In 2008, China marked the passing of thirty years since the adoption of the reform and opening policy. Although characterized merely as “crossing the river by feeling the stones,” in fact, the unbridled development and structural innovation of these thirty years have already been etched as important in the annals of history. These thirty years have witnessed China’s march towards the rule of law. The numerous accomplishments in establishing this legal system have been acknowledged around the world and have had a profound influence on Chinese society. In these thirty years, China’s criminal law system has experienced groundbreaking change and made constant progress toward realizing criminal justice.

I. Criminal Law in New China: A Tortuous Path

Modern criminal law systems include substantive criminal law, criminal procedure law, and other relevant elements of the legal system.

Substantive criminal law contains regulations on the definition of crime, criminal liability, and criminal sanctions; it plays an essential role in the legal system. When compared to other areas of law, substantive criminal law has two distinctive characteristics. First, the spectrum of the social relationships regulated by substantive criminal law is the most extensive of any category of law; other laws normally regulate only one kind of relationship, but substantive criminal law is applicable in all circumstances where criminal activity is involved, regardless

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of the nature of relationships. Second, the force of substantive criminal law is the most powerful of any legal category; substantive criminal law ensures the effective implementation of every other law and is the tool of last resort for protecting the government and the people from illegal activities. Substantive criminal law plays a critical role in maintaining safety and stability by protecting political, human, and property rights and ensuring the healthy development of the market economy.\(^1\)

Contrary to what may be believed, criminal procedure law is “not a mere supplement to substantive law; through its carefully designed procedures and clauses, it, on one hand requires the state to undertake tortuous processes to punish criminals and maintain social order; but, on the other hand, these same procedures imply the pursuit of equity, justice, freedom, human rights, and other fundamental values.”\(^2\)

The criminal law system’s “other relevant elements” include parts of the legal system that have a direct relationship with criminal law. For example, the *Extradition Law of the People’s Republic of China*，《中华人民共和国引渡法》，passed by the Standing Committee of National People’s Congress (the Standing Committee) on December 28, 2000, is a domestic law primarily concerned with regulating the state’s extradition activities. But it also provides provisions related to criminal law, including those dealing with involvement in criminal activities, state jurisdiction over criminal cases, prosecution and extradition of criminals, enforcement measures, etc.

It has been the thirty years of reform and opening that has opened the way for the establishment, as well as the reform, advancement, and modernization, of the modern Chinese criminal law system.

A. Criminal Law after New China’s Founding

China is a country with a long legal tradition. But from the founding of New China in 1949 until July 1979, when the first *Criminal Law*《刑法》and *Criminal Procedure Law*《刑事诉讼法》were promulgated, there was a thirty-year absence of basic criminal laws in China.

\(^1\) Xin Chunying 信春鹰, *Lifafa he guanguo renda changweihui de lifa gongzuo 立法法和全国人大常委会的立法工作 [The Legislation Law and Legislation by the Standing Committee of the NPC]*, (Beijing: Zhongguo minzhu fazhi chubanshe, 2008), 45.