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Article

The Class Effects and National Security Tensions of the Criminal Record Sealing System: A Critique of Professor Yin Bo's Related Discourse at China University of Political Science and Law Based on Marxism and Xi Jinping Thought on the Rule of Law

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Abstract

Article 136 of the newly revised Law of the People's Republic of China on Penalties for Public Order Violations establishes a ‘system for sealing public order violation records,’ with the provision that ‘records of public order violations such as drug use may be sealed’ provoking significant public debate. Against this backdrop, Professor Yin Bo of China University of Political Science and Law has repeatedly engaged with media interviews to offer a systematic theoretical defence of the sealing system. He emphasises its alignment with principles such as proportionality, protection of personal dignity, and the integration of punishment with education, positioning it as a preliminary exploration of a ‘criminal record expungement system’. This article, after comprehensively reviewing Yin Bo's principal arguments and the new legal provisions, introduces a Marxist legal analysis framework, Xi Jinping Thought on the Rule of Law and the overall national security outlook, alongside formal logic and argumentation theory, to conduct a systematic critical analysis of his reasoning. The article contends: Firstly, from the perspective of class analysis and social structure, abstracting the sealing system as ‘universal rights protection’ risks obscuring its asymmetrical benefits within existing power structures. This may objectively reinforce ‘secondary protection’ for privileged classes while exacerbating relative insecurity among ordinary workers. Second, from the perspective of Xi Jinping Thought on the Rule of Law and key discourses on drug control, the fundamental stance of ‘putting people at the centre’ and ‘zero tolerance for drugs’ demands a higher degree of preventive prudence in balancing rights protection and public security. Yet Yinbo's argumentation significantly underestimates the external risks associated with high-risk behaviours such as drug use. Third, logically, the argument confuses categories (‘minor offences—general offences—high-risk offences’), commits the fallacy of ‘generalising from the particular’ by extrapolating systemic overreach from individual injustices, and deliberately blurs the conceptual distinction between ‘record sealing’ and ‘expungement of criminal records’. This paper ultimately advocates: while upholding the positive role of the sealing system in ‘correcting labelling discrimination,’ it is imperative to strictly differentiate between types of conduct and occupational risks. A systemic combination of ‘tiered sealing + meticulous review + rigid accountability’ should be established to genuinely achieve an institutional equilibrium that both aligns with the direction of building a China governed by law and does not undermine the overall defence of the people's war on drugs and national security in the new era.

Keywords: sealing of public security violation records; drug use records; Yin Bo; Marxist jurisprudence; Xi Jinping Thought on the rule of law; overall national security outlook; logical argumentation

1. Origin of the Issue and Research Perspective

The revised Public Security Administration Punishment Law of 2025 established for the first time in Article 136 the 'Public Security Violation Record Sealing System', requiring that records of public security violations be sealed. In principle, such records shall not be provided to or disclosed to organisations or individuals, and may only be used for case handling or specific inquiries meeting statutory grounds (hereinafter referred to as the 'Sealing System'). As this provision simultaneously covers typical public security offences such as drug use, soliciting prostitution, and provoking trouble, societal concerns rapidly mounted regarding whether sealing drug use records condones illegal behaviour or grants special privileges to certain groups.

Amid this public storm, Professor Yin Bo of the China University of Political Science and Law's Institute of Forensic Science repeatedly emphasised that the sealing system addresses the rights redress needs of the substantial number of minor offenders among 'approximately eight million individuals subject to public security penalties annually.' He argued that the prolonged public disclosure of such records results in a 'one-vote veto' at critical junctures like postgraduate entrance examinations, civil service recruitment, and job applications, thereby creating a 'vast marginalised group' (Yin Bo, 2025a). He further positions the sealing system as a precursor to 'expunging criminal records,' arguing it embodies the rule of law values of proportionality, human dignity, and the integration of punishment and rehabilitation (Yin Bo, 2025b).

Concurrently, scholars such as Associate Professor Fang Peng from the School of Criminal Justice at China University of Political Science and Law have publicly declared 'firm opposition to sealing drug use records,' advocating for 'lifelong monitoring' of drug users. He emphasises the fundamental difference between drug use and general public order offences, highlighting the high risk of relapse and severe societal harm associated with drug use (Fang Peng, 2025). This demonstrates the significant tension within academia regarding the same legal provision.

This study adopts three perspectives: (1) From a Marxist jurisprudential standpoint, examining the class effects and social structural consequences of the sealing system and its justificatory discourse (as law both institutionalises class relations and interest structures while performing certain functions of integrating 'common interests'); (2) Using Xi Jinping Thought on the Rule of Law and the overall national security outlook as the fundamental normative framework, particularly the fundamental positions that 'the people are at the centre', 'comprehensively building a modern socialist country on the track of the rule of law', and "the fight against drugs concerns national security, the rise and fall of the nation, and the welfare of the people" (Xi Jinping, 2014; China Law Society, 2025; Chen Baifeng, 2021); (3) employing formal logic and argumentation theory to meticulously examine Yin Bo's premises, conceptual distinctions, and inferential structure, thereby avoiding reduction to emotional moral condemnation.

2. Institutional Context and Analysis of Yin Bo's Statements

2.1. Legal Framework of the Sealing System for Public Order Violation Records

The third draft amendment and final provisions explicitly stipulate that records of public order violations shall be sealed and may not be disclosed or provided to any organisation or individual, except where required for case handling or other legally justified inquiries, with the inquiring entity bearing a duty of confidentiality. Interpretations by media outlets such as Caixin and Jiemian, alongside experts, generally emphasise three points:

(1) Sealing does not equate to deletion, but rather restricts access and usage; (2) The system aims to prevent minor offences from causing lifelong stigmatisation; (3) State organs may still lawfully access relevant records in specific high-risk positions, political vetting, or case handling scenarios.

Concurrently, legislative explanations and authoritative interpretations link this system to the 'establishment of a sealing system for minor criminal records' proposed at the Third Plenary Session

of the 20th CPC Central Committee, emphasising its legislative orientation of combining education with punishment and safeguarding individuals' rights to subsequent development.

2.2. Summary of Yin Bo's Core Arguments

According to multiple media reports, Yin Bo's main arguments concerning the sealing system are as follows (only key propositions are excerpted below):

First, identification of practical issues. Among approximately 8 million individuals subject to public security penalties annually, a significant number with only a single minor offence record face 'one-vote vetoes' at critical junctures such as job applications, university admissions, and civil service examinations. This creates 'labelling discrimination' and generates a vast 'marginalised group' (Yin Bo, 2025a).

Second, assertion of legal rationale: (1) The sealing system embodies the principle of proportionality in administrative law—perpetual public disclosure of minor offences constitutes 'disproportionate punishment relative to the severity of the offence'; (2) The system aligns with constitutional requirements safeguarding citizens' dignity; (3) It integrates punishment with rehabilitation, affording offenders opportunities for social reintegration after accountability (Yin Bo, 2025b).

Third, the relationship with the 'expungement system'. Yin Bo notes that sealing public security violation records may be regarded as 'a Chinese-specific exploration of "expungement" for administrative offences', representing a preliminary extension of the minor criminal record sealing system. While sealing does not equate to complete expungement, its effect substantially mitigates the negative impact of prior records (Yin Bo, 2025b).

Fourth, addressing concerns about 'privileged whitewashing'. In response to public anxieties that sealing might 'whitewash certain powerful groups', Yin Bo and other experts emphasise that the sealing system applies to all citizens with public security violation records, not specific groups. Moreover, for positions involving national security or judicial authority, relevant regulations may still require scrutiny of violations including drug use records.

From a discursive perspective, Yin Bo's argumentation carries a pronounced tone of institutional advocacy: by constructing a chain of reasoning—'real-world injustice—institutional response—legal justification—rights protection'—the sealing system is framed as a 'progressive, compassionate instrument of modern rule of law.'

3. Normative Evaluation from the Perspectives of Marxism and Xi Jinping Thought on the Rule of Law

3.1. People-centred or risk-stratification-centred?

Xi Jinping Thought on the Rule of Law explicitly emphasises: 'Adhering to a people-centred approach constitutes the fundamental stance of comprehensively advancing law-based governance.' The rule of law must be 'for the people, rely on the people, benefit the people, and protect the people,' demanding that 'efforts be made to ensure the people feel fairness and justice in every judicial case' (China Law Society, 2025; Zhu Xiaoqing, 2023). From this standpoint, evaluations of the sealing system and Yin Bo's remarks should address at least two questions: (1) Who are the 'protected individuals'? (2) Who bears the additional costs of security and trust?

Yin Bo's argument focuses intensely on the employment and educational opportunities of individuals with a single minor offence record, stressing the need to prevent their 'labelling' and subsequent marginalisation in society (a point grounded in genuine concerns that warrants recognition) (Yin Bo, 2025a). Yet a significant gap in his argument remains: would ordinary parents accept a kindergarten teacher with a sealed drug offence record? Would ordinary passengers accept a ride-hailing driver with a sealed serious public order offence? In 'high-trust professions' and 'high-risk exposure scenarios for vulnerable groups,' should the balance of rights protection not be appropriately weighted towards potential victims?

From a Marxist class analysis perspective, modern legal systems formally emphasise 'formal equality' and 'universal rules.' Yet within actual power structures, the distribution of benefits and risks remains asymmetrical (e.g., disparities between classes concentrating information, resources, and risk-bearing capacity versus ordinary labourers). Within China's current context, 'lifelong restrictions for a single offence' indeed pervade among grassroots workers. However, should the 'sealing system' become broadly applied to high-risk positions, the primary beneficiaries would likely be the upper-middle classes capable of circumventing informal social oversight and re-entering critical roles through institutional endorsement. Meanwhile, ordinary workers may bear greater 'invisible risks' under conditions of information lockdown.

In other words, without meticulously categorising different types of offences, varying risk levels across positions, and the distinct rights protection needs of different entities, abstractly invoking a 'people-centred approach' risks devolving in practice into a 'rights-centred approach for select groups (including potential privileged factions)', relegating the security and trust of the broad masses of ordinary citizens to secondary importance. This 're-stratification within the people' logically conflicts with the overarching objective emphasised in Xi Jinping's Thought on the Rule of Law: 'ensuring the people feel fairness and justice in every judicial case' (we must guard against the risk of 'procedural warmth' masking 'outcome inequality').

3.2. *The Comprehensive National Security Outlook and the People's War on Drugs Perspective*

The comprehensive national security outlook emphasises upholding the organic unity of people's security, political security, and the supremacy of national interests, integrating traditional and non-traditional security concerns. It particularly highlights public safety and social stability as crucial components of national security (Xi Jinping, 2014). Regarding narcotics, General Secretary Xi Jinping has repeatedly stressed that 'the fight against drugs must not slacken for a single day until drugs are eradicated,' demanding 'zero tolerance for drugs' and 'resolutely winning the people's war on drugs.' He has elevated anti-drug efforts to a strategic level 'concerning national security, the rise and fall of the nation, and the well-being of the people' (Xinhua News Agency, 2014; Xinhua Commentator, 2015; National Narcotics Control Office, 2025).

From this perspective, the governance logic for drug use is not a simplistic 'individual fault-individual correction' model, but rather an integrated security and prevention issue encompassing 'individual behaviour-social networks-criminal gangs-cross-border crime chains'. Relevant white papers and policy documents issued by the National Narcotics Control Office and the diplomatic system explicitly state that China's anti-drug legal framework adopts a dual approach of 'zero tolerance for drug-related crimes combined with strict management and rehabilitation assistance for drug use.' This emphasises both rigorous crackdowns and effective community-based detoxification and rehabilitation support.

Within this framework, Yin Bo advances robust arguments for sealing drug use records, centring on the 'principle of proportionality' and 'human dignity.' However, his reasoning fails to sufficiently address the following points: (1) Drug use occupies a distinct position on the risk spectrum compared to minor public order offences. Its long-term impact on behavioural capacity, impulse control, and relapse tendencies far exceeds that of one-off disturbances or general petty offences; (2) Drug use often involves complex connections to underground drug networks and criminal syndicates. Merely inferring that 'sealing records is proportionate' based on the formal classification of 'administrative offences' underestimates the realities of security structures; (3) Under the overarching national security framework, managing high-risk addictive behaviours demands greater foresight and traceability. Without specialised vetting and dynamic oversight mechanisms for high-risk activities, the sealing system risks undermining societal early-warning capabilities in practice.

Therefore, guided by Xi Jinping's important directives on drug control, institutional arrangements for drug use records must adhere to at least two fundamental principles: firstly, they must not diminish the traceability and early warning capabilities regarding drug-related activities; secondly, high-risk behaviours must not be simplistically categorised alongside minor offences for

sealing without thorough risk assessment and classification protocols. Yin Bo's arguments demonstrate a clear insufficiency in consideration of these two bottom lines. His assertion that 'sealing records represents universal progress in rights' exhibits marked narrowness and partiality within the overarching framework of the overall national security outlook and the people's war on drugs.

3.3. *The Class Perspective and Institutional Consequences of Marxist Jurisprudence*

Marxist jurisprudence acknowledges the positive function of modern law's formal rationality and rights structure in mitigating class contradictions and providing a framework for social cooperation to a certain extent. Simultaneously, it insists that law is not abstractly neutral but reflects real power relations. On the face of it, the record sealing system does possess a certain 'social redemption' function: it mitigates the 'lifelong stigmatisation' effect of minor offence records on labour market access and educational opportunities, holding positive significance for ordinary workers. However, without rigorous categorisation of offence types and risk-based classification of positions, the system's 'marginal benefit structure' is likely to manifest as follows:

Firstly, for resource-disadvantaged groups, sealing records may prevent them from facing 'systemic exclusion' due to a single minor offence, thereby helping to safeguard their fundamental rights to development as both workers and citizens (this positive effect is worthy of recognition). Secondly, for resource-advantaged groups, the suspension system, combined with their existing social capital, relational networks, and informational advantages, may enable them to more readily pass formal vetting for critical positions or sensitive sectors. This could conceal their past high-risk behaviours, granting them 'higher-tier second chances.' The general public, lacking such information, may unknowingly bear heightened exposure to risk.

This implies that without institutional design incorporating 'risk stratification + job classification,' the 'actual consequences' of the sealing system along class dimensions may diverge from its 'normative intent of equality and redemption': while ostensibly 'offering all ex-offenders a chance to start afresh,' it may in fact produce asymmetric impacts across different social strata in terms of risk-bearing and benefit distribution. This divergence constitutes a structural issue that Marxist jurisprudence must be particularly vigilant against.

4. The Intrinsic Flaws in Yin Bo's Arguments from the Perspective of Logic and Argumentation Theory

4.1. *'Ambiguous Categorisation' and 'Overgeneralisation' in Premise Setting*

In his exposition of the issue, Yin Bo empirically equates 'all those subject to public security penalties' with 'minor offenders,' establishing 'minor offences + one-off incidents' as the archetypal paradigm (exemplified by 'a single minor offence resulting in automatic disqualification from postgraduate or civil service examinations') (Yin Bo, 2025a). However, both the new legislation and authoritative interpretations reveal that public order offences encompass an extremely broad spectrum of conduct, ranging from general disturbances to diverse offences such as drug use, forced indecent assault, theft, and fraud.

Extrapolating the narrative of 'minor one-off offenders' to encompass 'all public security offenders' constitutes a classic logical fallacy of 'overgeneralisation': using an emotionally potent subcategory (one-time minor offenders) to justify institutional arrangements for the entire population, while failing to distinguish the differential risks posed by high-risk behavioural subsets. This approach undermines the formal logical rigour of the argument.

4.2. Conceptual Slippage Between ‘Sealing’ and “Expungement”

Across multiple reports, Yin Bo characterises the sealing system as ‘an initial exploration and preliminary stage of a criminal record expungement system,’ emphasising its legislative inspiration from juvenile and minor offence record sealing frameworks. Conceptually and in terms of institutional consequences, however, ‘sealing’ and “expungement” differ fundamentally: sealing emphasises ‘retention—restricted access—conditional disclosure’, whereas expungement entails a substantive legal adjustment to the status of criminal records under specific conditions, thereby reshaping the legal identity and societal evaluation of the individual.

When Yin Bo repeatedly positions sealing as ‘akin to’ or even ‘implicitly equivalent’ to expungement as a ‘Chinese-specific practice’ in his discourse, he effectively creates a classic case of ‘conceptual slippage’: invoking the ‘highly humanitarian’ and ‘resocialisation’ values of expungement at the normative evaluation level, while reverting to the relatively ambiguous technical term of sealing at the operational level. This opaque switching between ‘superordinate concept and subordinate operation’ not only misleads the public into perceiving sealing as ‘de facto expungement’ but also creates space for ‘continuously lowering boundaries’ in institutional design.

Logically, this constitutes an argumentative strategy of ‘endorsing weak institutions with strong concepts’: leveraging the moral capital of established systems like expungement to enhance the perceived legitimacy of sealing, while sidestepping substantive differences in scope, procedural safeguards, and review criteria. Such tactics warrant explicit identification and vigilance in academic discourse.

4.3. Externalised Risks and the ‘Invisible Victims’

Both logic and decision theory emphasise that any policy argument presenting only beneficiaries while obscuring risks to potential victims constitutes a ‘selective visualisation’ bias. Yinbo’s argument focuses almost exclusively on ‘stigmatised offenders,’ failing to accord equal prominence to ‘potential victims who may lose access to protective information.’

For instance: in high-trust professions involving typical vulnerable groups such as minors, the elderly, or patients, would sealing drug use records diminish the vigilance of employers and regulatory bodies? In roles highly sensitive to public order offences (security, education, transport, etc.), might the sealing system increase the probability of ‘wrongful inclusion’?

These ‘invisible victims’ are precisely the groups that the comprehensive national security outlook and the people-centred rule of law philosophy mandate as priorities. If academic arguments structurally overlook them, this logically leads to an underestimation of externalised risks and, normatively, to a ‘secondary invisibility’ for vulnerable groups. This constitutes one of the most fundamental logical criticisms of Yin Bo’s argument.

5. Conclusions and Regulatory Recommendations

While fully acknowledging the positive significance of the sealing system in addressing real-world “labelling discrimination” and providing opportunities for reintegration into society for numerous first-time minor offenders, this paper contends that Yin Bo’s mainstream defence of the system suffers from three major flaws: Firstly, on the dimension of class and social structure, it excessively abstracts “universal rights” while overlooking the potential asymmetry of benefits versus risks that the system may engender within existing power structures, thereby potentially reinforcing the “protective layer” of privileged classes; Second, within the framework of Xi Jinping Thought on the Rule of Law and the overall national security outlook, insufficient emphasis is placed on the national security implications of high-risk behaviours such as drug use and the strategic imperatives of the people’s war on drugs, simplistically categorising them within the ‘minor offence—sealing and redemption’ discourse. Third, in terms of logical argumentation, issues such as conflation of categories, conceptual slippage, and neglect of externalised risks undermine the academic rigour and political credibility of the defence for the sealing system.

Building upon this analysis, the following normative recommendations are proposed (as theoretical frameworks for legislative and policy deliberation):

First, implement strict behavioural stratification and positional grading (tiered sealing). For genuinely ‘minor, one-off, non-persistent’ public order offences, more lenient sealing rules may apply. For high-risk behaviours such as drug use, sexual assault, and severe violence, stricter sealing thresholds and longer observation periods should be established. Rigid exceptions should be set for specific high-risk positions, mandating ‘no sealing or lawful retrieval at any time’.

Second, reinforce the ‘limited access rights’ for political vetting and industry oversight. For positions involving minors, patients, or core public safety functions, grant relevant authorities query rights under strict procedural controls. Establish rigorous mechanisms for recording query justifications and accountability to prevent the sealing system from being abused as a tool for ‘power-based whitewashing’.

Third, clearly distinguish between ‘sealing’ and “expungement” at both discursive and institutional levels. Academic and media discourse should avoid moralising or romanticising the sealing system as ‘expungement,’ instead honestly presenting its technical purpose and practical limitations to enable rational public debate grounded in clear understanding.

Fourthly, the refinement and implementation of the sealing system must be guided by Xi Jinping Thought on the Rule of Law. The fundamental requirements of ‘putting the people at the centre,’ ‘building a modern socialist country within the framework of the rule of law,’ and ‘the people’s war on drugs’ should be embedded within the detailed rules of the sealing system. This will achieve a dialectical unity between safeguarding individual rights and overall national security, rather than allowing a singular ‘individual rights narrative’ to obscure the imperative demands of public safety and the protection of vulnerable groups.

From a Marxist standpoint, critiques of scholars such as Yin Bo’s institutional defence should transcend emotional condemnation to expose the structural blind spots and class implications concealed within their discourse. Grounded in Xi Jinping Thought on the Rule of Law and the comprehensive national security outlook, support for the sealing system must be built upon rigorous risk stratification design, rather than substituting concrete security assessments with abstract benevolence. Only thus can the sealing system for public order violation records truly become a rule-of-law innovation embodying both ‘people-centredness’ and ‘security,’ rather than being misinterpreted in public discourse and practice as an ambiguous symbol of ‘privileged whitewashing.’

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