

# Contents

<b>1</b>	<b>Inception: From Hundred Days Reform to Xinhai Revolution .....</b>	<b>1</b>
1.1	Historical Background of the Encounter of the East and the West.....	1
1.2	Hundred Days Reform.....	4
1.3	Late Qing Constitution Movement .....	8
1.4	Xinhai Revolution.....	14
<b>2</b>	<b>Failed Legacy: The Early Days of the New Republic .....</b>	<b>19</b>
2.1	<i>Provisional Constitution</i> and Its Limitations.....	20
2.2	Yuan Shikai's Seizure of the Throne .....	30
2.3	Warlord Politics, May 4 Movement and Civil Revolution .....	37
<b>3</b>	<b>Rule by the Party: Party Rule, Tutelage and Transformation Towards Constitutionalism .....</b>	<b>45</b>
3.1	The Origin of Party Rule .....	46
3.2	Degeneration of Tutelage and Setbacks of Constitutionalism Cause.....	51
3.3	Transformation of the Authoritarian Politics.....	56
<b>4</b>	<b>Revolutionary Legal System: From Common Program to 1975 Constitution .....</b>	<b>61</b>
4.1	"Abolish Old Codes" Movement and Onset of New China.....	62
4.1.1	Two Addresses in 1949: Extend the Legal Coherence and "Carry the Revolution Through to the End" .....	62
4.1.2	The Essential Logic of Revolution: Innovation and Breakaway .....	63
4.1.3	Revolution's Breakaway Logic Applied in Legal System: Abolishment of the Six Codes .....	64
4.1.4	Mao Zedong's Three Theories on Democracy Constitution: New Democracy, New Democracy Constitutionalism and Coalition Government .....	65

4.1.5	Common Program: The Onset of Revolutionary Legal System Reform.....	75
4.2	Debate Over Formalism of the Revolutionary Legal System.....	77
4.2.1	Law Class-Based Characteristics Argument: Criticism and Judgment .....	78
4.2.2	Legal Inheritability: Formal Exposition.....	81
4.3	75 Constitution – The “Continued Revolution” Mania .....	90
<b>5</b>	<b>Transformation to Daily Routine: Reform and Governance .....</b>	<b>99</b>
5.1	Constitution and Mechanism of the Transitional Rule of Law .....	103
5.2	Rule of Fundamental Law: From Judicial Independence to Constitutional Judicialization .....	104
5.2.1	Constitution Revision: Evolution of Reform Era Constitution .....	107
5.2.2	Judicial Constitutionalism: Idealist Pursuit and Institutional Challenge .....	111
5.2.3	The Rise of Political Constitutionalism: Rationalization of Transitional Rule of Law.....	116
5.3	Rule of Specific Law: From Private Law Taking Precedence to Rise of the Public Law .....	120
5.3.1	Criminal Law: From “Procedural Self-Governance” to Public Opinion’s Involvement.....	121
5.3.2	Civil Law and Private Rights: The Foundation of Civil Society .....	124
5.3.3	Administrative Law and Implementation: Administration First or Procedure First .....	128
<b>6</b>	<b>Review and Outlook.....</b>	<b>135</b>
	<b>References .....</b>	<b>145</b>