heavy workloads, reduced job attractiveness, and produced both serious talent loss and immense pressure from lifetime-accountability mechanisms. Overall, the policy-first approach makes procedural justice and the application of law secondary in practice. Judges often rely on mediation to avoid escalating conflicts instead of strictly following legal procedures. While this approach may help achieve short-term policy goals, it sacrifices procedural justice and damages judicial independence. In the long run, this tendency not only weakens judges' legitimacy but also harms the credibility of the entire judicial system.

Now, regarding the governance model, I have a question that arose after reading the book. Professor He argues that the courts' core functions under this model are 'policy implementation' and 'legitimacy enhancement'. But I do not think that these two functions are unique to courts—they are common to all state institutions in China. For example, public security agencies and procuratorate also play major roles in implementing Party policies and enhancing legitimacy. So, what makes courts special compared to other institutions? Do they have any unique functions or characteristics that other institutions do not possess? Another aspect deserving of reflection is the book's methodology. As an academic work, the book demonstrates strong empirical rigour. Professor He uses a wealth of first-hand interview material, such as 'a court vice president said to me ...'³ or 'a judge from a hinterland court told me ...'⁴ These direct quotes show how detailed and thorough the book's data collection is, covering both primary and secondary sources. However, it lacks an independent discussion of its research methods. I believe the book could benefit from a more in-depth exploration of its methodology. Such an addition would not only enhance its academic credibility but also provide readers with a clearer understanding of how its conclusions were reached.

³ Xin He, *The Judicial System of China* (Oxford University Press, 2024), 60.

⁴ *ibid* 3, 64.

In conclusion, this book, with its rigorous research, rich data, and insightful theoretical contributions, provides a clear picture of how China's judicial system works and its role in governance. It also inspires us to think deeply about the nature of the judicial system and the direction of future reforms. By proposing the 'governance model', He has broken through the limitations of traditional perspectives and provided a framework that is much closer to China's reality. This innovative exploration lays an important foundation for future research and provides valuable insights for practitioners. Finally, I would like to thank Professor He again for contributing such a meaningful book to the field.

Review

By **Xu Jianhua**, University of Macau

About 12 years ago, when I had just finished my PhD and was working as a postdoctoral fellow at University of Hong Kong, Xin He, the author of *The Judicial System of China*, invited me to a workshop he had organised about empirical studies on the Chinese legal system held at the City University of Hong Kong. I was one of the presenters, and many prominent Chinese scholars attended, including the renowned Chinese legal studies scholar Fu Hualing. During the discussion, Fu raised a question to He, noting that while He had done extensive empirical work, he hoped to see him develop his own theory about the Chinese legal system. This book, *The Judicial System of China*, has provided an excellent answer to that question.

In the book, He proposes a compelling theory about the Chinese judicial system, the governance model. In the existing literature, there are two dominant discourses about Chinese judicial system: the independence perspective and the rights-based perspective. He goes beyond these frameworks, arguing that the Chinese judicial system does not neatly fit either model. Instead, He argues that Chinese courts play an important but less discussed function: namely implementing various policies for the state. In doing so, they help the government to improve its legitimacy. He argues that instead of pursuing the goals of judicial independence and protection of the rights of litigants, the goal of Chinese judicial system is to facilitate the governance of the state.

The book has a number of strengths. First, to some extent, this book is like an encyclopedia with unique depth, offering many insights into various aspects of the Chinese court system—its history, the role of

judges, people's assessors, different types of lawyers, and litigants. It also examines different justice models (civil, criminal, administrative) and the court's involvement in mediation. While my own research has primarily focused on the Chinese police, I found this book incredibly informative.

Second, the book combines thorough literature reviews with original fieldwork, interviews and data analysis. Unlike many traditional academic articles, the book's integration of empirical evidence with the literature discussion appears seamless, enhancing both readability and scholarly value.

Third, the book provides a balanced perspective on the Chinese judicial system. While much English-language literature often assumes that a critical attitude toward the Chinese judicial system is a necessary requirement for accurate assessment, the book adopts rather a balanced approach, offering a critical but sympathetic analysis of China's judicial system. It acknowledges the dilemmas and challenges faced by the Chinese courts as well as their working logics, without making a straightforward moral judgement—an approach I deeply admire.

Fourth, the writing style of the book is vivid and reader-friendly. It is far from boring—the author's humour shines through on nearly every page. For example: He describes judicial errors as 'sleeping like time bombs' (p.51); the lifetime-accountability system as 'a sword of Damocles hanging over the judicial mind' (p.52); and judges who left the system as often 'the cream of the crop' (p. 53). These vivid metaphors make complex ideas accessible and engaging.

Overall, the book contributes significantly to our understanding of the role of Chinese judicial system. It provides a good opportunity and invites readers to explore some important questions further. For instance, what will be the future direction of the development of the Chinese judicial system? While the governance model provides many insights into the status quo of the current Chinese courts, scholars who advocate for a more independent judicial system and those who wish for better protection of the rights of litigants could explore whether the governance model indicates a new unique 'China Model' *sui generis*, or is simply a stage in a process of evolution into something else. In addition, the impact of market forces on the Chinese judicial system could also be explored. Over the past forty years, market and commercial forces have significantly reshaped many government institutions, the judicial and criminal systems included. For instance, the logic of the market has deeply penetrated in the operation of the Chinese police, in the form of extensive use of civilian forces and the outsourcing of much of its work to private entities. Future research on how civilianisation and outsourcing

(for instance involving the role of platforms and legal service companies) may affect the governance model of courts would add new insights to our understanding of the Chinese judicial system. In short, the book provides a comprehensive understanding of the Chinese judicial system. It will be of interest to readers in various disciplines including legal studies, sociology, criminology, political sciences and China studies, etc.

Responses

By Xin He

Thank you all for your insightful questions and thoughtful comments. I sincerely appreciate your generosity and engagement. In my own group meetings, the atmosphere tends to be quite critical, with a focus primarily on identifying areas that need improvement. Discussions about what has been satisfactorily accomplished are rare, as the emphasis is on continuous progress and refinement. Nonetheless, I am genuinely grateful for your careful reading of the book and for utilising it as a teaching resource. Although I am no longer teaching that particular course, I am pleased to know that the material continues to serve educational purposes.

Regarding the questions raised, particularly by Sida and Professor Jianhua, they inquire about the extent to which the book provides insights into the future direction of judicial reform or the evolution of China's legal system. From my perspective, this largely depends on the specific policies being implemented and, crucially, on the decisions made by key political leaders. The trajectory of reform is heavily influenced by the preferences and priorities of influential figures such as the leaders of the Political and Legal Affairs Committee, the members of the Supreme People's Court, and other central authorities. Their strategic choices shape the system's development in significant ways.

In this context, I must emphasise that predicting the future course of China's judicial system is inherently challenging. Many shifts are contingent on personal visions, political considerations, and the strategic interests of those in power. As a legal sociologist, I tend to be cautious about making definitive forecasts, especially given that many changes are driven by individual leadership styles and political agendas. The system's direction is often subject to the personal inclinations of top officials and their assessment of social stability, legitimacy, and governance priorities.

However, based on observable trends and current developments,

there are some clues. For example, there appears to be a clear movement toward increasing judicial professionalism. This includes recruiting more highly educated legal professionals—graduates from top law schools and former military officers—into judicial roles. The rationale is that a more legally educated judiciary will be better equipped to handle complex legal issues, understand the interaction between law and politics, and serve governance objectives more effectively. This trend suggests an emphasis on enhancing the competence and capacity of judicial personnel, which could, in turn, influence the overall legitimacy and efficiency of the system.

Of course, these trends are subject to fluctuation. For instance, the focus on judicial education and professionalism has experienced periods of intensification and slowdown over time. Mediation, for example, has maintained a consistent presence but has also seen cyclical fluctuations in emphasis. Therefore, while the book offers an overview of current developments, it cannot serve as a precise predictor of future policy directions or reform trajectories. Its primary purpose is to provide an informed account of what is happening and what has happened, without advocating specific policy proposals.

Predicting the future remains a complex endeavour because it is contingent upon various factors, including leadership changes, political negotiations, and strategic considerations. For example, the current President of the Supreme People's Court, Zhang Jun, possesses considerable influence and capacity to shape judicial reforms, but his next steps remain uncertain. The same applies to other influential figures, such as the heads of the Political and Legal Affairs Committee or the leaders of the Supreme Court. These individuals' personal visions and political calculations significantly impact the system's trajectory.

That said, certain fundamental aspects of the Chinese judicial system are unlikely to change dramatically in the near future. For example, the policy interventionist nature of the judiciary has persisted for the past four decades and remains a defining characteristic. I believe that this pattern will continue, given the system's embedded role in maintaining social stability and supporting the ruling party's governance agenda. Similarly, the emphasis on substantive justice—ensuring fairness, legitimacy, and social stability—does not appear to be shifting toward an exclusive focus on procedural justice. The ongoing interest in mediation, reconciliation, and other alternative dispute resolution mechanisms indicates that procedural fairness, while important, remains subordinate to broader social and political considerations.

Furthermore, the importance of maintaining social stability as a core

concern continues to underpin judicial decision-making. The system's underlying logic is to serve as an instrument of policy implementation, rather than as an independent arbiter of disputes. For example, the use of mediation and reconciliation reflects a preference for resolving conflicts in ways that uphold social harmony, rather than emphasising the adversarial procedures typical of Western systems. This approach is unlikely to change substantially in the near future.

Regarding the question of whether the Chinese court system fundamentally differs from other government branches, my straightforward answer is that it does not. In practice, the judiciary functions as an extension of the government, much like other administrative agencies. Although the constitution explicitly distinguishes the judiciary from the executive branch, in reality Chinese courts operate primarily as instruments of policy enforcement. Their decisions are often aligned with the interests of the ruling party and government, rather than functioning as independent bodies.

The distinction between law and policy in China is often blurred. Policies are frequently formulated and implemented, and sometimes exceed the boundaries of legislation, reflecting the highly dynamic and politicised nature of the system. For example, criminal justice policies have evolved from a focus on severe punishment to incorporating leniency and reconciliation measures, reflecting shifts in leadership attitudes and social stability needs. These changes highlight that the system is primarily driven by political considerations and strategic objectives, rather than by adherence to legal principles alone.

The interaction among different governmental branches further illustrates this point. For instance, the relationship between the Supreme People's Court and the Procuratorate demonstrates how judicial and prosecutorial functions are intertwined within a broader policy framework. The introduction of new institutions, such as the National Supervision Commission, and the evolving roles of prosecutors and judges, reflect ongoing adjustments aimed at reinforcing policy implementation.

In summary, the primary role of the Chinese judiciary is the implementation of government and party policies. Although it performs functions such as dispute resolution, these are subordinate to, and heavily influenced by, political and social stability considerations. The system's continuous change is driven by policy shifts, leadership decisions, and the overarching goal of maintaining social order. Understanding these dynamics is essential for interpreting the development and reform of China's legal system.

