

# The Shaping of Authoritarian Law under the “Socialist Rule of Law”: Academics and Obedience in the Chinese Party-State

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## Abstract

This article illuminates the relationship between the rule of law and academic freedom in China. It sheds light on the conception of “*yifa zhiguo*” (“governing the country according to law”) of the Chinese party-state, as a means of bringing about individual obedience. Using recent codes of conduct for academics and analysing case studies of sanctioned academics, this article examines how the reinforced demand for individual obedience has affected academia in the party-state. Although academic freedom has always been limited, I argue that Chinese legislation has taken an authoritarian turn in the era of Xi Jinping 習近平 by codifying illiberal values and politicised notions. Nevertheless, the institutionalisation of these new prohibitions is not very advanced, as the selected case studies do not demonstrate consistent and coherent practice.

## Keywords

China, academic freedom, Socialist Rule of Law, authoritarian law, academics, obedience

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## Introduction

This article illuminates the relationship between the rule of law and academic freedom in China. The official discourse in China strives to stage the turn to the principle of “law-based governance” ( 依法治國, *yifa zhiguo*) as China’s turn to the rule of law; however, this is supposed to be a “Socialist Rule-of-Law State” ( 社會主義法治國家 ). So how does this Socialist Rule of Law fit in with academic freedom? And is “rule-of-law state” (“*Rechtsstaat*”) even the right term here? This article begins by first examining the official conception of *yifa zhiguo*. In the reform era initiated in the late 1970s under Deng Xiaoping, there was hope that the Chinese party-state would slowly transform into a rule-of-law state. This hope was fuelled by the extensive legal reforms from the late 1970s onwards, the associated turn to formal law, and thus also to the construction of a legal system. The state and its citizens were now to abide by law and order after the horrors of the Mao era; “rule by men” ( 人治 ) had been abolished (Central Committee of the CCP, 1978). In the reform era, the party-state initially endorsed the principle of “law-based governance” (*yifa zhiguo*) as a basic strategy of governance at the 15<sup>th</sup> Party Congress in 1997 and wrote this into the Constitution in 1999 (Art. 5). Furthermore, the Chinese government signed and/or ratified several human rights treaties and made its first official commitment to human rights in the 1991 White Paper.<sup>2</sup> The recognition that China had deficits in human rights protection was the green light for academia to push ahead with human rights research and call for better human rights protection (State Council, 1991). Human rights protection even found its way into the Chinese Constitution in 2004, albeit with certain reservations (Art. 33(3)).

On closer examination, that the commitment of the Communist Party of China (hereafter “CCP” or “Party”) to the rule of law was subject to some reservations became clear relatively early on. Scepticism about the party-state’s commitment to the rule of law began in the 1990s. Pitman B. Potter found as early as 1999 that legal reforms were never supposed to affect the Party’s monopoly on power. On the contrary, the law was merely a tool for securing that monopoly (Potter, 1999). Such scepticism continued throughout the reform era. And although the Fourth Plenum of the 18<sup>th</sup> Central Committee of the CCP in October 2014 was specifically devoted

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2 The Chinese government has signed and/or ratified eight international human rights treaties, including the UN ICESCR in 2021, see <https://indicators.ohchr.org/>.

to strengthening *yifa zhiguo*, scholars have expressed doubts in light of the Party’s reinforced leadership claim (Clarke 2015; Ding 2017). Indeed, the hope for China’s turn towards a rule-of-law state is now passé (Pils, 2020: 97 ff).

According to Ewan Smith, since the 16<sup>th</sup> Party Congress in 2002, *yifa zhiguo* has not only been about accommodating the principle of Party leadership but also about a shift towards regulating and disciplining individuals, and thus less about how the power of the Party can be regulated and corrected through institutions, norms, and procedures (Smith, 2020: 98, 106 f.). In China, *yifa zhiguo* describes the process or the type of governance, regardless of the nature of the laws. The principle of legality says nothing about the nature of law. What is legal and morally justifiable is solely at the discretion of the party-state, not the competence of independent courts, nor otherwise based on consensus. Even if the party-state follows the principle of legality, the Party is above the law — a reality that was enshrined in the Constitution in 2018 (Art. 1(2)). The goal is efficient governance based on “law”, which should not be possible without the CCP and should primarily ensure its survival. To this end, the obedience of individuals in the system must also be regulated. Law cannot be located in a political order based on liberal-democratic values; the translation “rule of law” for the Chinese notion “依法治國” (*yifa zhiguo*) is thus misleading. The law does not set limits for the Chinese party-state but is a tool to maintain its power. This has become particularly evident in the era of Xi Jinping.

Contextually, it is nonetheless important to note that the official commitment to *yifa zhiguo* was of great importance to academics in China that advocated for political and legal reforms in the reform era, and some successes were achieved regarding legal protection, for example, in criminal proceedings (Kaiser, 2025). And while the trend of legalisation continues, legal reforms under Xi Jinping can no longer be associated with progress. Indeed, we are witnessing an era of legal regression. Academics in China who have been sanctioned by the party-state have compared recent developments under Xi to a return to the Cultural Revolution (1966–1976) (Tao, 2019). However, compared to the Mao era, the era of the General Secretary of the CCP and President Xi Jinping is not characterised by legal nihilism (Brown, 2021). Conversely, in the higher education context, for example, there has been a codification of repressive practices, illiberal values, and politicised

notions that are now written into Chinese legislation. In this article, I understand this to mean the codification of authoritarian law. The shaping of authoritarian law under the proclaimed Socialist Rule of Law can be observed in the education system as part of an effort to strengthen the obedience of academics (Kaiser, 2024). This article asks how individual the obedience of academics is to be secured through authoritarian law and whether it leads to more uniform repressive practice.

This article begins by examining the official conception of “law-based governance” (*yifa zhiguo*) in the Chinese party-state as a tool to secure obedience. To this end, it will focus particularly on the relationship between law and morality, and on how the proclaimed leadership role of the Party expresses influence here. The article demonstrates how individual obedience affects academic freedom at a normative level. Indeed, individual obedience extends not only to Party officials and members but to all state officials — including academics (who can also be Party officials and/or members).<sup>3</sup> I analyse recent prohibitions enshrined in codes of conduct for academics and show how legislation has become more authoritarian, for example, by integrating the so-called “Socialist Core Values” (社會主義核心價值觀). In principle, it should be noted that written law in China does not necessarily correspond to legal practice, yet the codification suggests the aim of institutionalisation and, thus, enforcement. Even though regulations often remain nebulous and vague to allow maximum room for interpretation, previously unwritten rules become visible; through codification their status has been elevated and they become enforceable legal norms. Legal developments therefore provide valuable new insights into the life of authoritarian law in the party-state. Alleged breaches of the “Code of Professional Ethics for Teachers in Higher Education” and the “Ten Guidelines for the Professional Conduct of Teachers in Higher Education in the New Era” are often subsumed under the label of “inappropriate remarks” (不當言論) (Ministry of Education, 2011; Ministry of Education, 2018). Through online media, I have collected cases of sanctioned academics that fall into this category in order to understand how these newer provisions have impacted practice.

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3 The supervision reforms of 2018 manifest the reinforced oversight of the Party. As part of these reforms, an intra-Party mechanism was codified and is now applicable to all public officials, not only Party members, see Chen 2019: 93-97.

Drawing on these case studies, the article thus finally looks at the question of the institutionalisation of the new legal prohibitions in order to understand if and how they are enforced and lead to more uniform repressive practice. Even if they indicate that the party-state wants to regulate the behaviour of academics and those involved in case handling more strictly, all actors involved (e.g., the university administration or university-based Party officials) still have a certain amount of discretion as to whether and how to deal with alleged violations. Indeed, the authoritarian system needs a certain flexibility to react better to crises. Thus, if the central government issues new regulations and instructions, the fundamental question is how lower levels will respond and implement them. In addition to analysing legislation, policy documents, and the cases already mentioned, I conducted interviews with academics between 2021 and 2023 to contextualise the reality of academic freedom in China.

The article comes to the following conclusions: (1) For academics, stricter regulation increases the risk of allegations of political misconduct and thus puts them under greater pressure; the deterrent effect works. (2) The analysed cases show that the behaviour of the sanctioning actors in the party-state is characterised by avoidance of confrontation and responsibility. They want to avoid clashes with higher authorities and, in the last instance, with the central government, and no one wants to take responsibility for alleged political misconduct. (3) Authoritarian law does not equate to more uniform practice. Cases that fall into the “inappropriate remarks” category are handled differently. The cases show that various actors — also beyond their authority — become active in cases. The identity or role of a person in the system plays a role in the outcome of a case and the Party can always intervene, if necessary.

## **1. Strengthening academics’ obedience under the “Socialist Rule of Law”**

This section illuminates what “law-based governance” (*yifa zhiguo*) in the Chinese party-state means for academic freedom in concrete terms, as a tool to secure obedience. Undoubtedly, law does not set limits for the CCP but serves to maintain its power. To this end, the party-state must ensure obedience and we can see that the demand for obedience has become more articulated under Xi Jinping. But because the Party does not want to create the image of despotism, it has to create a narrative to justify its leadership

role and this reinforced demand for obedience. In this context, morality plays an important role. Indeed, through the claim of combining law and morality, the Party also becomes the moral authority and thus shapes the nature of law. This section looks at how the Party frames its leadership role in the development of the Socialist Rule of Law and how it invokes its moral authority by ruling not only in accordance with law but also with morality, to impose further constraints on academics.

Regarding the elevated and pivotal role of the Party, as mentioned earlier, the leadership of the Party is understood to guarantee the Socialist Rule of Law. Following the official discourse, “law-based governance” (*yifa zhiguo*) is a core element and “Party leadership” is a basic guarantee of the “Socialist Rule of Law”. The party-state frames “Party leadership”, “the people”, and “law-based governance” as a unity (Li, 2014). Here, it becomes clear that *yifa zhiguo* is not an overarching principle but is equally ranked with Party leadership and “the people”. This ties the Party to the state and the society. In other words, the Party basically becomes the agent through which the Socialist Rule of Law is realised — as reiterated by Xi Jinping at the 20<sup>th</sup> Party Congress in 2022 (Xi Jinping, 2022). Through this theoretical construct, the Party aims to create the reality that the Socialist Rule of Law state cannot be realised without its leadership. A tautological claim indeed. However, at the same time, the supremacy of the law under the leadership of the Party is emphasised. In other words, the Party has to follow the laws it created (Ib.). This creates an important bridge between the Party and “the people” and aims to legitimise the CCP. But how does the principle of Party leadership connect to the nature of law?

In the Chinese party-state, the combination *yifa zhiguo* and “governing the country by moral virtue” (以德治國, *yide zhiguo*), and thus the combination of legal and moral norms, is described as a “distinctive feature” of the Socialist Rule of Law (Central Committee of the CCP, 2020). The principle of governing by morality connects to the reinforced feature of *yifa zhiguo* as a means to correct the behaviour of people through law to secure individual obedience (Smith, 2020: 106). Even if the relationship between law and morality has deep roots in Chinese legal culture and is not new, the current leadership brings it to a new level (Lin and Trevaskes, 2019: 42-43). It has reached new heights under Xi, becoming an integral part of *yifa zhiguo* rather than running in parallel. Morality, therefore, becomes a centrally

important means of governance (Lin and Trevaskes, 2020: 132-133). As a concrete manifestation of *yide zhiguo*, the current leadership has pushed for a prescribed set of moral norms in the form of the “Socialist Core Values” (社會主義核心價值觀) since 2012 (Hu, 2012).<sup>4</sup> These values, instead of “Western values”, are supposed to be a perfect fit and, hence, an apt alternative for the Chinese system. The dichotomy between supposedly “Western” and “Chinese” values is emphasised here (Xu, 2021). The so-called “Document No. 9” (2013) already explicitly emphasised the distinguishing characteristics and aims of “capitalist states”, thus making clear the rejection of central elements of a rule-of-law state, such as judicial independence. Advocating such a model is seen as an attack on the Party’s leadership and the socialist system (Smith, 2020: 99 f.; Central Committee of the CCP, 2013). Indeed, “Rule of Law” (法治) itself is a designated Socialist Core Value at the societal level, because, in official parlance, it is a value society strives for and it represents the particular type of governance through which other values such as freedom, equality, and justice are realised but can be exercised, of course, only within the constraints of the legal system (Yang & Zhang, 2019).<sup>5</sup> And the CCP, as self-designated agent, creates the legal basis for such freedoms, and thus defines the very nature of law.

In the era of Xi, the claim that the Party leads over everything, including both the law-making process and the content of such laws, is thus more clearly articulated. And while *yifa* describes the *how* — the process by which leadership is exercised — the Socialist Core Values are an example of the *what*; they are a concrete manifestation of *yide*. Their codification into legislation, for example, in the context of higher education, is thus the next logical step (Central Committee of the CCP, 2013). Therefore, step one is to rationalise the need to introduce the Socialist Core Values, which the Party did by creating the narrative of *yide* as an integral part of *yifa*, from which a set of prescribed values follows. Step two is the institutionalisation of these

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4 The 12 Socialist Core Values are: prosperity (富强), democracy (民主), civility (文明), and harmony (和諧) at the national level; freedom (自由), equality (平等), justice (公正), “rule of law” (法治) at the societal level; patriotism (愛國), dedication (敬業), integrity (誠信), and friendship (友善) at the individual level (Hu, 2012).

5 Following the official stance, rights are contingent and can be withdrawn or restricted at any time, provided a legal basis has been established. It is, therefore, only a matter of legality (Kaiser, 2025). The contingency of rights is an inherent claim of the “socialist legal system with Chinese characteristics” (State Council, 2011).

values by integrating them into legislation, which is framed to reflect the will of the people, though entailing more limitations on individual freedoms in reality. And because it entails more limitations on individual freedoms, it exemplifies how authoritarian law has taken shape. However, overall, national law has become more illiberal.<sup>6</sup> This is particularly illustrative when looking at normative changes with respect to academic freedom.

With respect to academia, the duty of political compliance or individual obedience is reflected in a redirection of state duties. The 2011 Code of Conduct obliges academics to “uphold academic freedom and academic dignity” (維護學術自由和學術尊嚴) (Art. 4). However, respecting, protecting, and ensuring academic freedom should primarily be the responsibility of the state and its institutions. For example, the UN Social Covenant includes minimum guarantees necessary to protect academic freedom (ICESCR, Article 15(3)). The Chinese party-state imposes duties on individuals that are supposedly necessary to protect academic freedom. Observing the other rules of conduct, patriotism, and law-observance — including support for the leadership of the CCP and the socialist system — are among the rules of conduct for academics according to the official understanding; hence the duty to uphold academic freedom. The Ten Guidelines (2018) further require, among other things, a “firm political orientation” or the dissemination of “China’s exceptional traditional culture” (Art. 1). In exercising the academic freedom granted under the law, individuals are thus not allowed to do anything that could endanger the leadership of the Party. At a normative level, the Socialist Core Values fill the gap of previously relatively empty political postulates and become the new measurement for morally correct behaviour, which has led to more limitations for academia. The conflation of legal obligations and obligations following from the Socialist Core Values thus takes shape at a normative level.

The party-state not only promotes an alternative and ostensibly superior model of the rule of law under its leadership but immediately involves society and thus individuals in adherence to it, through which further normative limits of academic freedom arise. What it means for the individual to uphold the Socialist Rule of Law, and by extension the leadership of the Party,

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6 I am not suggesting that the legal system was previously liberal, but it is fair to say that it was *more* liberal than today. In fact, the system was designed in such a way that it could support authoritarian change, but it could also have opted for a more liberal change.



can be exemplified by the individual’s duty of patriotism, which is also a designated Socialist Core Value. At the Party Congress in 2017, Xi reiterated that the Socialist Core Values will raise morality among the people and that “the guiding role of patriotism, collectivism, and socialism” should be strengthened (Xi Jinping, 2017). Looking at the Chinese Constitution, patriotism is a duty of all Chinese citizens so that they may exercise their fundamental freedoms and rights to the extent that it is granted. The duty of patriotism thus becomes a limit to what is possible, and it is not the state but the individual who is held accountable. Indeed, the duty of patriotism is not new. Regarding academics, the Teacher Law of 1993 had already stipulated that teachers must provide education in patriotism and that they are responsible for ideological education (Art. 8). In October 2023, after a draft had circulated for public consultation earlier that year, the Patriotic Education Law was adopted (National People’s Congress, 2023). In official parlance, the state task of patriotic education is enshrined in the Constitution and justifies the enactment of this law (Art. 24(2); Zhao, 2023). Not surprisingly, the law also involves higher education institutions in patriotism education (National People’s Congress, 2023: Art. 15, 16). Patriotism education includes, among the usual things, the great achievements of the CCP, the history and achievements of the CCP, the history of the new China, China’s exceptional traditional culture, and revolutionary and socialist culture (Ib.: Art. 6).

The introduction of the Socialist Core Values means a further pushback for the already limited freedoms. By prescribing a set of values, the current leadership wants to standardise the behaviour of individuals, especially academics, whom the Party regards as a high-risk group for ideological and political deviation (Kaiser, 2024). The ultimate goal is to secure individual obedience to the Party. However, the codification of the Socialist Core Values into legislation has elevated their status, meaning they belong to the substantive (authoritarian) nature of the law. The overarching aim, therefore, is to regulate and discipline individuals, and thus also academics, in order to enforce obedience and political compliance. And because they have been integrated into legislation, they are not merely a political proclamation.

Regarding academic freedom, the integration of the Socialist Core Values goes hand in hand with further restrictions on freedom of research and teaching by expanding the list of prohibitions and demanding the political compliance of academics in more expressive terms. In the era

of Xi, academics have to be “obedient” and not overstep the boundaries. Disobedience, however, is not only a violation of law but first and foremost a disregard for the common values of society. And while the constraints of the political-legal system have always affected academic freedom in China, and academics were always only able to move within the constraints of the system, academia only had to be “lawful” in the sense of moving within the constraints of the system but obedience was less explicitly demanded. The requirement of political compliance, and thus individual obedience, has become more explicit and binding on academia in the era of Xi Jinping, although it must be recognised that research in certain disciplines is more directly affected by this requirement than in others. The humanities and social sciences are particularly constricted by this political corset, since certain topics can be immediately interpreted as critical of the system and anti-socialist, thus crossing the red line. Even the advocacy of universal values or judicial independence that goes hand in hand with criticism of China’s political and legal system can be (and has been) seen as undermining the CCP’s claim to rule. Chinese academics use a particular style to avoid censorship. In the Xi Jinping era, they are walking on a minefield; even very subtle and hidden criticism can be risky. The next section will outline the limits of academic freedom.

## 2. Limits of academic freedom

Some elements of the concept of academic freedom, as enshrined under international human rights law, can be found in Chinese legislation as well.<sup>7</sup> As discussed in the previous section, they must be read in light of the political-legal system. For example, the “freedom of scientific research” — as enshrined in the Chinese Constitution (Art. 47) — may only be exercised in accordance with applicable law (*yifa*). And even if there are also ethical and legal limits to academic freedom in other systems, since the law is meant to secure the party-state’s hold on power, as shown, it is not surprising that it interferes massively with academic freedom. From the Party’s point of view, the perceived threat of ideological deviation and the associated threat to the stability of political power arguably made it necessary to demand political obedience from academia more explicitly. Politicised and illiberal notions

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7 Constitution, Art. 35, 46, 47; Education Law 1995 (2015). Art. 29 No. 8; Higher Education Law 1998 (2018), Art. 10; Teacher Law 1993 (2009): Art. 7; Provisional Measures for the Formulation of Bylaws of Higher Education Institutions (2011): Art. 11(2).

are increasingly finding their way into legal provisions under the pretext of raising morality among academics. New provisions aim to ensure individual obedience, which goes hand in hand with more limitations on academic freedom.

Although limits to academic freedom arise directly from the Chinese Constitution or laws such as the Teacher Law, the Code of Conduct (2011) and the Ten Guidelines (2018) have expanded the list of prohibitions. Even if outlining ethical standards for professions is not unusual, these codes of conduct set some requirements for teachers that are not objectively verifiable and/or are highly politicised. Considering the role of universities in ideological and political education, it is only plausible that the Socialist Core Values have been partly incorporated into the codes of conduct for academics. Both codices integrate Socialist Core Values such as fairness (公平), integrity (誠信), and patriotism (愛國). While the Teacher Law spelled out the requirement of political compliance (see Art. 8), the Code of Conduct (2011) specified that academics must not “speak or act in a manner detrimental to the interests of the state”. Like the Teacher Law, the Code of Conduct (2011) and the Ten Guidelines (2018) both require patriotism and legal adherence, that is, upholding the leadership of the CCP and the socialist system (and thus everything attached to it, including the legal system). Academics, according to the Ten Guidelines (2018), moreover must not “speak or act in educational and teaching activities in a manner that undermines the authority of the Party Central Committee, Party lines and policies” (Art. 1). In the context of “propagating [China’s] exceptional traditional culture”, they require university teachers to carry forwards the practice of the Socialist Core Values, while spreading “false views” (錯誤觀點), “bad information” (不良信息),<sup>8</sup> or “disinformation” (虛假信息) is prohibited in class, discussion forums, lectures, and through information networks or other channels (Art. 3). Alleged violations of these codes of conduct are often grouped under the category of disseminating “inappropriate remarks” (不當言論), “false remarks”, or “false views” (錯誤言論 or 錯誤觀點). The Ministry of Education regularly issues model cases which, due to their brevity, only outline the case facts to a very limited extent (Ministry of Education, 2021; Ministry of Education, 2022). Indeed, where the line or tipping point exists precisely is not further defined.

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8 “不良” can also be translated as “harmful” or “unhealthy” .

As long as the views reflect the official position, deviations seem unlikely. How far one may deviate from this view is open to question. To address the risk of contestation and as part of the effort to align the potentially competing spheres of the Party and the people, the current leadership emphasises observance of the so-called “mainstream ideology” (主流意識形態) and makes clear that any deviations from it must not be tolerated. For this purpose, the party-state has directed universities to establish mechanisms to secure the “mainstream ideology” and investigate alleged deviations (Ministry of Education, 2014). Through the university Party apparatus, the party-state endeavours to disseminate the “mainstream” — the official — view via formal and informal instructions, meetings, and other channels.<sup>9</sup>

Further regulations govern the far-reaching administrative sanctions (with reference to criminal law) that may be imposed in the event of a violation of professional ethics, as enshrined in the codes of conduct.<sup>10</sup> Despite the reference to criminal law, as will be discussed in the context of the case studies, criminal prosecution seems rare in reality. As part of the principle of *yide zhiguo*, authorities should apply less harsh measures to handling an overstepping of the boundaries. In the event of violations, talks or (self-) criticism should have priority, while criminal punishment should only be applied in the fewest cases.<sup>11</sup>

Based on legal and political documents as well as interviews, I have developed three different categories of limits of academic freedom in China. As shown in table 2.1, there are normative limits that are very vaguely formulated and arbitrary limits or edge zones where a determination of the limits can be difficult. Finally, there are simply forbidden zones that must be avoided altogether.

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9 Interview #16 (International Human Rights), December 2022, location C.

10 See, e.g., the Provisional Regulations on Disciplinary Measures against Staff Members of Public Institutions (2012).

11 For Party members, this follows from the so-called “four forms” (四種型態) (CCP Constitution (introduced in 2017), Art 40), and for all public officials according to the Supervision Law (see Art. 45 of the Supervision Law (2018) and Art. 4 of the Regulations on the Implementation of the Supervision Law of the PRC (2021)).

Table 2.1.: Categories of limits of academic freedom in China

<b>(Vague) normative limits, e.g.:</b>	<b>Unknown and arbitrary limits or edge zones, e.g.:</b>	<b>Forbidden zones, e.g.:</b>
<ul style="list-style-type: none"> <li>➤ Undermining the authority of the CCP Central Committee</li> <li>➤ Violation of Party lines &amp; Policies</li> <li>➤ Rejection of the Constitution</li> <li>➤ Rejection of the Socialist system</li> <li>➤ Anti-patriotism</li> <li>➤ Violation of state and public interests</li> <li>➤ “Wrong”, “inappropriate” and “extreme” speech</li> </ul>	<p>No questioning of official narratives, including:</p> <ul style="list-style-type: none"> <li>➤ Chinese history</li> <li>➤ Human rights</li> <li>➤ Legal system</li> <li>➤ Hong Kong</li> </ul>	<p>Seven taboos:</p> <ul style="list-style-type: none"> <li>➤ Universal values</li> <li>➤ Press freedom</li> <li>➤ Civil society</li> <li>➤ Citizens’ rights</li> <li>➤ The historical mistakes of the Party</li> <li>➤ The financial and political elite</li> <li>➤ Judicial independence</li> </ul> <p>Three T’s:</p> <ul style="list-style-type: none"> <li>➤ Taiwan</li> <li>➤ Tibet</li> <li>➤ Tiananmen</li> </ul>

It is not surprising that direct attacks on President Xi Jinping are immediately considered a crossing of the red line. Cai Xia 蔡霞 (2020), a former lecturer at the CCP Central Party School in Beijing, was expelled from the Party and her pension rights were cancelled after she called Xi Jinping a “mafia boss” (China Digital Times, 2020b). However, the overstepping of the red line is not always as clear as in this case. Where exactly the line is remains partly unclear; this is also because there is no clear standard in many cases. Such vague rules increase uncertainty about what (and what not) may be expressed. The boundaries are sometimes nebulous or arbitrary and a clear classification can be difficult in individual cases. Therefore, the next section discusses known cases of alleged overstepping of the boundaries to shed light on whether, and if so how, newer prohibitions are institutionalised and enforced in reality.

Authoritarian law in China therefore increasingly exposes forbidden but unwritten boundaries, which thus become more visible. But what is now “wrong” or “inappropriate” is not further defined. The vagueness here

becomes a systemically intended indeterminacy. Academics are thus to be placed in a state of constant uncertainty. At the same time, such provisions allow Party authorities to interpret regulations with great flexibility. The Party secures interference, if considered necessary, which is understood to be lawful (*yifa*) by creating a legal basis, reflecting the essence of *yifa zhiguo*. These newer codes of conduct are a concrete manifestation of authoritarian law under Xi Jinping.

### 3. Case studies

So far, I have gathered 41 cases through online searches in which academics have been sanctioned for “false” and/or “inappropriate” speech.<sup>12</sup> Considering the sheer size of the higher education sector, this seems to be a very small number of cases overall. However, it should be borne in mind that the known cases may only be the tip of the iceberg. The number of unreported cases is likely much higher. First, it must be considered that not all cases become known. Second, academics may be unofficially admonished and criticised without formal proceedings. In addition, many other subtle and less subtle mechanisms exist to silence academics. In other cases, academics leave the system more or less voluntarily, when they have the opportunity (Kaiser, 2024: Chapter 7). Overall, however, it is striking that the number of known cases has increased significantly since 2017. Only two of the known cases, in which “false” and/or “inappropriate” speech appeared, fall into the period before 2017. Therefore, a causality between stricter regulation and more cases seems plausible. A look at the few known cases is worthwhile, as they shed light on the handling of supposedly “dissenting” opinions disseminated by academics and thus provide insights into domestic developments and practice in the era of Xi Jinping.

In some cases, the available information is very limited, and the formal decision, including its legal basis, is not always available. Therefore, it is not always apparent how competences arise in individual cases, and the legal basis cannot always be reconstructed. Even in individual cases where this information is available, the case handling organs vary; a uniform responsibility is thus not apparent. The regulations of the universities actually vary with regard to responsible bodies or possible violations. Within an institution, different organs may be responsible for investigation and internal

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12 I did not use a specific database for this search.

sanctioning. In some cases, the responsibilities are also mixed, which makes the situation even more confusing. In certain cases, for example, a Party organ may investigate a case, but the actual decision is formally issued by the university. It is worth mentioning that academics who are also Party members also fall into a special category of monitoring and sanctioning structures (CCP Constitution, 2022: Art. 39, 40). In this article, cases will be examined in greater detail in which basic information regarding the accusations, the actors involved, and the legal basis are known, in order to reconstruct case constellations and make case comparisons. On this basis, conclusions can be drawn as to which factors can influence the outcome of a case and the application of the law.

One of the earlier cases is that of Zhang Xuezhong 張雪忠 (2013), East China University of Political Science and Law, a prominent legal scholar and critic of the Party. Zhang was dismissed in July 2013 for advocating freedom of expression, criticising the party-state in articles and in class, and demanding compliance with the Chinese Constitution — he had also publicised the “Seven Taboos” (Central Committee of the CCP, 2013). He was accused of violating university rules and exploiting his position to spread his political views. He was accused of violating the Code of Conduct (2011) and the Chinese Constitution, among other things. In fact, Zhang had already had several clashes with the party-state. However, the university only acted after he had exhausted all limits (Jacobs 2023). Criticism of the Chinese legal system is not new and it has always been subject to certain limits. Even before Xi Jinping, there was a line that could never be crossed: “Anti-Party and anti-government” (反黨反政府) was never tolerated.<sup>13</sup> Zhang had ultimately overstepped the vague normative boundaries. As shown in the previous sections, tolerance for pluralistic views and criticism has shrunk to a minimum.

A constitutional amendment in 2018 made particularly strong waves among academics and was met with sometimes fierce criticism. Scholar Zhai Juhong 翟桔紅 (2018), Zhongnan University of Economics and Law in Hubei, had been critical of, among other things, the abolition of presidential term limits as part of a constitutional amendment in March 2018. Zhai was a Party member, which means that the university-based Party committee had to take action. It formed a working group and the institute where Zhai

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13 Interview #2 (law), April 2022, Location B.

worked was admonished to cooperate. The university Party committee used this case as an opportunity to convene a meeting with all university-based Party secretaries and the deans of the faculties of the university, and called for the strengthening of political discipline. Zhai was accused of a breach of discipline in class by expressing “false views and inappropriate remarks”. In May 2018, Zhai was dismissed, and her teaching qualification was revoked (Party Committee of Zhongnan University of Economics and Law, 2018; China Digital Times, 2020a). This criticism from a Party member, which can be considered *indirect* criticism of Xi Jinping, was deemed unacceptable and had to be sanctioned immediately.

Indeed, *direct* criticism of President Xi Jinping can lead to even more severe punishment. There are only a few known criminal cases in which academics have been prosecuted. Among them is the case of Zi Su 子肅 (2017), who had called on Xi Jinping in an open letter in April 2017 to step down. The 2020 list of typical cases of endangering national security issued by the Ministry of National Security includes this case. Zi Su, a former professor at Yunnan Party School, was accused of “subversion of state power” under Chinese criminal law. In 2016, together with a “hostile foreign element”, he had allegedly planned to overthrow state power and change China’s political system. Together, they allegedly planned to purchase weapons from abroad and launch a wide-scale attack in Kunming during Chinese New Year in 2017. In April 2019, the Intermediate People’s Court of Chengdu City found Zi Su guilty of subversion of state power and sentenced him to four years’ imprisonment. Zi Su reportedly pleaded guilty and relented (Gao, 2021; China Digital Times, 2020b; Xu, 2020).

Official narratives of the Party must not be undermined. But it is precisely in this area, the area of edge zones (see table 2.1.), that determining the red line can be very difficult. At the Party Congress in 2017, Xi reiterated that people should have “an accurate understanding of history, ethnicity, country, and culture” (Xi Jinping, 2017). What should be “an accurate understanding” is, however, exclusively decided by the party-state. For example, the official view of the CCP’s achievements and history in the past century is outlined in an official document (Central Committee of the CCP, 2021). In some cases, there have been accusations of violating the “correct line” (i.e., the Party line). The case of Tan Song 譚松 (2017) is worth mentioning here. Tan had done research on land reform in the 1950s and



attributed his dismissal in July 2017 to this very research. Officially, Tan was said to have deviated from the “correct line” in class and thus violated Party principles (Luo, 2017). Why Tan was dismissed at this point (and not earlier) is not entirely clear and demonstrates the systemic uncertainty. However, in 2017, the political atmosphere had changed, the emphasis on following the official line and the pressure on authorities to address alleged deviations had grown, and the relatively free space had shrunk. Therefore, a more illiberal atmosphere is a plausible explanation for his dismissal.

The case of Shi Jiepeng 史傑鵬 (2017), Peking University, who had also attributed his dismissal to his research, also manifests this new political atmosphere. He was dismissed in July 2017 for his criticism of Mao Zedong. His criticism of Mao Zedong had allegedly conflicted with the “mainstream view” and thus crossed “the red line” (Human Resources Office of Beijing Normal University, 2017; China Digital Times, 2020a). Shi Jiepeng reported that the university only acted after he was reported while inspectors from the Central Disciplinary Inspection Commission were on site in February 2017, although he is not a CCP member. The Central Disciplinary Inspection Commission supposedly only investigates Party members. Shi had then attributed the dismissal to his research and called it an “ideological purge”. Zhang Ming 張鳴, a well-known historian, said the decision was due to a new political situation. Universities were having increasing problems withstanding political pressure, he said (Hong, 2017). This and the case of Tan also show that the Party can intervene at any time it deems necessary. In addition, if there is political pressure from higher Party authorities, the university can hardly escape.

A similar case is that of Deng Xiangchao 鄧相超 (2017), Shandong Jianzhu University. Deng had been dismissed in January 2017 for his “wrong views”, meaning criticism of Mao Zedong. Deng was a member of the Democratic Party of China (not a member of the CCP) and held various local government offices, including the Standing Committee of the Provincial Political Consultative Conference and the Jinan City Standing Committee. According to reports, the university had initially tried to protect Deng but had to give in eventually (Party Committee of Shandong Jianzhu University, 2017; China Digital Times, 2020a). The Party was not in charge in this case and circumvented university rules. Presumably due to his political activity, this political misconduct was to be punished by the Party. This case shows

similarities to the case of Shi Jiepeng, who was also not a member of the CCP.

Academics who have questioned the official casualty figures of the Nanjing Massacre have also been confronted with accusations of “false” views. Among them, the case of Liang Yanping 梁艷萍 (2021), Hubei University, is one of the model cases of the Ministry of Education to illustrate violations of the Ten Guidelines (2018). Liang had allegedly made “defamatory remarks” about the Nanjing Massacre, which were judged to be, among other things, violations of the Ten Guidelines (2018), more specifically “false remarks”, and thus a violation of political orientation and patriotism, thus violating professional ethics. Liang was sanctioned with Party expulsion, a warning, withdrawal of a postgraduate supervision qualification, and suspension from teaching (Ministry of Education, 2021; China Digital Times, 2020a). In these cases, academics had deviated from the official, mainstream view, and were sanctioned. As discussed, the party-state increasingly dominates and monopolises discourses to ensure obedience, thus setting the boundaries more explicitly and holding a zero tolerance attitude towards deviating views.

These cases illustrate the difficulty of determining the limits of what is possible in individual cases since, in many cases, it is not possible to foresee whether and how sanctions will be imposed. They demonstrate systemically intentional uncertainty and show that the boundaries must constantly adapt to new political circumstances and are, therefore, in flux. Moreover, additional influencing factors such as Party membership or political/government positions can affect what happens. Academics in China do not seem to receive clear instructions as to what line should not be crossed.<sup>14</sup> However, it seems that the political atmosphere is becoming more tense and that the boundaries are becoming more visible due to the increased codification of more explicit prohibitions; legislation is increasingly characterised by illiberal and politicised notions. The greater visibility of cases of sanctioned academics is not only due to the regulations themselves but also to the documentation of facts when a formal investigation is initiated.

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14 Interviews #1 (business ethics), March 2022, location A; Interview #6 (Chinese studies); April 2022, location B; Interview #5 (law), April 2022, location B.

#### **4. More standardised (repressive) practice through authoritarian law?**

The official conception of *yifa zhiguo* indicates that the party-state’s aim is to institutionalise new legislation. However, when the central government issues new regulations, the question always arises as to how local authorities, universities, and even individual Party functionaries will respond. Looking at the circumstances of the known cases of sanctioned academics, it can be assumed that there is no consistent and coherent practice. Therefore, the institutionalisation of these new prohibitions does not seem to have progressed very far. One explanation may be due to varying and sometimes confusing responsibilities. In many cases, Party organs more or less directly get involved, even beyond their competence. Whether and how action is taken still seems to depend significantly on various factors; especially when grey areas are involved. However, the increasing number of cases suggests that university administrators and university-based Party organs feel increasingly pressured to react to alleged misconduct by academics. The rise in cases could also be due to the increasing codification of prohibitions, which entails the formal documentation and handling of such cases. As already mentioned, the claim of legality indicates the aim to institutionalise these newer provisions. However, this leads to a dilemma, because the less leeway local Party officials have, the more inflexible they are. On the other hand, the ambiguity that underlies much legislation always allows the party-state to interfere, but it also means that the behaviour of the actors involved is more difficult to control, so a certain tension can arise here between institutionalisation efforts and the flexible suppression mechanisms that the authoritarian system needs.

The role or identity of a person can influence the handling of a case. In the known cases, administrative penalties were usually imposed, whereas criminal prosecution, as in the case of Zi Su, is the exception. In his case, it is plausible that the Party wanted to make an example, as the Party leadership cannot accept direct criticism of Xi from a Party member and a lecturer at a Party school, and to assume the Party wanted to prevent further incidents of this kind. In some cases, the institution appears to intervene to protect its academics. Sanctioned academic Deng Xiangchao reported that the university had initially been protective of him; similar experiences were also reported by

other academics in interviews.<sup>15</sup> Deng was politically active in addition to his academic position. Although he was not a member of the CCP, this political misconduct had to be punished by the Party. If a case is too “political”, for example because an academic is also a Party official, the institution has little room for manoeuvre. This is also shown by the case of Shi Jiepeng. Although Shi was not a Party member, the presence of an inspection group on campus put immense pressure on the institution to act.

The identity or role of a person (e.g., a Party official or member) can thus be another determining factor for the treatment of individual cases. Individual cases indicate that academics who are also Party members and/or belong to the university Party apparatus and/or hold government positions are treated more harshly than *pure* academics. A plausible explanation for this is that the Party considers itself to be a distinct feature of the Socialist Rule of Law and the highest moral authority that governs through laws (Lin and Trevaskes, 2020: 125). Academics who are Party members and officials must thus fulfil higher moral standards than pure academics (even if political obedience is also demanded *per se* from non-Party members).

It can be assumed that the newer codes of conduct are primarily about prevention. For example, the mentioned codes of conduct pre-empt academia by elaborating on existing prohibitions under the guise of professional ethics, some of which were already enshrined in legislation. As auxiliary measures, by introducing a prescribed set of values and predefining the meaning of these values, the party-state silences competing discourses and constructive criticism. The party-state is particularly concerned here with reducing such risk through regulation and thus ensuring individual obedience. This is a core feature of the emerging authoritarian law in China. *Yifa zhiguo* intends to use laws to “correct” the behaviour of academics to ensure political conformity; the individual is thus supposed to uphold the Socialist Rule of Law. The sanctioning institutions and actors thus remain unharmed, as they act lawfully. The deterrent effect of such newer regulations works and this is a desired effect of these codes of conduct. It is less about punishment *per se*, but rather about suppressing anti-social behaviour – meaning what the Party defines as “anti-social” – before it spreads.

Since authoritarian law targets individual obedience, one can speak

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15 Interview #16 (international human rights), 14 December 2022, location B.

of success from the point of view of the party-state, insofar as uncertainty and fear among academics are the result, even if a systematic and uniform implementation is not apparent. The fear and uncertainty are intentional because they can lead to self-censorship. However, the appearance of individual obedience should not be equated with a person’s actual conviction.

## Conclusions

This article has looked at the characteristics of *yifa zhiguo* as a means of bringing about individual obedience. It has shown how the party-state invokes its authority to impose further restrictions on academics not only in accordance with the law, but also with morality, a concrete expression of which are, for example, the Socialist Core Values. Individual obedience is a central demand of the party-state for all actors in the Chinese system and it is increasingly visible in legal regulations. The shaping of authoritarian law affects academia. Based on recent prohibitions in codes of conduct for academics and case studies, this article has examined how the demand for individual obedience affects academic freedom on a normative level. The article has then shown that the institutionalisation of these new prohibitions does not seem to be very far advanced, as the selected case studies do not demonstrate consistent and coherent practice. Many regulations remain very vague and leave room for interpretation by the actors in the system. External factors can further influence the outcome of individual cases. This includes the confrontation and responsibility avoidance strategies of the actors and the identity or role of a person. Authoritarian law, therefore, does not imply more uniform practice. Nevertheless, the party-state can claim a certain success in that fear and uncertainty among academics, which can lead to silence and self-censorship, lead to political conformity, even if it is only illusory. Whether and how the party-state will master the balance between an institutionalisation of authoritarian law and the necessary systemic flexibility is questionable. It is important to continue to observe how authoritarian law develops in China and how such new regulations affect practice.

## References

Brown, Kerry. 2021. “China: don’t mistake Xi Jinping’s crackdowns for a second Cultural Revolution.” *The Conversation* 20 September 2021. in <https://theconversation.com/china-dont-mistakexi-jinpings-crackdowns-for-a-second-cultural-revolution-167483>. Latest update 1 March 2024.

Central Committee of the CCP. 1978. Communiqué of the Third Plenary Session of the 11th

- Central Committee of the CPC, No. 52, 29 December 1978, an English version is available here: [http://www.bjreview.com/Special\\_Reports/2018/40th\\_Anniversary\\_of\\_Reform\\_and\\_Opening\\_up/Timeline/201806/t20180626\\_800133641.html](http://www.bjreview.com/Special_Reports/2018/40th_Anniversary_of_Reform_and_Opening_up/Timeline/201806/t20180626_800133641.html).
- Central Committee of the CCP. 2013. Communiqué on the Current State of the Ideological Sphere, A Notice from the Central Committee of the Communist Party of China's General Office, 22. April 2013, an English translation is available at: <https://www.chinafile.com/document9-chinafile-translation>. Latest update 12 December 2023.
- Central Committee of the CCP. 2020. Outline for the implementation of the Construction of a Rule of Law-based Society ( 法治社會建設實施綱要 ( 2020—2025 年 ) ), 7 December 2020.
- Central Committee of the CCP. 2013. Opinions on Cultivating and Practicing the Socialist Core Values ( 關於培育和踐行社會主義核心價值觀的意見 ), 23 December 2013.
- Central Committee of the CCP. 2021. Resolution of the Central Committee of the Communist Party of China on the Significant Achievements and Historical Experiences of the Party's Centenary Struggle ( 中共中央關於黨的百年奮鬥重大成就和歷史經驗的決議 ). 11 November 2021.
- Chen, Yu-Jie. 2019. Human Rights in the Chinese Administration of Justice. *China Human Rights Report 2018*: 83-112. Taipei: Taiwan Foundation for Democracy.
- China Digital Times. 2020a. "Over the past four years, higher education staff who have been punished for 'inappropriate remarks'" ( 四年以來，因「言論不當」被處理的高校教師們 ). China Digital Times ( 中國數字時代 ) 1 May 2020. in <https://chinadigitaltimes.net/chinese/643002.html>. Latest update 5 May 2023.
- China Digital Times. 2020b. "University teachers who have been disciplined over the years" ( 這些年受處分的大學老師 ). China Digital Times ( 中國數字時代 ) 14 October 2020. in <https://chinadigitaltimes.net/chinese/657214.html>. Latest update 6 June 2023.
- Clarke, Donald. 2015. China's Legal System and the Fourth Plenum. *Asia Policy* 20: 10-16.
- Communist Party of China. 1982. Constitution of the CCP ( 中國共產黨章程 ). 6 September 1982 (as amended on 22 October 2022).
- Ding, Xiaodong. 2017. Law according to the Chinese Communist Party: Constitutionalism and Socialist Rule of Law. *Modern China* 43, 3: 322-352.
- Gao, Feng ( 高鋒 ). 2021. "Party School Teacher Zi Su who advised CPC reforms and accused of "subversion" faces problems of livelihood after being released from prison" ( 諫言中共改革被控「顛覆」黨校教師子肅出獄生計陷困境 ). Radio Free Asia ( 自由亞洲電台 ) 16 April 2021. in <https://www.rfa.org/mandarin/yataibaodao/renquanfazhi/gf-04162021080945.htm>. Latest update 6 June 2023.
- Hong Zhenkuai ( 洪振快 ). 2017. "The Chinese Communist Party's purge of university teachers has resumed with the dismissal of 'King Hui of Liang'." ( 「梁惠王」被解職，中共整肅

- 高校教師之風再起). In: New York Times (Chinese edition) 10 August 2017. in <https://cn.nytimes.com/opinion/20170810/china-punished-professors/?mcubz=1>. Latest update 24 June 2023.
- Hu Jintao (胡錦濤). 2012. Determinedly follow the Path of Socialism with Chinese Characteristics Striving to build a moderately prosperous society in all respects – report to the 18th National Congress of the CCP (8 November 2012) (堅定不移沿著中國特色社會主義道路前進 為全面建成小康社會而奮鬥——在中國共產黨第十八次全國代表大會上的報告(2012年11月8日)). in [https://www.gov.cn/ldhd/2012-11/17/content\\_2268826\\_4.htm](https://www.gov.cn/ldhd/2012-11/17/content_2268826_4.htm). Latest update 10 March 2024.
- Human Resources Office of Beijing Normal University (北京師範大學人事處). 2017. Decision on the Dismissal of Shi Jiepeng (關於給予史杰鵬解聘處理的決定). 2017 (No. 147), 25 July 2017.
- Information Office of the State Council. 2011. The Socialist Legal System with Chinese Characteristics (中國特色社會主義法律體系). 27 October 2011. in <http://www.scio.gov.cn/zfbps/index.htm>.
- Information Office of the State Council. 1991. *Human Rights in China* (中國的人權狀況). in <http://www.scio.gov.cn/zfbps/index.html>.
- Jacobs, Andrew. 2023. “Chinese Professor Who Advocated Free Speech Is Fired.” *The New York Times* 11 December 2013. in <https://cn.nytimes.com/china/20131211/c11professor/zh-hant/dual/>.
- Kaiser, Alexandra. 2024. Einführung in die Wissenschaftsfreiheit in der Volksrepublik China - Institutionelle Autonomie und Lehr- und Forschungsfreiheit, FAU University Press, 2nd edition. <https://open.fau.de/items/c2ba14ea-10e0-4660-a24f-5ee40e5d58dd>.
- Kaiser, Alexandra. 2025. Presumption of Innocence under China’s National Conditions (under contract). Hart Publishing.
- Li Yang (李暘). 2014. “Rule of Law: The Fundamental Means for the Contemporary Social Governance” (法治：現代社會治理的基本方式). CPC News (中國共產黨新聞網) 6 May 2014. in <http://theory.people.com.cn/n/2014/0506/c384764-24981699.html>.
- Lin, Delia and Trevaskes, Susan. 2019. Creating a Virtuous Leviathan: The Party, Law, and Socialist Core Values. *Asian Journal of Law and Society* 6, 1: 41-66.
- Lin, Delia and Trevaskes, Susan. 2020. “Law-Morality Ideology in the Xi Jinping Era.” In Delia Lin and Susan Trevaskes eds. *Law and the Party in China*: 121-148. Cambridge University Press.
- Luo, Siling (羅四鵠). 2017. “Chongqing Teacher Suddenly Fired before the 19th Party Congress for researching the truth about the Land Reform for several years” (重慶教師多年調查土改真相，十九大前突遭開除). *The New York Times* (Chinese edition) 29 September 2017. in <https://cn.nytimes.com/china/20170929/cc29-tansong/>. Latest update 24 June 2023.

- Ministry of Education. 2011. Provisional Measures for the Formulation of Bylaws of Higher Education Institutions ( 高等學校章程制定暫行辦法 ) of 28 November 2011. in [http://www.moe.gov.cn/srcsite/A02/s5911/moe\\_621/201111/t20111128\\_170440.html](http://www.moe.gov.cn/srcsite/A02/s5911/moe_621/201111/t20111128_170440.html).
- Ministry of Education. 2014. Opinions on Establishing a Robust Long-term Mechanism for Building Higher Education Teachers' Ethics ( 關於建立健全高校師德建設長效機制的意見 ) of 29 September 2014. in [http://www.moe.gov.cn/srcsite/A10/s7002/201409/t20140930\\_175746.html](http://www.moe.gov.cn/srcsite/A10/s7002/201409/t20140930_175746.html).
- Ministry of Education. 2018. Ten Guidelines for the Professional Conduct of Teachers in Higher Education in the New Era ( 新時代高校教師職業行為十項準則 ) of 8 November 2018.
- Ministry of Education. 2021. Model Cases of Violations of the Ten Guidelines for the Professional Conduct of Teachers in Higher Education ( 違反高校教師職業行為十項準則典型案例 ) of 10 December 2021. in [https://www.xyey.com/655/661/2984/2991/content\\_69493.htm](https://www.xyey.com/655/661/2984/2991/content_69493.htm).
- Ministry of Education. 2021. Ministry of Education issues the Tenth Series of Seven Model Cases of Violations of the Ten Guidelines for the Professional Conduct of Teachers in Higher Education ( 教育部公開曝光第十批 7 起違反教師職業行為十項準則典型案例 ) of 30 August 2022. in [www.moe.gov.cn/jyb\\_xwfb/gzdt\\_gzdt/s5987/202208/t20220830](http://www.moe.gov.cn/jyb_xwfb/gzdt_gzdt/s5987/202208/t20220830).
- Provisional Regulations on Disciplinary Measures against Staff Members of Public Institutions ( 事業單位工作人員處分暫行規定 ) of 22 April 2012. in [https://www.gov.cn/flfg/2012-09/03/content\\_2215755.htm](https://www.gov.cn/flfg/2012-09/03/content_2215755.htm).
- Ministry of Education and the National Committee of the Chinese Trade Union for Education, Science, Culture, Health and Sports. 2011. Code of Professional Ethics for Teachers in Higher Education ( 高等學校教師職業道德規範 ) of 23 December 2011.
- National People's Congress. 1982. Constitution of the PRC ( 中華人民共和國憲法 ) of 4 December 1982 (amended: 12 April 1988, 29 March 1993, 15 March 1999, 14 March 2004, 11 March 2018).
- National People's Congress. 1993. Teacher Law of the PRC ( 中華人民共和國教師法 ) of 31 October 1993 (amended: 27 August 2009).
- National People's Congress. 1995. Education Law of the PRC ( 中華人民共和國教育法 ) of 18 March 1995 (amended: 27 August 2009, 27 December 2015, 29 April 2021).
- National People's Congress. 2018. Supervision Law of the People's Republic of China ( 中華人民共和國監察法 ) of 20 March 2018.
- National People's Congress. 2023. Patriotic Education Law of the People's Republic of China ( 中華人民共和國愛國主義教育法 ) of 24 October 2023.
- National Supervisory Commission. 2021. Regulations on the Implementation of the Supervision Law of the PRC ( 中華人民共和國監察法實施條例 ) of 20 September 2021.
- Pils, Eva. 2020. "Rule-of-Law Reform and the Rise of Rule by Fear in China." In Chen Weitseng and Fu Hualing eds. *Authoritarian Legality in Asia: Formation, Development and Transition:*



- 90-113. Cambridge: Cambridge University Press.
- Potter, Pitman B. 1999. “The Chinese Legal System: Continuing Commitment to the Primacy of State Power.” *China Quarterly* 159: 673-683.
- Party Committee of Zhongnan University of Economics and Law ( 中共中南財經政法大學委員會 ). 2018. Report of Zhongnan University of Economics and Law on the Investigation and Handling of our teacher Zhai Juhong’s Violation of Classroom Discipline ( 中南財經政法大學關於我校教師翟桔紅違反課堂紀律調查處理情況的報告 ) of 2018 (No. 27).
- Party Committee of Shandong Jianzhu University ( 中共山東建築大學委員會 ). 2017. Opinions on the Handling of Wrong Speech by Deng Xiangchao ( 關於鄧相超錯誤言論行為的處理意見 ) of 5 January 2017.
- Standing Committee of the National People’s Congress. 1998. Higher Education Law of the PRC ( 中華人民共和國高等教育法 ) of 29 August 1998 (amended: 27 December 2015, 29 December 2018).
- Smith, Ewan. 2020. “The Conception of Legality under Xi Jinping.” In Rogier Creemers and Susan Trevaskes eds. *Law and the Party in China: Ideology and Organisation*: 97-120. Cambridge: Cambridge University Press.
- Tao Heng ( 陶珩 ). 2019. “Tsinghua University Students Report Teacher as “Anti-Party and Anti-Constitutional” , Whistleblowing Raises Concerns About China’s Cultural Revolution” ( 清華學生舉報老師「反黨違憲」, 告密之風引中國文革憂慮 ). *BBC* 5 April 2019. in <https://www.bbc.com/zhongwen/>. Latest update visited 5 October 2023.
- Xi Jinping ( 習近平 ). 2017. Secure a Decisive Victory in Building a Moderately Prosperous Society in All Respects and Strive for the Great Success of Socialism with Chinese Characteristics for a New Era – report to the 19th National Congress of the CCP ( 決勝全面建成小康社會 奪取新時代中國特色社會主義偉大勝利——在中國共產黨第十九次全國代表大會上的報告 ). *Xinhua* ( 新華 ) 18 October 2017. in [http://www.gov.cn/zhuanti/2017-10/27/content\\_5234876.htm](http://www.gov.cn/zhuanti/2017-10/27/content_5234876.htm). Latest update 24 March 2024.
- Xi Jinping ( 習近平 ). 2022. Hold High the Great Banner of Socialism with Chinese Characteristics and Strive in Unity to Build a Modern Socialist Country in All Respects—report to the 20th National Congress of the CCP ( 高舉中國特色社會主義偉大旗幟為全面建設社會主義現代化國家而團結奮鬥——在中國共產黨第二十次全國代表大會上的報告 ). *Xinhua* ( 新華 ) 16 October 2022. in [https://www.gov.cn/xinwen/2022-10/25/content\\_5721685.htm](https://www.gov.cn/xinwen/2022-10/25/content_5721685.htm).
- Xu Juan ( 徐隼 ). 2020. “Ministry of National Security announces a list of typical cases of endangering national security” ( 國家安全部公布一批危害國家安全典型案件 ). *People.cn* ( 人民網 ) 17 April 2020. <http://cq.people.com.cn/n2/2020/0417/c365403-33954676.html> Latest update 3 March 2024.
- Xu Yao ( 徐瑤 ). 2021. “Study Q&A 68. Why should we take a clear-cut stand on the so-called

- Western ‘universal values’?” (學習問答 | 68. 為什麼要旗幟鮮明反對西方所謂的「普世價值」?). *People’s Daily* (人民日報) 2 September 2021. in <https://www.12371.cn/2021/09/02/ARTI1630538734440951.shtml>. Latest update 24 March 2024.
- Yang, Zhib( 楊志博 )、Zhang, Xiaodan( 張曉丹 ). 2019. “Civilized Practice in the New Era | Comic illustration of socialist core values, it is hard to forget after reading it!” (新時代文明實踐 | 社會主義核心價值觀漫畫圖解，看完想忘記都難!). *SOHU* ( 搜狐網 ) 17 September 2019. in [https://www.sohu.com/a/419248507\\_784627](https://www.sohu.com/a/419248507_784627). Latest update 1 January 2024.
- Zhao Wenhan ( 趙文涵 ). 2023. “Draft of Patriotic Education Law submitted for deliberation: these key points are worth a look.” (愛國主義教育法草案首次提請審議，這些看點值得關注). *Xinhua* ( 新華 ) 26 June 2023. in [http://www.news.cn/politics/2023-06/26/c\\_1129718076.htm](http://www.news.cn/politics/2023-06/26/c_1129718076.htm). Latest update 3 December 2023.

# 「社會主義法治國家」下的法律威權化：中國的學術與服從

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## 摘要

本文討論中國的法治與學術自由之間的關係。改革開放以來，中國政府提出了「依法治國」的方針，推動建設「社會主義法治國家」。然而，「依法治國」並沒有具體說明法律的性質等，而只是表明合法性原則。在習近平主席的領導下，非自由的價值觀和政治化的概念被融入中國法律，導致法律威權化。本文探討「依法治國」作為個人服從手段的特點。本文以規範學術行為的法律規定和案例為基礎，探討了對個人服從性要求的加強如何影響中國的學術界。雖然學術自由在中國一直受到限制，但在此期間，中國的立法正在向專制主義轉變。然而，將這些新規定制度化的過程似乎並不順利，因為本文所選案例研究並未顯示出一致的實踐。

## 關鍵字

中國、學術自由、依法治國、個人服從、法律威權化

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