INTRODUCTION

Among all the amendments to the Chinese Constitution, that of 1999 is the most significant in the context of rule of law, since it has incorporated the concept of rule of law into the Constitution in Chinese history.

The Second Session of the Ninth National People’s Congress (NPC) which took place in Beijing from 5 to 15 March 1999 passed the above-mentioned amendment to the Chinese Constitution. This was the third time the current Constitution, adopted in 1982, had been amended. The Amendment contains the following changes to China’s Constitution:1

- In the Preamble, two major changes have been included: (1) “Deng Xiaoping Theory” is added to the original “Marxism, Leninism and Mao Zedong Thought” and regarded as another national ideology; and (2) the original statement “China is at a primary stage of socialism” is changed to “China will be at a primary stage of socialism for a long period of time.”
- In Article 5, “the People’s Republic of China implements law to govern the State and construct the socialist country with the rule of law” is added after the sentence “the state upholds the uniformity and dignity of the socialist legal system”.
- To Article 6 is added the statement affirming common development under a plurality of systems of ownership: “[d]uring the primary stage of socialism, the State adheres to the basic economic system with the public ownership remaining dominant and diverse sectors of the economy developing side by side, and to a

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distribution according to work remaining dominant and the coexistence of a variety of modes of distribution”.

- The first provision in Article 8 is amended to read: “[r]ural collective economic organizations practice the double-tier management system that combines unified and separate operations on the basis of the household-based output-related contracted responsibility system”.

- Article 11 has raised the status of the privately-owned economy from a “complement to the socialist system of public ownership” to “an important component of the socialist market economy.”

- The wording in Article 28 “suppression of treason and other counter-revolutionary activities” is amended to read: “suppression of treason and other criminal activities endangering the national security”.

All the above amendments reflect the changes in Chinese society. The amendments were predicted before their official adoption. For example, the change of “counter-revolutionary” to “endangering the national security” is predictable because the term “endangering the national security” was already included in the 1997 amended Criminal Law.\(^2\) The amendment to the Constitution is only a reflection of the changed term in the criminal law for the purpose of consistency. Secondly, some of the changes set out in the Amendment, for example, those in Articles 8 and 11, are further changes to the previous amendments made in 1993.\(^3\) This shows that the economic situation in China has changed very rapidly even within the short, five-year period (1993-1998).\(^4\) On the other hand, we note that the Amendment has closely followed the line originally set out by Deng Xiaoping and embodies his thoughts as one of the legacies he left for the Chinese Communist Party (CCP) and the Chinese people, particularly the three main aspects which are the establishment of Deng Xiaoping’s theory as the national ideology, the provision for different forms of non-state ownership under constitutional protection, and the laying down of “the rule of law” as the highest priority of the country’s political development. This chapter attempts to discover the links between Deng Xiaoping’s legacy, particularly relating to his political and legal thoughts, and the constitutional changes, culminating in the 1999 constitut-

\(^2\) The text of the Criminal Law which was first adopted in 1979 and amended on 14 March 1997 can be found in Gazette of the Standing Committee of the National People’s Congress of the People’s Republic of China (in Chinese), 1997, No. 2.

\(^3\) Cf. the 1993 Amendment, in People’s Daily, 30 March 1993.

\(^4\) For a detailed analysis of the 1999 Amendment, see Zou Keyuan and Zheng Yongnian, “China’s Third Constitutional Amendment: A Leap Forward towards Rule of Law in China” (1999) 4 Yearbook Law & Legal Practice in East Asia 29-41.