

THE IDEOLOGICAL ESSENCE AND PRACTICAL POWER OF CHINA'S CONSTITUTIONAL THEORY IN THE NEW ERA

Zhang Wenxian

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Zhang Wenxian^{*}

The *Constitution* is the fundamental law of the state, serving as the general charter and supreme basis for establishing, governing, and administering the country. It stipulates the state system, political system, human rights, and basic rights and obligations of citizens, as well as the organizational structure and functions of state institutions. *China's Constitution* also establishes the leadership status and governing role of the Communist Party of China, and prescribes the state's guiding ideology, development goals, development path, and fundamental state policies. By virtue of these essential attributes of the *Constitution*, constitutional theory is inevitably the cornerstone and core of the state and the theoretical system of the rule of law, playing a foundational and guiding role in the development of jurisprudential theory and the construction of legal knowledge system. Throughout the historical periods of revolution, construction, reform, and rejuvenation, the Communist Party of China has attached great importance to the study of constitutional theory and the construction of a constitutional theoretical system, developing a constitutional theory that is distinctive and profound. Since the 18th National Congress of the Communist Party of China, the Party Central Committee with Comrade *Xi Jinping* at its core has exercised comprehensive law-based governance, upheld fundamental principles and broken new ground, and adapted Marxist constitutional theory to the Chinese context and the needs of the times. It has thereby established the constitutional theory of China in the new era and opened a new chapter in constitutional theory and practice. China's constitutional theory in the new era — namely, the constitutional theory embodied in *Xi Jinping Thought on the Rule of Law* — represents the latest achievements in adapting Marxist constitutional theory to the Chinese context and the needs of the times. It constitutes an integral part of *Xi Jinping Thought on the Rule of Law* and represents a constitutional theoretical system forged

^{*} Distinguished Professor of Philosophy and Social Sciences at Jilin University and Convener of the Law Division of the Social Sciences Committee Under the Ministry of Education. This paper is a phased achievement of the major project of the Marxist Theory Research and Construction Project and the major project of the National Social Science Fund of China, entitled *Improving the System of Socialist Rule of Law with Chinese Characteristics* (2024MZD022).

through the ‘Two Integrations’ — integrating the basic tenets of Marxism with China’s specific realities and fine traditional culture — thereby possessing distinct political, legal, and academic features of the new era. In-depth study, research, and dissemination of China’s constitutional theory in the new era will inevitably deepen the scientific understanding of the history of constitutional civilization and the historical, theoretical, and practical logic of *China’s Constitution*. It will strengthen confidence in the socialist *Constitution* with Chinese characteristics and socialist rule of law with Chinese characteristics; reinforce confidence in the guiding ideology, development path, and goals established by the *Constitution*; consolidate confidence in the leadership of the Communist Party of China and the system of socialism affirmed by the *Constitution*; and bolster confidence in the advanced socialist culture and fine traditional Chinese culture created under the Party’s leadership and enshrined in the *Constitution*. It will also enhance the political, theoretical, and practical awareness in upholding the ‘Two Establishments’ and ensuring the ‘Two Upholds’.

I. THE INTEGRATED DEVELOPMENT OF MARXIST CONSTITUTIONAL VIEW BY CHINA’S CONSTITUTIONAL THEORY IN THE NEW ERA AND ITS MAJOR ORIGINAL CONTRIBUTIONS TO CONSTITUTIONAL THEORY AND CIVILIZATION OF THE RULE OF LAW

General Secretary *Xi Jinping* has proposed a series of scientific concepts, categories, assertions, judgments, propositions, and viewpoints concerning major constitutional issues. These theoretical innovations have made milestone contributions in the history of the development of constitutional theory, the evolution of the rule of law thought, and human civilization of the rule of law. General Secretary *Xi Jinping*’s original contributions to constitutional theory are comprehensive, which can be systematically comprehended through six interconnected dimensions: constitutional civilization theory, ontology theory, value theory, institution theory, practice theory, and epistemology and methodology. This article presents the representative constitutional discourses of General Secretary *Xi Jinping* in the original form, aiming to highlight the original contributions, and enhance public understanding and recognition of China’s constitutional theory in the new era.

In terms of constitutional civilization theory, General Secretary *Xi Jinping* traced back to the origin of the constitution along the trajectory of the historical development of human civilization, identifying the inherent laws governing the emergence, evolution, and progress of the constitution. In particular, he clarified why *China's Constitution* came into being, why it is distinct, how it continues to progress, and in what ways it embodies significance, forming a theory of constitutional civilization with Chinese characteristics, style, and vision. General Secretary *Xi Jinping* has stated that 'The issue of the rule of law versus the rule of man is a fundamental question in the history of human political civilization, and a major issue that all countries must address in the process of modernization.'¹ 'When the rule of law prevails, the country will prosper; but should it weaken, the country will descend into chaos.'² 'The rule of law is an important achievement of human political civilization and also a basic method of modern social governance.'³ 'The rule of law is a symbol of human progress.'⁴ 'The legislation and implementation of a constitution mark the progress of human civilization and underpin the modernization of human society.'⁵ 'The history of the development of *China's Constitution* shows the history of China's modern development in miniature.'⁶ 'China's current *Constitution* was formulated and continuously refined based on a profound synthesis of the successful experience of our socialist revolution, construction, and reform. It is a logical outcome of history, theory, and practice based on the long-term efforts of the people under the leadership of the Party.'⁷ 'The *Constitution* formulated under the leadership of our Party was established after the victory of the new democratic revolution, which achieved national independence and the

1 XI JINPING, SPEECH AT THE SECOND PLENARY SESSION OF THE FOURTH PLENARY SESSION OF THE 18TH CPC CENTRAL COMMITTEE (OCTOBER 23, 2014), in EXCERPTS FROM XI JINPING'S DISCOURSES ON COMPREHENSIVE LAW-BASED GOVERNANCE, at 12 (Central Party Literature Press, 2015).

2 XI JINPING, DEEPLY UNDERSTAND THE SIGNIFICANCE OF CONSTITUTIONAL AMENDMENT (JANUARY 19, 2018), in ON ADVANCING COMPREHENSIVE LAW-BASED GOVERNANCE, at 194 (Central Party Literature Press, 2020).

3 XI JINPING, UPHOLD THE SPIRIT OF THE RULE OF LAW AND REALIZE FAIRNESS AND JUSTICE (SEPTEMBER 26, 2017), in ON ADVANCING COMPREHENSIVE LAW-BASED GOVERNANCE, at 183 (Central Party Literature Press, 2020).

4 *The 25th Session of the Standing Committee of the 10th Zhejiang Provincial People's Congress Concluded; Xi Jinping Presided over the Session and Delivered a Speech, and the Resolution on Advancing 'the Rule of Law in Zhejiang' Was Adopted*, Zhejiang Daily, May 25, 2006, at 1.

5 Xi Jinping, *Writing a New Chapter in the Practice of China's Constitution in the New Era: Commemorating the 40th Anniversary of the Enactment of the Current Constitution*, People's Daily, December 20, 2022, at 1.

6 XI JINPING, ON CHINA'S CONSTITUTION AND ADVANCING COMPREHENSIVE LAW-BASED GOVERNANCE, in ON ADVANCING COMPREHENSIVE LAW-BASED GOVERNANCE, at 210 (Central Party Literature Press, 2020).

7 *Id.*, 213.

people's liberation. It emerged from the revolutionary struggle against old forces. The *Constitution* represents an entirely new framework for building a socialist country, breaking new ground in the history of the development of China's constitutional laws and the world's history of constitutional system.⁸ 'China's *Constitution*, in the form of the fundamental law, reflects the achievements of the Party leading the people in revolution, construction, and reform, and establishes the leadership status of the Communist Party of China as determined by history and chosen by the people.'⁹ 'China's *Constitution* is closely linked to the Party and the people's arduous struggle and brilliant achievements, as well as to the path of advancement opened up by the Party and the people and the valuable experience accumulated.'¹⁰ 'The *Constitution* must adjust to new circumstances, draw on new experience, and affirm new achievements, so as to maintain ever-lasting vitality.'¹¹ 'Our Party places great importance on the role of the *Constitution* in national governance, steadfastly upholds the authority and sanctity of the *Constitution*, and promotes its further improvement and development. This is the fundamental reason why *China's Constitution* remains vibrant.'¹² In the history of jurisprudence, neither any school of constitutional thought nor any constitutional treatise, reader, or textbook has offered such incisive and comprehensive insights into the global history of constitutional civilization and the new model of China's constitutional civilization.

In terms of constitutional ontology theory, General Secretary *Xi Jinping* provided a profound exploration of the essence of the *Constitution*, elucidating its core attributes, fundamental characteristics, and internal logic — particularly in the context of *China's Constitution*. His insights offer a comprehensive response to the foundational theoretical question of 'what is the *Constitution*?' General Secretary *Xi Jinping* profoundly observed that 'Law is the means by which the state establishes supreme

8 *Id.*, 214.

9 XI JINPING, EXPLANATION ON THE DECISION OF THE CPC CENTRAL COMMITTEE ON SEVERAL MAJOR ISSUES CONCERNING COMPREHENSIVELY ADVANCING LAW-BASED GOVERNANCE (OCTOBER 20, 2014), in ON ADVANCING COMPREHENSIVE LAW-BASED GOVERNANCE, at 92 (Central Party Literature Press, 2020).

10 XI JINPING, SPEECH AT THE MEETING OF THE PEOPLE FROM ALL WALKS OF LIFE IN BEIJING TO COMMEMORATE THE 30TH ANNIVERSARY OF THE PROMULGATION AND IMPLEMENTATION OF THE CURRENT CONSTITUTION (DECEMBER 4, 2012), in ON ADVANCING COMPREHENSIVE LAW-BASED GOVERNANCE, at 7 (Central Party Literature Press, 2020).

11 *Id.*, 8.

12 XI JINPING, *supra* note 6, 213.

credibility throughout the realm’,¹³ while ‘The *Constitution* is what the state relies on to gain the greatest popular trust.’¹⁴ The *Constitution* ‘serves as the fundamental basis for all national institutions, laws, and regulations’.¹⁵ The *Constitution* ‘stands as the supreme legal norm for the country’s political and social life’.¹⁶ ‘The *Constitution* embodies the common will and aspiration of the Party and the people and is the highest expression of state will, possessing fundamental, overarching, stable, and long-term characteristics.’¹⁷ Building upon previously formed understandings that the *Constitution* is the ‘general program for managing state affairs’,¹⁸ General Secretary *Xi Jinping* further proposed that ‘the *Constitution* serves as the general charter for governance of the country’,¹⁹ and ‘the *Constitution* provides the fundamental basis for comprehensively advancing law-based governance, enjoying supreme legal status, authority, and validity.’²⁰ *China’s Constitution* is ‘a sound constitution that fully reflects the common will of the people, fully safeguards the people’s democratic rights, and fully upholds their fundamental interests’.²¹ In the history of constitutional jurisprudence, General Secretary *Xi Jinping* upholds fundamental principles and breaks new ground, deploying a distinctively Chinese conceptual framework to explicate constitutional essence and developmental dynamics, thereby constructing a scientifically-grounded ontology of constitutional law.

In terms of constitutional value theory, General Secretary *Xi Jinping* stands at the commanding heights of constitutional values, discussing and demonstrating the core values of the socialist constitution, and profoundly answering the fundamental value question of ‘for whom the constitution ultimately serves, and wherein lie its enduring strengths.’ He has stated that ‘Formulating and implementing the *Constitution*, advancing law-based

13 WU JING, ESSENTIALS OF GOVERNMENT IN THE ZHENGUAN ERA (VOLUME V), at 281 (Zhonghua Book Company, 2009). XI JINPING, *supra* note 2, 198-199.

14 XI JINPING, *id.*, 199.

15 XI JINPING, *supra* note 6, 215.

16 Xi Jinping, *supra* note 5.

17 *Id.*

18 LI PENG, LAW-BASED GOVERNANCE ULTIMATELY MEANS GOVERNING THE COUNTRY IN ACCORDANCE WITH THE CONSTITUTION (MARCH 15, 1999), in COLLECTED WORKS OF LI PENG (VOLUME II), at 408 (People’s Publishing House, 2024).

19 XI JINPING, *supra* note 6, 213.

20 XI JINPING, EFFECTIVELY RESPECTING THE CONSTITUTION AND STRICTLY IMPLEMENTING THE CONSTITUTION (JANUARY 19, 2018), in ON ADVANCING COMPREHENSIVE LAW-BASED GOVERNANCE, at 201 (Central Party Literature Press, 2020).

21 XI JINPING, *supra* note 10, 9.

governance, and building a law-based country are inevitable requirements for realizing national prosperity, national rejuvenation, social progress, and the people's wellbeing.²² 'The underpinning of the *Constitution* is the people's heartfelt support, and the power of the *Constitution* lies in the people's sincere faith.'²³ 'Precisely because *China's Constitution* transcends the limitations of all old constitutional frameworks and achieves profound consistency between the Party's propositions and people's will, it possesses distinctive advantages, solid foundations, and robust vitality.'²⁴ 'Democracy is a common value of all humanity.'²⁵ 'Whole-process people's democracy is the defining feature of socialist democracy.'²⁶ 'We should develop whole-process people's democracy and ensure that the people run the country.'²⁷ 'The ultimate human right is that people can lead a happy life.'²⁸ 'The *Constitution* is not only the code of conduct that all citizens must abide by but also a legal weapon to safeguard their rights.'²⁹ 'Freedom is the end of order and order is the guarantee of freedom.'³⁰ 'Security is the prerequisite for development and development is the foundation of security.'³¹ 'Justice is the lifeblood of the rule of law.'³² 'We must uphold social equity and justice, which is the goal of the rule of law, and make sure that the people feel justice is served in every law, every law enforcement decision, and every judicial case.'³³

22 XI JINPING, *supra* note 6, 213.

23 XI JINPING, *supra* note 10, 13-14.

24 XI JINPING, *supra* note 6, 215.

25 XI JINPING, WHOLE-PROCESS PEOPLE'S DEMOCRACY IS SOCIALIST DEMOCRACY IN ITS BROADEST, MOST GENUINE, AND MOST EFFECTIVE FORM, *in* SELECTED READINGS FROM THE WORKS OF XI JINPING (VOLUME II), at 529 (People's Publishing House, 2023).

26 XI JINPING, HOLD HIGH THE GREAT BANNER OF SOCIALISM WITH CHINESE CHARACTERISTICS AND STRIVE IN UNITY TO BUILD A MODERN SOCIALIST COUNTRY IN ALL RESPECTS (OCTOBER 16, 2022), *in* SELECTED READINGS FROM THE WORKS OF XI JINPING (VOLUME I), at 30-31 (People's Publishing House, 2023).

27 *Id.*, 30.

28 XI JINPING, UNSWERVING ADHERENCE TO CHINA'S PATH OF HUMAN RIGHTS DEVELOPMENT (FEBRUARY 25, 2022), *in* SELECTED READINGS FROM THE WORKS OF XI JINPING (VOLUME II), at 597 (People's Publishing House, 2023).

29 XI JINPING, *supra* note 6, 219.

30 XI JINPING, ENSURE THAT THE INTERNET OPERATES HEALTHILY ON THE TRACK OF THE RULE OF LAW (FROM FEBRUARY 2014 TO JANUARY 2019), *in* ON ADVANCING COMPREHENSIVE LAW-BASED GOVERNANCE, at 64 (Central Party Literature Press, 2020).

31 Xi Jinping, *Explanation of the Proposal of the CPC Central Committee on Formulating the 14th Five-Year Plan for Economic and Social Development and the Long-Range Objectives Through the Year 2035*, People's Daily, November 4, 2020, at 2.

32 XI JINPING, *supra* note 9, 98.

33 XI JINPING, SPEECH AT THE FIRST MEETING OF THE COMMISSION FOR LAW-BASED GOVERNANCE UNDER THE CPC CENTRAL COMMITTEE (AUGUST 24, 2018), *in* ON ADVANCING COMPREHENSIVE LAW-BASED GOVERNANCE, at 229 (Central Party Literature Press, 2020).

Values determine functional capacities, whose manifestations yield substantive efficacy. China's constitutional theory in the new era guides the *Constitution* in playing an increasingly critical role in the governance of the country. General Secretary *Xi Jinping* pointed out that 'The political system established by the *Constitution* is used to regulate political relations, establish political order, promote national development, and maintain national stability.'³⁴ 'Power is a double-edged sword. If it is wielded in accordance with the law and rules, it can bring benefit to the people, but if it is abused, it will invariably bring disaster to the country and the people.'³⁵ 'We should set power, regulate power, restrict power, and supervise power according to the law.'³⁶ 'Upholding comprehensive law-based governance is a distinctive advantage of the socialist state system with Chinese characteristics and the national governance system.'³⁷ 'We should promote the modernization of China's governance system and capacity along the path of the rule of law.'³⁸ 'We should give better play to the important role of the *Constitution* in China's governance' and 'give better play to the role of the rule of law in consolidating foundations, ensuring stable expectations, and delivering long-term benefits, striving to build a modern socialist country in all respects under the rule of law.'³⁹

In terms of constitutional institution theory, General Secretary *Xi Jinping* precisely grasps the institutional logic of the *Constitution*, comprehensively summarizes the institutional advantages and characteristics of *China's Constitution*, systematically explains the status and role of *China's Constitution* in national governance and Chinese

34 XI JINPING, SPEECH AT THE CEREMONY MARKING THE 60TH ANNIVERSARY OF THE NATIONAL PEOPLE'S CONGRESS (SEPTEMBER 5, 2014), in ON ADVANCING COMPREHENSIVE LAW-BASED GOVERNANCE, at 77-78 (Central Party Literature Press, 2020).

35 XI JINPING, SPEECH AT A STUDY SESSION FOR PROVINCIAL AND MINISTERIAL-LEVEL OFFICIALS ON IMPLEMENTING THE SPIRIT OF THE FOURTH PLENARY SESSION OF THE 18TH CPC CENTRAL COMMITTEE ON COMPREHENSIVELY ADVANCING LAW-BASED GOVERNANCE, in SELECTED STATEMENTS OF XI JINPING ON COMPREHENSIVE LAW-BASED GOVERNANCE, at 37-38 (Central Party Literature Press, 2015).

36 *Id.*, 128.

37 XI JINPING, ADVANCING COMPREHENSIVE LAW-BASED GOVERNANCE AND GIVING FULL PLAY TO THE POSITIVE ROLE OF THE RULE OF LAW IN MODERNIZING CHINA'S GOVERNANCE SYSTEM AND CAPACITY (FEBRUARY 5, 2020), in ON ADVANCING COMPREHENSIVE LAW-BASED GOVERNANCE, at 272 (Central Party Literature Press, 2020).

38 XI JINPING, GUIDING COMPREHENSIVE LAW-BASED GOVERNANCE WITH SCIENTIFIC THEORIES (NOVEMBER 16, 2020), in ON ADVANCING COMPREHENSIVE LAW-BASED GOVERNANCE, at 3 (Central Party Literature Press, 2020).

39 XI JINPING, *supra* note 26, 33-34.

modernization, and clearly answers the major practical question of ‘why China’s constitutional system works.’ He states that ‘Strong and stable institutions make a strong and stable nation.’⁴⁰ ‘The world today is undergoing profound changes unseen in a century, and competition between countries is increasingly fierce; in the final analysis, it is a competition between national systems.’⁴¹ ‘The socialist state and legal systems with Chinese characteristics have been formed through long-term practices and explorations, representing great creations in human history.’⁴² ‘The socialist state and legal systems with Chinese characteristics enjoy the advantages of the Party’s leadership, the running of the country by the people, law-based governance in all fields, and democratic centralism.’⁴³ ‘Democratic centralism is the fundamental principle of China’s state organizational form and mode of operation, and a salient feature of China’s state system. Under the Party’s leadership, all state organs form a unified whole, with sound division of labor and close coordination, and with democracy fully exercised and effective centralization achieved. It has overcome dysfunctional phenomena such as endless deliberation without decision-making, decisions without implementation, and implementation without substantive results, thereby avoiding mutual constraints and inefficient governance.’⁴⁴ ‘The *Constitution of China* confirms the leadership of the Communist Party of China, which is the most prominent feature of *China’s Constitution* and the fundamental guarantee for its full implementation.’⁴⁵ ‘People’s democracy is the lifeblood of socialism; without democracy, there is no socialism, no socialist modernization, and no great rejuvenation of the Chinese nation.’⁴⁶ ‘The system of people’s congresses is an important part of the system of socialism with Chinese characteristics and also a key component of China’s governance system.’⁴⁷ ‘As a fundamental institutional arrangement, the system of people’s

40 Xi Jinping, *Speech at the Central People’s Congress Work Conference (October 13, 2021)*, 5 *Qiushi Journal* 6-7 (2022).

41 XI JINPING, UPHOLDING, IMPROVING AND DEVELOPING THE SOCIALIST STATE SYSTEM AND LEGAL SYSTEM WITH CHINESE CHARACTERISTICS (SEPTEMBER 24, 2019), in *ON ADVANCING COMPREHENSIVE LAW-BASED GOVERNANCE*, at 265 (Central Party Literature Press, 2020).

42 *Id.*, 262.

43 *Id.*, 264-265.

44 *Id.*, 265.

45 XI JINPING, *supra* note 6, 214.

46 XI JINPING, *supra* note 25, 530.

47 XI JINPING, UNWAVERINGLY UPHOLD AND CONTINUOUSLY IMPROVE THE SYSTEM OF PEOPLE’S CONGRESSES (OCTOBER 13, 2021), in *ON ADVANCING COMPREHENSIVE LAW-BASED GOVERNANCE*, at 522 (Central Party Literature Press, 2020).

congresses integrates the Party leadership, the running of the country by the people, and law-based governance in an organic unity.’⁴⁸ ‘The system of people’s congresses is an important institutional vehicle for realizing whole-process people’s democracy in China.’⁴⁹ ‘State institutions carrying decision-making power, executive power, and supervisory power should have a sound division of labor and work in coordination.’⁵⁰ ‘We must strengthen the enforcement of systems, step up oversight over their implementation, and effectively translate our country’s institutional strengths into governance effectiveness.’⁵¹

In terms of constitutional practice theory, General Secretary *Xi Jinping* precisely grasps the *Constitution*’s practical origin, practical nature, and practical orientation, profoundly discussing the universal laws and practical significance of constitution-making, constitutional amendment, and constitutional implementation. He states that ‘The *Constitution* that our Party led the people to formulate was drawn up on the basis of the victory of the new democratic revolution, the achievement of national independence and the liberation of the people, and the sweeping away of all the old forces; it is a brand new *Constitution* formulated to build the People’s Republic of China under socialism.’⁵² ‘The People’s Republic of China is a socialist state under the people’s democratic dictatorship led by the working class and based on the alliance of workers and peasants. Our Party is the vanguard of the Chinese working class as well as the vanguard of the Chinese people and the Chinese nation, and therefore can formulate a people’s constitution in the true sense.’⁵³ ‘Practice has proved that consolidating the fundamental, basic, and important systems of the country through the *Constitution* and laws, and ensuring their implementation guarantee a systematic, standardized, coordinated, and stable national governance system.’⁵⁴ ‘*China’s Constitution* has been developed along with the people’s practices of building socialism with Chinese characteristics under Party leadership. This is a notable feature and a basic law of the

48 XI JINPING, *supra* note 34, 70-71.

49 XI JINPING, *supra* note 25, 532.

50 XI JINPING, *supra* note 34, 73.

51 XI JINPING, *supra* note 41, 266.

52 XI JINPING, *supra* note 6, 214.

53 *Id.*, 214-215.

54 XI JINPING, *supra* note 37.

development of *China's Constitution*.⁵⁵ 'Amending the *Constitution* is a major political and legislative undertaking that bears upon the overall situation.'⁵⁶ 'The very life of the *Constitution* lies in its implementation, from which its authority also stems.'⁵⁷ 'The development process of *China's Constitution* shows that as long as we respect and effectively implement the *Constitution*, the cause of the Party and the country will be able to progress smoothly; on the contrary, if the *Constitution* is disregarded, weakened, or even sabotaged, the cause of the Party and the country will suffer setbacks.'⁵⁸ 'The *Constitution* is the fundamental law of the state. Whether the authority of the rule of law can be established depends first and foremost on whether the *Constitution* possesses authority.'⁵⁹ 'Fully implementing the *Constitution* needs to be the primary task and the basic work in comprehensively advancing law-based governance and building a socialist country under the rule of law.'⁶⁰ 'The *Constitution* should be enforced in all aspects and the whole process of the country's governance. It is imperative to constantly enhance the ability of constitution-based governance and constitution-based exercise of state power.'⁶¹ 'We must ensure comprehensive implementation of constitutional provisions, principles, and spirit, while systematically advancing constitutional implementation, interpretation, and supervision.'⁶² 'We should develop sound, effective, and comprehensive institutions to ensure the implementation of the *Constitution*.'⁶³ 'We will give better play to the *Constitution's* important role in upholding the leadership of the Communist Party of China, ensuring that the people run the country, promoting reform and opening up as well as socialist modernization, building a socialist country under the rule of law, promoting all-round advancement of human rights, and upholding national unification, ethnic unity, and social harmony and stability.'⁶⁴

China's constitutional theory in the new era also cites many classical sayings from ancient China, subjecting them to creative transformation and

55 *The Second Plenary Session of the 19th CPC Central Committee Was Held in Beijing*, People's Daily, January 20, 2018, at 1.

56 XI JINPING, THE AMENDMENT OF THE CONSTITUTION SHOULD FULLY REFLECT THE WILL OF THE PEOPLE (DECEMBER 15, 2017), in ON ADVANCING COMPREHENSIVE LAW-BASED GOVERNANCE, at 188 (Central Party Literature Press, 2020).

57 XI JINPING, *supra* note 20, 200.

58 XI JINPING, *supra* note 6, 216.

59 XI JINPING, *supra* note 9, 94.

60 XI JINPING, *supra* note 10, 10.

61 Xi Jinping, *supra* note 5.

62 *Id.*

63 *Id.*

64 *Id.*

innovative development for explaining constitutional principles, such as: 'Law is the very foundation of governance.'⁶⁵ 'Law is the universal principle of the world.'⁶⁶ 'In order to bring order to the nation and nurture its people, one must establish the proper institutions.'⁶⁷ 'Establishing governance requires a coherent structure, and implementing governance must proceed in an orderly manner.'⁶⁸ 'Laws should be made based on the developments of the times, and rituals should be instituted to meet specific needs.'⁶⁹ 'Bringing benefit to the people is the fundamental principle of governance.'⁷⁰ 'The universal way leads to the greater good of all',⁷¹ and so forth.

In terms of constitutional epistemology and methodology, China's constitutional theory in the new era applies the worldview and methodology of Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era to constitutional research, forming new paradigms for constitutional research and leading new transformations in constitutional research. The epistemology of China's constitutional theory in the new era is Marxist epistemology. General Secretary *Xi Jinping* emphasizes that 'As part of the superstructure, the *Constitution* must adapt to changes in the economic base. No country can formulate a constitution that remains applicable in perpetuity.'⁷² 'The *Constitution* formulated by the people under the leadership of our Party is neither the same as Western constitutions nor the same as the old constitution that appeared in China in modern times.'⁷³ 'There are no identical political systems in the world, nor is there a political model that fits all countries.'⁷⁴ 'We must proceed from China's national conditions and reality, follow the path of the rule of law that suits us, and not copy the models and practices of other countries.'⁷⁵ The methodology of China's constitutional theory in the new era is Marxist

65 XUN KUANG, A BRIEF INTERPRETATION OF XUNZI, at 158 (Zhonghua Book Company, 1983).

66 ZHU XI, PRIVATE DISCUSSION ON IMPERIAL EXAMINATIONS, in COMPREHENSIVE COMPILATION OF MATERIALS ON THE IMPERIAL EXAMINATION OF THE SONG DYNASTY, at 323 (Jiangsu Phoenix Publishing & Media Group Co., Ltd., 2017).

67 XUN YUE, RECORDS OF THE FORMER HAN DYNASTY: ANNALS OF EMPEROR WU (VOLUME I), at 159 (Zhonghua Book Company, 2002).

68 CHENG HAO & CHENG YI, COLLECTED WORKS OF CHENG HAO AND CHENG YI (ESSENTIAL SAYINGS, VOLUME I), at 1214 (Zhonghua Book Company, 2004).

69 STRATEGIES OF THE WARRING STATES (VOLUME XIX), at 560 (Zhonghua Book Company, 2012).

70 LIU AN, THE MASTER OF HUAINAN (VOLUME XIII), at 722 (Zhonghua Book Company, 2012).

71 WANG WENJIN, COMMENTARY ON THE BOOK OF RITES, at 298 (Zhonghua Book Company, 2016).

72 XI JINPING, *supra* note 6, 213.

73 *Id.*, 214.

74 XI JINPING, *supra* note 34.

75 XI JINPING, *supra* note 33.

methodology. General Secretary *Xi Jinping* once quoted a famous saying by *Mao Zedong* when presiding over the drafting of the *Constitution of the People's Republic of China* in 1954: 'Creating a constitution is a matter of science',⁷⁶ and pointed out that 'Formulating and revising the *Constitution* is the most important political and legislative activity in all countries, and must be conducted in a serious and scientific manner.'⁷⁷ Constitutional amendment work must implement scientific legislation, respect and reflect objective laws, and focus on thinking about problems from the objective laws and internal requirements of constitutional development. 'Constitutional amendment should not only conform to the development requirements of the cause of the Party and the people, but also follow the rules governing the development of the *Constitution* and laws',⁷⁸ ensuring that *China's Constitution* is always a good constitution that conforms to national conditions, actual circumstances, and the requirements of the times.

The epistemology and methodology of China's constitutional theory in the new era are the organic unity of Marxist standpoint, viewpoint, and method, and the fundamental standpoint, viewpoint, and method for the Party and people to handle issues related to the *Constitution* and its implementation in the new era. General Secretary *Xi Jinping* emphasizes that 'Law-based governance and law-based exercise of state power begin with compliance with the *Constitution*. We must remain firmly committed to the leadership of the Party, to the state system of people's democratic dictatorship, and to the political system of people's congresses, all of which are mandated by the *Constitution*.'⁷⁹ This important exposition clarifies the logical starting point of China's constitutional theory in the new era, profoundly explaining that the Party's leadership position, the state form of people's democratic dictatorship, and the political system of the people's congress system are the ballast stones ensuring our country's political security, institutional security, political security, ideological security, and long-term stability of the Party and state. The logical relationships among them mutually prove and support each other, demonstrating the true essence and practical power of China's constitutional theory in the new era. The epistemology and methodology

⁷⁶ XI JINPING, *supra* note 2, 199.

⁷⁷ *Id.*

⁷⁸ XI JINPING, *supra* note 56.

⁷⁹ XI JINPING, *supra* note 26, 34.

of China's constitutional theory in the new era guide the construction of China's independent constitutional knowledge system and the building of a constitutional disciplinary system, academic system, and discourse system with Chinese characteristics.

The hundreds of distinctive original concepts, propositions, and discourses in the above six aspects are not isolated from each other but organically integrated, jointly interpreting the truth, political principles, legal principles, and philosophical principles of *China's Constitution*. These principles are interconnected and interlocked, driving innovation in China's constitutional theory and the construction of China's independent constitutional knowledge system.

II. PROFOUND ELABORATION ON THE RATIONALE, CONNOTATION, AND PRACTICAL ORIENTATION OF CONSTITUTION-BASED GOVERNANCE AND CONSTITUTION-BASED EXERCISE OF STATE POWER IN CHINA'S CONSTITUTIONAL THEORY IN THE NEW ERA

Upholding constitution-based governance and constitution-based exercise of state power is both the logical starting point and the practical focus of China's constitutional theory in the new era, and one of the core tenets of Xi Jinping Thought on the Rule of Law. Since the 18th National Congress of the Communist Party of China, General Secretary *Xi Jinping*, in response to the practical requirements of comprehensively advancing the rule of law and fully implementing law-based governance in the new era, has clearly stated that 'The *Constitution* is the fundamental law of the state. Law-based governance and law-based exercise of state power begin with compliance with the *Constitution*.'⁸⁰

A. The Juridical Logic and Scientific Connotation of 'Law-Based Governance and Law-Based Exercise of State Power Beginning with Compliance with the Constitution'

Within China's constitutional theory in the new era, the jurisprudential logic of these 'two compliances' lies in the following aspects.

Firstly, the *Constitution* 'stands as the fundamental legal basis for

80 XI JINPING, *supra* note 34, 72.

our Party's long-term governance'⁸¹ and 'the fundamental legal basis for our Party's national governance'.⁸² *China's Constitution* affirms the great struggles and fundamental achievements of the Communist Party of China in leading the people in revolution, construction, reform, and rejuvenation, explicitly stipulates the Party's leadership status, and establishes the Party's long-term governing status in the form of the fundamental law. The leadership and governing power of the Communist Party of China derive from the confirmation of the *Constitution* and the empowerment of the people, carrying full legitimacy and supreme authority, and constituting the inescapable political duty and historical responsibility of the Communist Party of China to the Chinese people and the Chinese nation as both the leading and governing Party.

Secondly, the *Constitution* is the highest embodiment of state will, the fundamental law of the state, and the source of all laws and regulations. Therefore, law-based governance and law-based exercise of state power must begin with compliance with the *Constitution*.

Thirdly, the rule of law is the basic way of national governance, and the *Constitution* serves as the general charter for national governance. Consequently, the *Constitution* is naturally the fundamental guidance for the Party's long-term governance of the country. As the Party leads the people in formulating and implementing the *Constitution* and laws, it must also act within the scope prescribed by the *Constitution* and laws, exercising leadership and governing authority in accordance with provisions of the *Constitution* and laws as well as statutory procedures.

The scientific connotation of constitution-based governance and constitution-based exercise of state power is reflected in the following aspects.

Firstly, the implementation of the *Constitution* must be integrated into all aspects and the entire process of national governance. This includes: (1) integrating constitutional implementation into the overall layout of the Five-Sphere Integrated Plan and the Four-Pronged Comprehensive Strategy, giving full play to the role of the *Constitution* as a 'compass' and 'guiding star' in Chinese modernization, and ensuring steady and sustained progress of Chinese modernization through the constitutional system and its implementation; (2) implementing constitutional provisions across reform,

81 XI JINPING, *supra* note 20.

82 Xi Jinping, *supra* note 5.

development, stability, domestic and foreign affairs, national defense, and the governance of the Party, the state, and the military to overcome various difficulties and challenges on the path forward, and to secure new victories in building a modern socialist country in all respects; (3) incorporating constitutional compliance into the entire process of decision-making and policy-making of Party committees at all levels, adhering to the bottom line of not conflicting with the *Constitution* and laws, and ensuring that decisions can withstand constitutional review, public oversight, and the test of history.

Secondly, the *Constitution* shall serve as the fundamental code of conduct for the Party's governance of the country. This is the original meaning and significance of 'governance in accordance with the *Constitution*'. 'This is an important conclusion reached by our Party after deeply summarizing both the positive and negative historical experiences since the founding of the People's Republic of China, especially the painful lessons of the cultural revolution, and is a vital principle that our Party must follow in national governance.'⁸³ General Secretary *Xi Jinping* has emphasized, 'The whole Party and the entire nation must take the *Constitution* as the fundamental guiding principle for all activities, safeguard the dignity of the *Constitution*, ensure its implementation, uphold social fairness and justice, and continuously raise the level of the rule of law in the country's political and social life.'⁸⁴ Particularly, 'Our Party must take the lead in respecting and enforcing the *Constitution*, and integrate the leading of the people in drafting and implementing the *Constitution* and laws with the Party's own commitment to act within the framework of the *Constitution* and laws.'⁸⁵

Thirdly, all national undertakings and work must be fully brought on the track of constitutional compliance, continuously raising the level of the rule of law in national political and social life, and better transforming the system of socialism with Chinese characteristics established by the *Constitution* into effective national governance. As General Secretary *Xi Jinping* pointed out, 'The Party's leadership of the people in formulating and improving the *Constitution* is precisely to give full play to the important

83 XI JINPING, *supra* note 20.

84 *Id.*

85 *Id.*, 217.

role of the *Constitution* in national governance’,⁸⁶ guiding and safeguarding Chinese modernization through the *Constitution*.

Fourthly, the Party’s leadership and governance methods should be innovated and improved, and the Party’s leadership and governance capacity should be enhanced. General Secretary *Xi Jinping* has emphasized: ‘The development of socialism with Chinese characteristics in the new era has raised new and higher requirements for our Party to govern the country and exercise state power in accordance with the *Constitution*.’⁸⁷ In light of the new situation and new requirements, the Party must continuously innovate and improve its leadership and governance methods, and enhance its capacity of constitution-based governance and constitution-based exercise of state power. Drawing on both positive and negative experience, we have realized that the more complex the international and domestic environment becomes and the more arduous the tasks of reform and opening up as well as socialist modernization are, the more we must adhere to constitution-based governance and constitution-based exercise of state power. We must employ the thinking and means of the rule of law to consolidate the Party’s governing status, improve its governance methods, enhance its governing capacity, and ensure the long-term stability of the Party and the country as well as the wellbeing of the people.

B. The Essential Difference Between Constitution-Based Governance and Constitution-Based Exercise of State Power and Western ‘Constitutionalism’

General Secretary *Xi Jinping* has pointed out, ‘We must make it clear that constitution-based governance and constitution-based exercise of state power are fundamentally different from Western ‘constitutionalism’, and the two must not be confused.’⁸⁸ Then, how can we gain a profound understanding of the essential distinction between them?

Firstly, they differ in the nature of the class. The constitution that we rely on for constitution-based governance and constitution-based exercise

86 XI JINPING, LAW-BASED GOVERNANCE AND LAW-BASED EXERCISE OF STATE POWER BEGIN WITH COMPLIANCE WITH THE CONSTITUTION (DECEMBER 2014 TO DECEMBER 2018), in ON ADVANCING COMPREHENSIVE LAW-BASED GOVERNANCE, at 128 (Central Party Literature Press, 2020).

87 XI JINPING, *supra* note 20.

88 XI JINPING, ADVANCING COMPREHENSIVE LAW-BASED GOVERNANCE FROM A HOLISTIC AND STRATEGIC PERSPECTIVE (NOVEMBER 16, 2020), in SELECTED READINGS FROM THE WORKS OF XI JINPING (VOLUME II), at 380 (People’s Publishing House, 2023).

of state power is fundamentally different in the nature of the class from the constitution relied upon in Western constitutionalism, and the two are not comparable. 'Law is the embodiment of the will of the ruling class.' Following the Marxist scientific proposition on the essence of law, it can be logically concluded that 'The constitution is the product of the will of the ruling class',⁸⁹ and 'The constitution is the concentrated expression of the will of the ruling class.' The constitutions of capitalist countries are the concentrated embodiment of the bourgeois will, whereas *China's Constitution* is the concentrated expression of the unified will of the Party and the people. It overcomes the defects of all previous constitutions that only represented the will of a minority and served the interests of a few. Therefore, it enjoys the broadest support and compliance of the people, with distinctive advantages, a solid foundation, and robust vitality.

Secondly, they differ in the nature of the state. The state is an instrument by which the class holding a dominant position in the economic, social, political, and ideological spheres exercises control over other classes — this is the essence of the state. This essence is most directly reflected in the state system and political system. The constitution, as the fundamental law and general charter of the state, stipulates the major institutions and fundamental affairs of the state, and the state system and political system are the most fundamental institutional arrangements stipulated by any constitution.

According to the *Encyclopedia Britannica*, the concept of 'constitutionalism' was invented by the British bourgeois Enlightenment thinker *John Locke*. The original meaning he endowed to the concept of 'constitutionalism' referred to 'constitutional monarchy' and 'separation of powers'. Over time, it was widely adopted by bourgeois scholars and its connotations gradually expanded. At present, 'constitutionalism' has become a core concept widely used in Western political science and jurisprudence, serving as a cornerstone of Western constitutional law. Nevertheless, there are diverse interpretations of this concept. Liberals, neoliberals, democrats, social democrats, 'leftists', 'rightists', and 'centrists' all ascribe different meanings to it. Overall, they use the concept of 'constitutionalism' to extol ideas such as 'popular sovereignty', 'constitutional republic', 'separation of powers or checks and balances', 'judicial independence', 'rotation of ruling parties',

89 XI JINPING, *supra* note 6, 214.

‘representative democracy’, and ‘bicameralism’. Essentially, these refer to the constitutional political systems of Western countries such as the United States, France, the United Kingdom, Germany, and Sweden. Comrade *Mao Zedong* once analyzed this issue in depth, exposing the essence of bourgeois ‘constitutionalism’, stating that on the surface ‘constitutionalism’ is democratic politics, but in essence it is the dictatorship of the bourgeoisie alone,⁹⁰ and that it is ‘in fact a politics of exploitation and oppression’.⁹¹ In sharp contrast to the West’s hypocritical preaching of ‘popular sovereignty’, *China’s Constitution* explicitly stipulates the state system of people’s democratic dictatorship: ‘The People’s Republic of China is a socialist state governed by a people’s democratic dictatorship that is led by the working class and based on an alliance of workers and peasants.’ ‘The socialist system is the fundamental system of the People’s Republic of China.’ ‘Leadership by the Communist Party of China is the defining feature of socialism with Chinese characteristics.’ ‘All power in the People’s Republic of China belongs to the people.’

In terms of the political system, China and Western countries are also essentially different. In constitutional jurisprudence, state system and political system are the most fundamental categories. The ‘state system’ refers to ‘the status of various social classes in the state’.⁹² ‘As for the ‘political system’, it refers to the form in which state power is constituted; that is, the form a given social class adopts to organize its organs of state power that oppose its enemies and safeguard its own interests.’⁹³ The state system and political system are inseparable: the state system determines the political system, and the political system in turn reflects the state system. As previously discussed, China and the West differ fundamentally in state system; in terms of political system, the differences are equally significant. First, we adhere to the highest political principle and the principle of the rule of law that the Communist Party of China is the sole and long-term governing party, rejecting the Western model of multi-party rotation of power, and resolutely avoiding mutual checks and balances among political parties, severe internal friction, national division, and harm to the country

90 MAO ZEDONG, CONSTITUTIONAL GOVERNMENT OF NEW DEMOCRACY (FEBRUARY 20, 1940), in *SELECTED WORKS OF MAO ZEDONG* (VOLUME II), at 732 (People’s Publishing House, 1991).

91 *Id.*, 736.

92 MAO ZEDONG, ON NEW DEMOCRACY (JANUARY 1940), in *SELECTED WORKS OF MAO ZEDONG* (VOLUME II), at 676 (People’s Publishing House, 1991).

93 *Id.*, 677.

and the people. Second, we adhere to the system of people's congresses, and resolutely reject 'separation of powers', 'bicameralism', and 'judicial independence', firmly preventing the abuses and distortions of power common under Western political systems, such as endless deliberation without decision, decision without implementation, and implementation without substantive results. Third, the value orientation is different. Since modern times, Western 'constitutionalism', regardless of its elegant appearance, logical design, or refined language, ultimately revolves around capital, serving as a political and legal tool for capitalist interest groups and bourgeois parties. In contrast, we practice constitution-based governance and constitution-based exercise of state power and adhere to a people-centered approach: 'We must act for the people and rely on the people in everything we do, exercise state power for the people and by the people, and ensure that development is for the people and by the people and that its fruits are shared by the people.'⁹⁴ We take safeguarding and developing the people's rights and interests as the fundamental purpose, work to develop whole-process people's democracy, advance comprehensive, extensive, and coordinated development of the system of institutions through which the people run the country. We must establish diverse, unimpeded, and well-organized democratic channels, diversify the forms of democracy, and expand the people's orderly political participation at all levels and in various fields, so as to ensure that various systems and national governance better guarantee the people's position as masters of the country and spark their creativity. We always take safeguarding and promoting social fairness and justice as the fundamental value of constitution-based governance and constitution-based exercise of state power, continuously strengthen the protection of human rights under the rule of law, and improve system of institutions for fairness in rights, opportunities, and rules, so that the achievements of the rule of law and institutional reform benefit all the people in a fairer and more equitable way.

Clarifying the essential differences between constitution-based governance and constitution-based exercise of state power and Western 'constitutionalism' in theory, institution, and practice ultimately requires us to 'never waver in upholding the overall leadership of the Party, the state

94 RESOLUTION OF THE CENTRAL COMMITTEE OF THE COMMUNIST PARTY OF CHINA ON THE MAJOR ACHIEVEMENTS AND HISTORICAL EXPERIENCE OF THE PARTY OVER THE PAST CENTURY, at 66 (People's Publishing House, 2021).

system of people's democratic dictatorship, and the political system of people's congresses, all of which are mandated by the *Constitution*'.⁹⁵ This is precisely where the fundamental distinction lies between constitution-based governance and constitution-based exercise of state power and Western 'constitutionalism'.

III. THE POWERFUL PRACTICAL STRENGTH OF CHINA'S CONSTITUTIONAL THEORY IN THE NEW ERA AS MANIFESTED IN CONSTITUTIONAL DEVELOPMENT AND IMPLEMENTATION

A. China's Constitutional Theory in the New Era Guiding Historic Achievements and Breakthroughs in Constitutional Development and Implementation

The brilliant achievements of constitutional development and implementation in the new era are concentrated in two aspects: constitutional amendment and constitutional enforcement.

General Secretary *Xi Jinping* has pointed out, 'As part of the superstructure, the *Constitution* must necessarily adapt to changes in the economic base. No country can formulate a constitution that remains applicable in perpetuity. *China's Constitution* is the general charter for national governance; it must embody the historical progress of the cause of the Party and the people, and must be continuously improved and developed in step with the practice of the Party leading the people in developing socialism with Chinese characteristics.'⁹⁶

The development of China's constitutional system over the past 70 years and the current *Constitution* for more than 40 years clearly demonstrate that the *Constitution* is closely linked to the future and destiny of the Party and the country. *China's Constitution* is a fine constitution that fully reflects the common will of the people, fully safeguards their rights, and fully upholds their fundamental interests. We can clearly see that *China's Constitution* is intimately connected with the arduous struggles and brilliant achievements of the Party and the people, as well as the path forward and valuable experience they have accumulated. It is the fundamental basis and legal guarantee for the Chinese nation's progress

⁹⁵ XI JINPING, *supra* note 26, 34.

⁹⁶ XI JINPING, *supra* note 6, 213.

from standing up, becoming prosperous, to growing strong. ‘The longer time passes and the more our cause develops, the more we feel the power of the *Constitution*.’⁹⁷ However, even the best constitution must keep pace with the times, be constantly improved, and adapt to social changes and new situation and needs for reform, development, and stability. As General Secretary *Xi Jinping* has scientifically explained, ‘The *Constitution* can sustain its vitality only by constantly adapting to new circumstances, incorporating new experiences, and confirming new achievements.’⁹⁸ In accordance with the new era, new situation, and new practice, on the basis of maintaining the continuity, stability, and authority of the *Constitution*, we must make appropriate constitutional amendments in step with the times to elevate major theoretical, institutional, and practical innovations achieved by the Party and the people to constitutional provisions, and continuously improve and develop China’s constitutional system to better meet the requirements of enhancing the Party’s long-term governing capacity, advancing comprehensive law-based governance, and promoting the modernization of China’s governance system and capacity, thus providing constitutional guarantees for upholding and developing socialism with Chinese characteristics in the new era.

The fifth amendment to the current *Constitution* in 2018 created new achievements in constitutional development. Under the strong leadership of the Party Central Committee with Comrade *Xi Jinping* at its core and guided by China’s constitutional theory in the new era, the First Session of the 13th National People’s Congress adopted the fifth amendment to the current *Constitution* on March 11, 2018. It adopted 21 articles, which is the most significant amendment to the current *Constitution* and also the first to add new constitutional provisions. The main contents include: (1) establishing the guiding role of the Scientific Outlook on Development, especially *Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era*, in China’s political and social life; (2) adjusting and enriching the overall plan for building socialism with Chinese characteristics and the Second Centenary Goal by adding new provision to ‘promote coordinated material, political, cultural-ethical, social, and ecological advancement’ and to ‘build China into a great modern socialist country that is prosperous, strong, democratic, culturally advanced, harmonious, and beautiful, and

97 XI JINPING, *supra* note 20, 200.

98 XI JINPING, *supra* note 10, 8.

realize the great rejuvenation of the Chinese nation’; (3) improving the concepts and measures for law-based governance and constitutional implementation, such as replacing the expression ‘improving socialist rule by law’ with ‘improving socialist rule of law’, a change of great significance that reflects a historic leap and development in the construction of socialist rule of law; (4) incorporating ‘reform’ into the Party’s historical narrative, forming a new summary of ‘China’s revolution, construction, and reform’; (5) enriching the content of the patriotic united front and ethnic relations by including ‘patriots dedicated to the rejuvenation of the Chinese nation’ in the broadest possible patriotic united front and rephrasing ethnic relations as ‘socialist ethnic relations of equality, unity, mutual assistance, and harmony’; (6) supplementing the *Constitution*’s provisions on peaceful foreign policy by adding ‘promoting the building of a community with a shared future for mankind’ as a basic foreign policy; (7) enriching provisions on upholding and strengthening the overall leadership of the Communist Party of China by incorporating ‘leadership by the Communist Party of China is the defining feature of socialism with Chinese characteristics’ into the constitutional text; (8) adding the provision that ‘the state advocates core socialist values’; (9) revising provisions on the term of office of the President of the People’s Republic of China to improve the institutional system and organizational structure of Party and state leadership system; (10) authorizing cities with districts to formulate local regulations and specifying their legislative authority, affairs, and procedures to further improve China’s legislative system; (11) adding a new section to Chapter III ‘State Institutions’, following Section 6, as Section 7 entitled ‘Commissions of Supervision’, stipulating the nature, status, name, composition, term of office, leadership system, working principles, and mechanisms of the National Supervisory Commission and local supervisory commissions at all levels, and making corresponding amendments to related constitutional provisions; and (12) renaming the ‘Law Committee’ of the National People’s Congress as the ‘Constitution and Law Committee’, thereby providing stronger institutional and organizational guarantees for the National People’s Congress to exercise constitutional supervision, interpretation, review, and publicity functions.

The first constitutional amendment in the new era also developed new experiences, understandings, and principles for correctly exercising the power of constitutional amendment, advancing the *Constitution*’s

adaptation to the times, and upholding fundamental principles and breaking new ground, which has enriched and developed the theory of *China's Constitution* in the new era. These include: (1) adhering to Party leadership over constitutional amendment; (2) strictly advancing constitutional amendments in accordance with the law and procedures; (3) fully promoting democracy and building broad consensus; and (4) adhering to making partial amendments to the *Constitution* rather than making major changes.

Since the 18th National Congress of the Communist Party of China, the Party has strengthened its overall leadership over constitutional work, giving constitutional implementation a prominent place in comprehensive law-based governance, comprehensively applying constitutional provisions, principles, and spirit, and systematically promoting constitutional implementation, interpretation, and supervision. This has led to historic achievements in constitutional implementation, including: (1) comprehensively strengthening Party leadership over law-based governance in all fronts and constitutional implementation; (2) actively promoting the institutionalization and legalization of Party leadership; (3) improving the socialist legal system with the *Constitution* at its core, refining constitutional laws and mechanisms, and making constitutional implementation more effective; (4) improving the constitutional supervision system, strengthening the systems and capacity for constitutional review and record-filing review, and steadily improving the effectiveness of constitutional oversight; (5) establishing the National Constitution Day, instituting the constitutional oath-taking system, carrying out extensive constitutional publicity and education, and significantly raising constitutional awareness and the awareness of the rule of law across society; and (6) effectively exercising comprehensive jurisdiction over the special administrative regions in accordance with the *Constitution* and the *Basic Law*, and enacting and implementing the *Law on Safeguarding National Security in the Hong Kong Special Administrative Region*, thereby providing stronger legal guarantees for the practice of 'one country, two systems'.

B. Writing a New Chapter in China's Constitutional Practice Under the Guidance of China's Constitutional Theory in the New Era

On the new journey of the new era, we must unswervingly follow the path of socialist rule of law with Chinese characteristics, further enhance

constitutional awareness, strengthen constitutional implementation, and fulfill our constitutional mission, thereby writing a new chapter in China's constitutional practice in the new era.

General Secretary *Xi Jinping* has set forth clear requirements of 'Five Upholds' for writing a new chapter in China's constitutional practice in the new era.⁹⁹ First, we must uphold and strengthen the Party's overall leadership over constitutional work to ensure the correct political direction for the development of *China's Constitution*, fully implement and effectively enforce the *Constitution*, and give better play to the *Constitution's* important role in upholding Party leadership, ensuring that the people run the country, advancing reform and opening up as well as socialist modernization, building a socialist country under the rule of law, promoting all-round human rights development, safeguarding national unity, ethnic unity, and social harmony and stability. Second, we must integrate constitutional implementation throughout all aspects and the entire process of national governance, and continuously enhance the Party's capacity of constitution-based governance and constitution-based exercise of state power. Third, we must accelerate the improvement of the socialist legal system with Chinese characteristics with the *Constitution* at its core, continuously enhancing the comprehensiveness, systematization, and coordination of the legal norm system. Fourth, we must improve the system of institutions to guarantee the comprehensive implementation of the *Constitution* and continuously raise the level of constitutional implementation and supervision. We should strengthen the constitutional supervision system, standardize and institutionalize constitutional supervision, improve the capacity and quality of constitutional review and record-filing review, promote constitutional review work, implement mechanisms for constitutional interpretation, and actively respond to public concerns regarding constitution-related issues. Fifth, we must strengthen the research and the publicity and education of constitutional theory, continuously enhance the persuasiveness and influence of China's constitutional theory and practice, consolidate the guiding status of China's constitutional theory in legal education, vigorously promote the spirit of the *Constitution* throughout the society, make the *Constitution* deeply rooted in people's hearts and accessible to the public, and turn constitutional implementation into the conscious action of all.

99 Xi Jinping, *supra* note 5.

IV. CONCLUSION

‘Principle’ and ‘practice’ are inseparable, and the ‘law’ derives from the ‘*Constitution*’. China’s constitutional theory in the new era, in the process of adapting Marxist theory of the rule of law to the Chinese context and the needs of our times, is just like the experience of *China’s Constitution* over more than 70 years since the founding of the People’s Republic of China: it has shone with the brilliance of truth and the power of practice from the very beginning. As an important component of Xi Jinping Thought on the Rule of Law, China’s constitutional theory in the new era profoundly reveals the general laws governing the enactment, amendment, and implementation of the *Constitution* in human society, fully elucidates the historical, theoretical, and practical logic of the Communist Party of China in constitution-based governance and constitution-based exercise of state power, comprehensively expounds the scientific connotation and core essence of constitution-based governance, constitution-based exercise of state power, and fully implementing the *Constitution*, systematically explains the guiding ideology for strengthening constitutional development in step with the times and continuously enhancing the institutional supply for national governance, and integrates and develops the Marxist constitutional view, China’s constitutional view in the new era, and the view of the *Constitution* in the 21 century. This has consolidated the ideological foundation for constitution-based governance and constitution-based exercise of state power, provided scientific guidance for comprehensive constitutional implementation in the new era, and ensured that the *Constitution* fully plays its role as the fundamental law and general charter.

China’s constitutional theory in the new era provides the political direction and theoretical resources for building China’s independent constitutional knowledge system. Its distinctive concepts and original theories form the theoretical foundation for establishing China’s independent constitutional knowledge system. Constructing China’s independent constitutional knowledge system is a systematic endeavor that begins with strengthening systematic and academic research on China’s constitutional theory in the new era, refining its distinctive concepts, original viewpoints, and universal principles in combination with China’s contemporary constitutional system and practice, and on this basis carrying out systematic construction to form a constitutional discipline

system, academic system, and discourse system with distinct Chinese characteristics, a solid practical foundation, the embodiment of Chinese culture, and service for constitutional civilization.

China's constitutional theory in the new era is both the theoretical expression of China's constitutional practice and a theoretical form of global constitutional civilization. It not only systematically elucidates the fundamental principles, institutional characteristics, and practical advantages of *China's Constitution*, but also stands at the height of world history and global development, profoundly grasping the laws governing the development of political civilization in human society, and creatively putting forward new concepts, ideas, and strategies for promoting constitutional development and political civilization in human society. It thus contributes Chinese insight, Chinese input, and Chinese strength to the constitutional civilization of humankind. We must strengthen the international dissemination of *China's Constitution* and constitutional theory, so that the story of *China's Constitution* is widely praised and admired around the world, China's constitutional theory is appreciated by the people worldwide, and China's constitutional civilization is shared by all humanity.

(Translated by Dai Jiajia & Qin Yingda)
(Edited by Zhai Yujia)