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## **Corruption in China: half-way over the Great Wall**

*Keith Henderson*

**Legal system:** Civil law, inquisitorial system, prosecution part of the judiciary.

**Judges per 100,000 people:** 17.3<sup>1</sup>

**Judge's salary at start of career in US \$:** 3,021<sup>2</sup>

**Supreme Court judge's salary in US \$:** 6,036<sup>3</sup>

**GNI per capita in US \$:** 1,740<sup>4</sup>

**Annual budget of judiciary in US \$:** 19.5 billion<sup>5</sup>

**Total annual budget in US \$:** 358.5 billion<sup>6</sup>

**Percentage of total annual budget:** 5.4<sup>7</sup>

**Are all court decisions open to appeal up to the highest level?** Yes. However, after the first appeal (which is a statutory right) the appellate court has the discretion as to whether to grant an appeal.

**Institution in charge of disciplinary and administrative oversight:** Not independent.

**Are all rulings publicised?** Some.

**Code of conduct for judges?** Yes.

<sup>1</sup> [news.xinhuanet.com/newscenter/2002-07/07/content\\_472568.htm](http://news.xinhuanet.com/newscenter/2002-07/07/content_472568.htm) <sup>2</sup> [finance.sina.com.cn/towork/20040809/1748935282.shtml](http://finance.sina.com.cn/towork/20040809/1748935282.shtml) <sup>3</sup> Randall Peerenboom, *Judicial Independence in China* (forthcoming 2006). Figure is for senior Supreme Court judges, and excludes a range of benefits given to judges in addition to their monthly wage. <sup>4</sup> World Bank Development Indicators 2005 <sup>5</sup> China Statistics Yearbook 2004–05 <sup>6</sup> Ibid. <sup>7</sup> Ibid.

The legal-judicial transformation taking place behind China's Great Wall outpaces most other developing and transitional countries, but is reaching a critical crossroads. If the pace of judicial reform is maintained and implemented, it has the potential to impact on China and the world's future as much as the economic reforms of the last two decades, if not more so. The judicial system is emerging as a key institution in the reform process, and key decisions related to judicial independence in coming years will largely determine China's stature and

place within the global community, and the government's relationship with its citizens.<sup>1</sup> In a relatively short period of time, new criminal, civil and administrative law codes, anti-corruption laws, as well as thousands of judicial, economic and administrative regulations have either been passed, repealed or undergone substantial reform. Property rights and institutional reforms have also been enshrined in the constitution, an important Judges Law professionalising the judiciary has been passed and a number of important treaties have now been ratified. For the first time in modern Chinese history, the courts and legal profession are slowly but surely emerging as important, professional institutions with growing power.<sup>2</sup> The main question of the day is whether China's leaders will now make the structural, judicial and political reforms necessary to address corruption and create an independent judiciary – albeit with Chinese characteristics.

### **Structure of China's courts**

China has a continental or civil code legal system that, unlike common law, emphasises codified statutory law over case law. The court system has four levels: 3,000 or so basic people's courts at the local level; 390 intermediate people's courts at city and prefecture levels; 31 high people's courts at provincial capital level; and one Supreme People's Court (SPC) in Beijing at the national level.

Within this structure, there are approximately 200,000 judges and 100,000 court staff. It is noteworthy that there are estimated to be twice as many judges in China as practicing lawyers. Anecdotal reports suggest that some cases at the local level are still conducted with a sole judge, although the law provides for trial by a judge and two citizens, the so-called 'lay judges or assessors'.<sup>3</sup> Cases deemed to be 'major and complex' are sometimes decided by court adjudication committees, composed of senior judges who collectively discuss and decide cases. Depending on the nature of the case, this is sometimes done after consulting with the Communist Party political-legal committee.<sup>4</sup> While these kinds of cases are

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<sup>1</sup> For purposes of this paper the judiciary refers specifically to the courts. However, the judiciary in China also consists of the procuratorate, the Ministry of Public Security (police) and judicial administrative organs. Any generalisations in this paper should be qualified: it is important to realise that the level of professionalism of the courts and local government varies considerably in a country as large as China.

<sup>2</sup> This is the author's observation on the pace and intensity of the first wave of judicial reforms in China, given that a modern legal system barely existed 25 years ago. More than 300 new laws and resolutions have been passed in less than two decades. Since 2000, the Supreme People's Court has issued more than 200 related 'judicial interpretations' and 328 'judicial suggestions'. There are now close to 3,000 judicial interpretations, all of which have been reviewed from a WTO compliance perspective. Whether reform will continue in the Second Five-Year Reform Plan for the People's Courts (2004–2008), which contains many more difficult, second-generation reforms, including institutional checks and balances, and enforcement of the rule of law, remains in question. See [www.cecc.gov/pages/virtualAcad/index.phpd?showsingle=38564](http://www.cecc.gov/pages/virtualAcad/index.phpd?showsingle=38564)

<sup>3</sup> Decision of the Standing Committee of the National People's Congress Regarding the Improvement of the System of People's Assessors, 1 May 2005. From the author's interviews with procurators, scholars and judges, this law or regulation is seen as an important judicial independence reform, while others believe that neither judges nor the adjudication committee – as long as it exists as is – will ever allow lay judges or assessors to make final court decisions (It should be noted that a regulation passed by the State Council has the force of law). According to informed scholars who have studied this system at the local level, most assessors have never received training and do not fully understand their roles or responsibilities.

<sup>4</sup> Reform or abolition of the court's adjudication committees have been debated for many years, but it was not included in the Second Five-Year Reform Plan. These committees are composed of senior party members, including the local head of Public Security, who sometimes sits on the party's political-legal committee. Since this committee often includes senior judges and non-judges who did not sit on the panel hearing the actual case, their retention would appear to violate the constitutional and international right to an open trial. In cases in which these committees make the decision, many scholars believe their action would appear to render more junior, sitting judges somewhat powerless in practice; it also opens the door to opportunities for judicial corruption.

generally thought to be the exception not the rule, there is no empirical way to know what the situation is in practice.

Decisions by courts do not establish legal precedents *per se*, but important decisions by the SPC are highlighted in official guidance and have similar precedential effects. In addition, while the SPC and many courts around the world issue internal court rules, the SPC is somewhat unique in that it issues ‘judicial interpretations’ of laws, regulations and conflicting lower court decisions, which are theoretically binding on all courts. This body of lesser known jurisprudence is important in China where laws and regulations are quickly evolving, and are often conflicting and ambiguous.

Local courts of first instance hear approximately 80 per cent of cases in China, with the statutory right of review at the next court level. While this is analogous to the trial and appeal process in other legal traditions, all courts at the trial and appellate levels have the discretionary right to grant an appeal. Appeals can be *de novo* or simply a review of the law or facts. The right to petition for an unlimited number of appeals opens the door for uncertainty, delayed justice and corruption. As in other countries, many perceive that a number of corruption cases are arbitrarily brought against political enemies or economic competitors, and against junior rather than senior officials, although this is difficult to verify. Cases involving corruption and bribery in the private sector have recently become a new high priority.<sup>5</sup>

### **Centralised power vs. judicial independence**

From a historical perspective and until relatively recently, China had no tradition of separation of powers and the courts were seen as little more than another administrative agency. Indeed, the scholar He Weifang writes: ‘The most significant impact of this traditional model of a highly centralised government is that it prevented knowledge and development of judicial independence. It didn’t even provide the context for this principle.’<sup>6</sup> Aside from judicial independence, however, there persisted an image of upright and incorruptible officials, and public expectation of fair and honest judges.

Article 126 of the constitution explicitly proclaims that ‘the people’s courts shall, in accordance with the law, exercise judicial power independently, and are not subject to interference by administrative institutions, public organisations or individuals.’ However, this provision seems to directly contradict article 128, which states that the SPC ‘is responsible to the National People’s Congress (NPC) and its standing committee’, and that the ‘local people’s courts at different levels are responsible to the organs of state power which created them.’

The latter article thus subjugates the SPC to the Chinese legislature.<sup>7</sup> Concomitantly, lower courts are subject to the oversight powers of the provincial and local congresses, although the latter’s capacity to perform this task is limited. Local congresses are theoretically responsible

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<sup>5</sup> Asia-Pacific Economic Cooperation, ‘Summary of Anti-corruption Efforts in China’, APEC policy statement, 24 April 2006. Available at [www.apec.org](http://www.apec.org) It is telling that this otherwise well-reasoned policy statement expressly adopts a holistic approach to addressing and preventing corruption, but barely mentions judicial reform or judicial corruption as priorities.

<sup>6</sup> He Weifang, ‘Judicial System and Governance in Traditional China’, paper presented at the Canada-China Governance Dialogue Seminar, Ottawa, Canada, June 2005. For more see He Weifang, ‘The Style and Spirit of Traditional Chinese Judicial Decisions’, *Social Sciences in China*, no. 3 (1991).

<sup>7</sup> Note that the legislature is ‘elected’ from within the one-party system construct, but it does not meet global standards as a publicly elected body through free and fair elections.

for courts' financial and personnel decisions, such as the nomination and removal of court presidents, but in practice they are subject to local government officials who control the judicial and congressional purse-strings.<sup>8</sup> Court presidents and others at all levels are nominated in consultation with the local government/party leadership, and only then formally approved by the congressional standing committee.

A multi-layered horizontal and vertical judicial structure and decision-making process, coupled with reliance on local government funding, provide many opportunities for judicial interference and corruption; it gives the concepts of separation of powers and judicial independence special meaning in the Chinese context.

At the same time, China's economic boom and growing international obligations are generating demand for a judiciary that can resolve disputes fairly and effectively through impartial rules and procedures. The Chinese leadership recognises that the independence of the judiciary, as defined by the international community, has positive consequences for trade, investment and financial markets. Perhaps most importantly in the short-term, it understands that the judiciary is an important dispute-resolution or complaint mechanism that has the potential to promote social stability. Recent empirical research of stock market reactions to key court and NPC decision in Hong Kong and Beijing supports the notion that the extent to which the judiciary decides cases impartially, without political interference, has a positive effect on financial markets.<sup>9</sup>

### **Networks, bribery and political interference**

While judicial corruption emerged as a public issue as early as 1992, most cases have been brought since the late 1990s. There are many underlying reasons for the emergence of the issue, including the expanding role of the courts in the economy and political process, and more judicial transparency and accountability within a legal system that is based more on professional standards and procedures than on relationships or customs. China's liberalised marketplace and its commitment to adhere to global transparency and non-discrimination practices, such as those of the World Trade Organization and various human rights treaties, have helped to expose some of the secretive networks in both the public and private sectors.

These internal and external forces have forced new demands on the judiciary and served to highlight its important institutional role. Citizens are asserting their rights and going to court in record numbers. Indeed, some 4.4 million civil cases were filed in 2005, more than double the total a decade ago.<sup>10</sup> Behind this surge in legal activity is the theory that everyone, even party officials, should be held accountable under the law.

In 1998, the SPC included a number of anti-corruption elements in its five-year judicial reform programme that targeted the 'moral integrity of judges'.<sup>11</sup> While there is a dearth of empirical data, many believe that judicial corruption is a serious problem, particularly at the

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<sup>8</sup> Some provincial congresses and certain committees in the National People's Congress have been trying to play a more active oversight role in recent years. For instance, computer systems have been established to assist legislatures in keeping an eye on government expenses. Not unlike the judiciary, the congresses are becoming more important institutions with teeth, but they remain ultimately subservient to the party and government.

<sup>9</sup> Emily Barton Johnson, 'Pricing Judicial Independence: An Empirical Study of Post 1997 Court of Final Appeal Decisions in Hong Kong', *Harvard International Law Journal*, vol. 43, no. 2 (summer 2002); Randall Peerenboom, 'Judicial Independence in China' (unpublished, 2006).

<sup>10</sup> 2006 SPC Report to the National People's Congress.

<sup>11</sup> *People's Daily* (China), 20 June 2003.

local level. The main forms of judicial corruption appear to relate mainly to either pure bribery or, in sensitive cases, from political interference from government or party officials. In the celebrated Wuhan court bribery case, it appeared to be systemic and organised at all levels of the judiciary (see below).

Some of the most common methods of effectuating corruption in the judiciary include:

- Fabricating rulings in exchange for money
- Blackmailing litigants into paying for, or excluding, evidence
- Making decisions based on instructions from local government, party or senior judicial officials, rather than the law or facts
- Assigning, dismissing, delaying or refusing to accept cases, or to properly enforce court decisions
- Extorting kickbacks from intermediaries for passing cases to certain judges
- Trading law enforcement services for personal gain
- Taking bribes from the plaintiff and defendant (or their lawyers), or both
- Manufacturing court cases
- Embezzling court funding
- Bowing to the demands of local officials, criminal networks, local clans, social networks or economic interests
- Abusing the power of judges to order suspension of business operations, the confiscation of property, the eviction of tenants, or fair compensation and labour rights.<sup>12</sup>

### **Judicial corruption and the Wuhan affair**

In response to demands for a more fair and effective judiciary, the SPC issued a code of ethics setting down 13 rules strictly prohibiting certain corrupt behaviour in 2002. That same year the NPC joined the anti-corruption fight by embracing open trials, the separation of trials from enforcement and monitoring, the evaluation of judges, and amendments to the criminal code that laid down a 10-year prison term for abuse of judicial power. Since then, thousands of judges and other court staff have been arraigned or prosecuted for corruption.<sup>13</sup> For example, in 2004 the procuratorates<sup>14</sup> opened 9,476 investigations into law enforcement personnel and judicial staff, almost 67 times the number in the early 1990s. It should be noted, however, that this number is very small in comparison to the number of judges and judicial personnel in China. A review of the World Bank's annual World Business Survey

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<sup>12</sup> Fan Ren, 'Calling for an Independent Judiciary', *Beijing Review*, no. 23, 10 June 2004; Randall Peerenboom (2006) op. cit.

<sup>13</sup> While the accuracy of the data on judicial corruption is open to question, 794 judges were investigated and punished in 2003. Two scholars report that over 24,000 court employees were arraigned or prosecuted for corruption in 2002 (See *Global Corruption Report 2004*). However, the number of public complaints against them dwarfs the number of judges and court officials under investigation. In the same year, citizens filed 435,547 complaints against judges, prosecutors and police. According to testimony by Minxin Pei before the US Senate Foreign Relations Committee on 7 June 2005, a survey of 12,000 people in 10 provinces by the Communist Party's Central Discipline and Inspection Commission in late 2003 revealed that courts, the police and the procuratorate were considered among the five most corrupt public institutions.

<sup>14</sup> Various institutions are responsible for addressing government corruption, including the procuratorate, the Ministry of Supervision and various disciplinary bureaus within government agencies. The procuratorate, like the courts and police, has judicial inspection bureaus for rooting out internal corruption, and they are charged with addressing judicial corruption. It is a multi-layered institution with arms at local, city and provincial levels that ultimately report to the Supreme Procuratorate in Beijing.

indicates that overall corruption in China appears to be less than that in other developing countries with similar per capita income.<sup>15</sup>

From the late 1990s to 2006, senior officials investigated for corruption have included the former vice-minister of public security, the former chief procurator of Shenyang municipal procurator's office, the former vice-procurator of Jiangsu province, the former presidents of the high courts in Liaoning, Guangdong and Hunan provinces, and the former director general of Jiangsu province's anti-corruption bureau. Two judges were dismissed and another jailed. The number of high level judges charged and convicted of corruption in China can probably be explained, in part, by the fact that it is easier and less costly to bribe one high-level judge rather than all the members of the court's adjudication committee.

Perhaps the most revealing case in China's anti-corruption campaign is the Wuhan court affair. In Wuhan, Hubei province, 91 judges were charged with corruption, including a vice-president of the high court, two presidents of the intermediate courts and two presidents of the basic courts. The ringleaders, two former Wuhan intermediate court vice-presidents, were ultimately convicted of corruption and sentenced to 6.5 and 13 years in prison. Ten judges under their supervision were also sent to jail and a 13-member group was found to have pocketed almost 14 million yuan (approximately US \$180,000). The investigation implicated more than 100 other judges and court officials, who were disciplined or reassigned to other courts. Finally, 44 lawyers were investigated and 13 were charged with bribery.<sup>16</sup>

The significance of the Wuhan affair is at least threefold. First, it signalled that senior officials were committed to rooting out judicial corruption. Secondly, it helped provide the impetus for more, not less, judicial reform. Thirdly, and for the first time, it revealed an organised ring of corrupt judicial and law enforcement networks running a system of bribery at all levels. By the end of the investigation in 2004, 794 judges in China had been disciplined for irregularities but only 52 were investigated for serious crimes. China's Chief Justice Xiao Yang has reported that the number of corrupt judges and court officials had fallen steadily from 6.7 per 1,000 in 1998 to two per 1,000 in 2003,<sup>17</sup> although this is difficult to verify independently.

In 2006, Chief Justice Xiao and the Minister of Justice, Zhang Fusen, announced a crackdown on the relationship between judges and lawyers following a 2004 ruling by the SPC to better regulate control between them. Zhang said that some of China's 100,000 lawyers depended on bribes to win lawsuits, and that the income gap between judges and lawyers made this type of corruption more likely. He urged courts to improve judges' working and living conditions so they could better resist the lure of private interests. Rules governing 'justifiable relationships between judges and lawyers' were announced, and lawyers' associations and the public were asked to report any improper behaviour.<sup>19</sup>

### **Judicial education and standards**

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<sup>15</sup> See [www.worldbank.org/wbi](http://www.worldbank.org/wbi)

<sup>16</sup> *Newsweek* (China), 19 April 2004; and United States House International Relations Committee Hong Kong Brief at [www.house.gov/international\\_relations](http://www.house.gov/international_relations)

<sup>17</sup> *Newsweek* (China), 19 April 2004; and United States House International Relations Committee Hong Kong Brief at [www.house.gov/international\\_relations](http://www.house.gov/international_relations)

<sup>19</sup> *People's Daily* (China), 4 June 2006. If enforced fairly, the regulation has the potential to eliminate many opportunities for corruption between lawyers and judges, and to enhance the stature of the judiciary in the eyes of the public. It prohibits judges, among other things, from having any financial relationship with litigants or lawyers, or having *ex parte* communications.

The Judges Law of 1995, strengthened in 2001, aimed to truly professionalise the judiciary for the first time in contemporary Chinese history. The law was a significant accomplishment in many respects, having raised the qualifications bar for all judges who are now required to have a college degree and to pass a national uniform examination.<sup>20</sup>

It also outlined the process for appointing, promoting, dismissing and disciplining judges and stated that judges may not:

- Embezzle or take bribes
- Practice favouritism in breach of law
- Abuse power to violate the lawful rights and interests of citizens
- Abuse power to seek profit for themselves or others
- Meet in private with litigants and their representatives
- Accept their gifts and favours.

Judges who engage in such acts can be disciplined to varying degrees, ranging from a warning and dismissal from office to prosecution for criminal liabilities.<sup>21</sup> Over the last two decades the percentage of judges with college degrees has risen from about 17 per cent to over 51 per cent nationally. Note the percentage is reported to be considerably higher in some jurisdictions like Shanghai.<sup>22</sup> There is a national judges' college in Beijing and over 20 affiliated regional colleges, but their financial and human resource capacity is seen as inadequate to carry out the task at hand.

In addition to the Judges Law, the first national judicial code of ethics was promulgated in 2002. It is a series of 13 general directives to judges related to the taking of gifts or other benefits from parties in a case and asset and income declarations. The list reflects some but not all the conflict of interest guidelines and best practices found in the Bangalore Principles on Judicial Independence. The SPC subsequently issued guidance on the meaning of the rules, but observers admit that more effective and definitive internal mechanisms and court guidance are needed to enforce the rules in practice.

### **Underlying causes of judicial corruption and next steps**

While much of what China needs to do to address judicial corruption is exemplified in the 60-plus reforms found in the new 2005 Five-Year Judicial Reform Plan and in China's anti-

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<sup>20</sup> In 2004 the Ministry of Justice published the Programme on State Judicial Examination. Other important foundational laws include a Lawyers Law and Procurator Law (both revised 2001). Together these laws are believed to have played an important role in professionalising the judiciary and elevating its status.

<sup>21</sup> See 'China's Judiciary' at China Internet Information Centre. Available at [www.china.org.cn/english/Judiciary/25025.htm](http://www.china.org.cn/english/Judiciary/25025.htm)

<sup>22</sup> Numbers reported in international media vary. i.e. CNN report in 2002 *China hones in on bad judges*, "Around 70 per cent of China's judges do not have legal degrees." However, the most reliable official statistics appear to be reflected in an article entitled *China's Supreme People's Court Announces Stricter Standards for Judges*, BBC Monitoring Int'l Report, Oct. 27, 2003. For example, in Shanghai over 80 percent of the judges have attained at least a bachelor's degree, about 7 percent have master's degrees and about 4 percent have doctorate degrees (*Judges Must Have At Least 60 Hours of Training Every Year*, Shanghai Morning Post, Dec. 10, 2004).

<sup>24</sup> USAID/IFES 'Global Guidance for Promoting Judicial Independence and Impartiality' (Washington D.C.: USAID/IFES, 2002). Available from [www.IFES.org](http://www.IFES.org).

corruption efforts, neither fully confront the underlying causes of judicial corruption found in China and many other countries.<sup>23</sup>

A cursory review of available global research indicates that underlying causes of judicial corruption relate primarily to:

- Politicised and non-transparent appointment, promotion, disciplinary, judicial decision-making and enforcement processes
- Judiciaries that are unaccountable, under-funded and budgetarily manipulated by executive or political powers
- Pure financial bribery.<sup>24</sup>

The question for China is no longer whether it should create an independent judiciary, but how to do it. No foreigner can write the prescription for China's corruption woes, but for a prescription of what not to do, a few global lessons learned from other countries can offer some guidance.

The first global lesson suggests that the answer is not so much the passage of reforms and new laws; rather it is their application and enforcement in practice. An independent judiciary with integrity is essential to making this happen, and to developing a rule of law culture.<sup>25</sup> Fair, efficient and effective implementation of the law will not be an easy journey for China where government officials hold the ultimate legal reins at local and national levels.

The second lesson learned is that judicial corruption is fuelled when there are too many visible, invisible, legal and illegal forces involved in judicial processes. In China, this includes: government, congress and party officials at the national, provincial, district and local levels; executives with state or private economic interests; organised crime and corruption networks; and senior judges, prosecutors and police. The limitation if not elimination of these legal and practical forces, both internal and external, is essential. One of the key questions therefore is when and how the internal and external judicial decision-making firewalls will be erected within the political context of establishing the rule of law in 21<sup>st</sup> century China?

A third lesson is the need for fair and predictable justice. Addressing and preventing corruption requires open, transparent, accountable, accessible legal and judicial processes and professional judges with integrity. These processes include all key phases of the judicial system, including budgets, appointments, promotions, discipline, trials, decisions, appeals and enforcement. In China, making judicial processes more transparent and opening courtrooms to the public would seem to be among the very highest reform priorities.

A fourth lesson learned is that judicial reforms must link up with broader economic, institutional and political reforms, and insulate the judiciary from both internal and external

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<sup>23</sup> Examples of underlying causes of judicial corruption from other countries include India, where processes are prohibitively lengthy and bureaucratic; Mexico, where judges' decisions are subject to bribery and the budgetary whims of local officials, and Viet Nam, where the laws are vague, many judges are unqualified, and multiple institutions and officials participate in judicial appointments and the decision-making process. A survey of research and interviews with officials and scholars indicate that many of these problems exist in China as well.

<sup>24</sup> USAID/IFES 'Global Guidance for Promoting Judicial Independence and Impartiality' (Washington D.C.: USAID/IFES, 2002). Available from [www.IFES.org](http://www.IFES.org)

<sup>25</sup> This includes independent courts, prosecutors and police as well as an independent legal profession. See Violaine Autheman and Keith Henderson *Global Best Practices, Judicial Integrity Principles and Best Practices* (Washington D.C.: IFES, 2004).



forces. In China this problem is particularly acute at the local level. Legal reforms should include both public and private sector corruption, and institutional and structural reforms should include making judicial independence and accountability a reality. These interconnected and institutional reforms may be the most difficult ones to make, but global experience tells us they have been the key to success in other countries. How China can make this happen at the local level, as well as sequence and prioritise such reforms in a timely fashion, is the question of the day for China's leaders.

A fifth lesson learned relates to the enforcement of laws and court judgments. Promoting a rule of law culture requires that senior government officials and the state should set the example. In China, the powers-that-be must be persuaded that a more empowered, independent judiciary will be both a market and a crowd pleaser, as well as good politics. They must also believe that the judiciary will be an efficient, dispute-resolution mechanism that will promote social harmony and that it will not be a serious threat to their grip on power. These are tall orders in any country and will require the Chinese authorities to make some tough decisions.

A sixth lesson learned is that promoting judicial and anti-corruption reforms requires a solid understanding of the underlying causes and a holistic, prioritised strategy that includes systematic monitoring and reporting. It also requires serious public and business community engagement. The United Nations Convention Against Corruption (UNCAC) is an important strategic framework for assessing, promoting and implementing anti-corruption and judicial reforms, and for measuring reform progress. In China, the overriding challenge is to take the political and legal steps necessary to actually implement the judicial independence principles and anti-corruption laws it has committed to in its own constitution, and in the various treaties and instruments it has ratified or embraced. These include the UNCAC and the 1995 Beijing Principles, which by any standard are among the best consensus norms in these areas.<sup>26</sup>

In conclusion, China has made significant strides in developing the rule of law, but whether the powers-that-be can take the next most important step over the Great Wall, and create an independent judiciary, is a question something only they can answer.

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<sup>26</sup> Statement of Principles of the Independence of the Judiciary ('Beijing Principles') in the Law Association for Asia and the Pacific (LAWASIA) Region, 6<sup>th</sup> Conference of Chief Justices of Asia and the Pacific Region, Beijing, August 1995. This judicial declaration, which was approved by China's Chief Justice, clearly acknowledges the international definition of judicial independence and unofficially commits all signatory Asian countries to undertake a series of specific judicial independence reforms.