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Article

A Comprehensive Analysis of the Legitimacy Boundaries of Professor Zhao Hong's Proposal for Sealing Public Order Violation Records at Peking University Based on Marxist Jurisprudence and Xi Jinping Thought on the Rule of Law

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Abstract

The newly revised Law of the People's Republic of China on Penalties for Public Order Violations introduces a "system for sealing public order violation records," with the sealing of records for acts such as drug use sparking intense public debate. Zhao Hong, a researcher at Peking University Law School, has systematically articulated several key arguments in multiple media outlets in defence of the sealing system. These include: "Drug use constitutes an administrative offence rather than a criminal act"; "Sealing records embodies the legal system's civilised approach to tolerance for error and rehabilitation"; and "Opposition to governing society through ancient-style branding methods akin to facial tattooing." This article meticulously reconstructs his principal arguments while introducing Marxist legal theory, Xi Jinping Thought on the Rule of Law and key anti-drug directives, formal logic and argumentation theory, alongside comparative Western jurisprudential experience concerning "criminal record sealing/expungement" to conduct a multidimensional critical analysis of his discourse. The research indicates: on the one hand, Zhao Hong's conceptual distinctions between "public order offences versus criminal offences" and "sealing versus expungement" possess a certain enlightening significance, and formally align with contemporary international trends towards "stigma removal and reintegration promotion". On the other hand, his argumentation exhibits significant blind spots in terms of class analysis, the people's stance, and the overall security perspective: it inadequately exposes the class structures and inequalities underlying drug issues; lacks a holistic grasp of the tension between "people's security" and "individual rights"; and insufficiently internalises Xi Jinping's requirements for "zero tolerance" in drug control, coordinating security and development, and adhering to bottom-line thinking (You Quanrong, 2023; Xi Jinping, 2015; Publicity Department of the CPC Central Committee, 2020). Logically, it extrapolates universal sealing from a minority of minor offences and counters public security anxieties by occupying the moral high ground of "modern rule of law civilisation," exhibiting a structural bias of "substituting risk analysis with moralising rhetoric." From a comparative law perspective, Western legal systems predominantly adopt a refined "tiered-conditional-exceptional" model, excluding acts severely endangering public safety from blanket sealing while supplementing this with rigorous procedures and ex post facto review mechanisms. This paper ultimately proposes that for the sealing system of public security violation records to embody the humanitarian concerns of socialist rule of law within the Chinese context while aligning with the overarching national security outlook and the practical logic of the "people's war" on drugs, it must introduce mechanisms such as tiered sealing, strict exceptions, procedural participation, and dynamic assessment at both legislative and discursive levels. Concurrently, it must theoretically return to the people-centred stance and practice-oriented approach emphasised by Marxist jurisprudence and Xi Jinping Thought on the Rule of Law.

Keywords: sealing of public security violation records; Zhao Hong; Marxist jurisprudence; Xi Jinping Thought on the Rule of Law; anti-drug policy; record expungement and sealing; comparative law

I. Problem Statement and Research Background

Article 136 of the revised Public Security Administration Punishment Law, adopted in 2025 and effective from 2026, explicitly establishes for the first time a sealing system for public security violation records. This stipulates that such records 'shall not be provided to any organisation or individual, nor disclosed publicly, except for lawful case handling or queries meeting statutory grounds.' This provision has sparked intense societal debate over whether sealing drug use records condones illegal behaviour and whether whether sealing records amounts to a protective umbrella for specific groups" (Yicai, 2025; CCTV News, 2025).

Against this backdrop, Zhao Hong, a researcher at Peking University Law School, has repeatedly emphasised through media outlets including Jiemian News, Guancha.cn, and The Beijing News that:

1.1. Drug use constitutes a public order offence rather than a criminal act, with its societal harm differing fundamentally from drug-related crimes under criminal law;

1.2. Sealing restricts public disclosure and routine access, not eradicating records, as 'internal police information remains fully preserved';

1.3. Failure to seal records would result in 'stigmatisation akin to ancient branding punishments,' depriving minor offenders of lifelong opportunities and ultimately alienating them from society;

1.4. The sealing system embodies the modern legal civilisation of 'forgiveness and redemption,' correcting the excesses of 'over-prevention' and 'punitive approaches' (Zhao Hong, 2025a; 2025b).

This discourse system serves as exemplary and guiding within the public sphere. The underlying perspectives on rights, risk, and the rule of law warrant systematic examination at both theoretical and practical levels. Particularly when examined alongside Xi Jinping's core directives on 'zero tolerance' for drug control and 'ensuring the people feel fairness and justice in every judicial case,' combined with the class analysis perspective of Marxist jurisprudence, several theoretical and logical issues requiring rigorous scrutiny emerge (You Quanrong, 2023; Zhang Jun, 2025; Publicity Department of the CPC Central Committee, 2020).

II. Institutional Context and Principal Content of Zhao Hong's Sealing Discourse

2.1. Overview of the Public Order Violation Record Sealing System

Article 136 of the new Public Security Administration Punishment Law addresses public order violations that 'do not constitute criminal offences,' such as drug use, assault, gambling, and general disturbances of public order. The core mechanisms of sealing are:

2.1.1. Records are retained in full within the public security system;

2.1.2. Records are 'shielded' from the general public and employers;

2.1.3. Designated authorities may access records under statutory conditions and procedures (CCTV News, 2025; Beijing News, 2025).

Official policy interpretations emphasise that the sealing system aims to 'restrict disorderly access and misuse,' preventing the expansion of offence records into lifelong systemic discrimination. Simultaneously, by separating 'internal risk management information' from 'external qualification restrictions,' it provides opportunities for social reintegration to those who have committed minor offences (Supreme People's Court Research Group, 2025; Yicai, 2025).

2.2. Core Propositions of Zhao Hong's Arguments

Drawing from public materials including an exclusive interview with Jiemian News, commentary on Guancha.cn, and an interview with The Beijing News, Zhao Hong's principal arguments regarding the 'sealing of public security violation records' may be summarised as follows (Zhao Hong, 2025a; 2025b; The Beijing News, 2025):

2.2.1. The Dichotomy of 'Offence-Criminality'

Zhao Hong emphasised that drug use is classified under current law as an administrative offence rather than a criminal offence, and should be strictly distinguished from 'typical criminal offences' such as drug trafficking and manufacturing. Confusing the two constitutes a misunderstanding of the legal framework (Zhao Hong, 2025b).

2.2.2. The 'Sealing ≠ Elimination' Proposition

She repeatedly notes that sealing records does not equate to deletion. Rather, it involves restricting public access and routine inquiries, thereby isolating internal risk management from external societal evaluation to prevent the spread of 'institutional discrimination' (Zhao Hong, 2025a).

2.2.3. The 'Anti-Branding Punishment—Anti-Labeling Governance' Proposition

In an exclusive interview with The Paper, she explicitly likened the public dissemination of criminal records to 'a barbaric governance model akin to ancient branding punishments,' arguing that modern legal civilisation should no longer subject minor offenders to 'lifelong labelling' (Zhao Hong, 2025b).

2.2.4. The Value Proposition of 'Tolerance for Error and Redemption'

Employing the rhetorical principles that 'gold is never pure, nor man perfect' and 'to be tolerant of others is to be tolerant of oneself,' she contends that the sealing system constitutes a modern legal framework's institutional encouragement for individual rehabilitation, embodying the warmth of 'tolerance for error and redemption' (Zhao Hong, 2025a; 2025b).

2.2.5. The 'Critique of Overpunishment and Overprevention' Proposition

She characterises opposing views as 'traditional heavy-punishment thinking,' contending that non-sealing would foster overprevention and overpunishment. This, she argues, would deprive minor offenders of their right to employment and social participation, pushing them to the margins of society (Zhao Hong, 2025b; Beijing News, 2025).

The aforementioned propositions form the theoretical framework underpinning her discourse. To some extent, this discourse emphasises human rights protection and second chances, aspects deserving recognition. However, the issue arises when this discourse is directly grafted onto 'high-risk behaviours such as drug use' and crystallises into an absolute narrative within public discourse equating sealing records with 'rule of law civilisation.' Is this internal framework truly robust? A critical analysis will now be conducted across multiple dimensions.

III. The Marxist Legal Perspective: Class Structure, the People's Stance, and Institutional Outcomes

Marxist jurisprudence emphasises that law constitutes both the superstructure of class-based societal contradictions and a vital instrument for the masses in their struggle for emancipation and rights protection. Assessing an institution and its discourse must transcend abstract notions of 'human dignity' and 'universal rights,' instead returning to the concrete realities of class structure and social relations to examine its actual effects.

3.1. The 'Abstract Individual' Perspective and the Concealment of Class Differences

Zhao Hong's argument abstracts public order offenders such as 'drug users' into 'ordinary individuals who have committed a minor offence once,' highlighting the institutional discrimination they face in areas like employment and education through 'stigmatisation.' He consequently advocates for the elimination of such discrimination through 'comprehensive sealing' (Zhao Hong, 2025b). At the level of individual cases, this concern is not without merit. However, from a Marxist analytical perspective, the distribution of drug use within China's actual social structure is far from uniform:

3.1.1. For certain groups, drug use is closely intertwined with poverty, unemployment, marginalisation, and class entrenchment;

3.1.2. For other groups, however, drug use may coexist with substantial economic and social resources, their offences intertwined with networks of power, eroding public safety and resources far beyond the scope of 'abstract minor offences'.

If institutional frameworks and justifications lump these highly heterogeneous situations together under a blanket 'sealing policy,' defended under the overarching premise of 'opposing stigmatisation,' it risks obscuring the vast disparities in power, capital, and discursive resources among different actors. This objectively creates a class-biased effect where 'the strong benefit more, while the weak gain little' (Zhang Wenxian, 2020; Zhang Jun, 2025).

In other words, a sealing system ostensibly benefiting all may, when indiscriminately applied to high-risk behaviours, effectively transform into an 'institutional subsidy' for the resourceful. For marginalised groups subjected to multiple forms of structural oppression, what is required extends beyond record sealing to encompass systemic solutions encompassing healthcare, employment support, social assistance, and community governance.

3.2. The Tension Between the People-Centred Approach and the Holistic Security Outlook

Xi Jinping Thought on the Rule of Law emphatically stresses 'adhering to a people-centred approach,' 'striving to ensure the people feel fairness and justice in every judicial case,' and that 'the rule of law is for the people, relies on the people, benefits the people, and protects the people' (You Quanrong, 2023; Publicity Department of the CPC Central Committee, 2020; Zhang Jun, 2025). Regarding drug control, it explicitly calls for 'unwavering adherence to the policy of cracking down hard,' 'maintaining zero tolerance for drugs,' and 'resolutely winning the people's war on drugs, never retreating until complete victory is achieved' (Xi Jinping, 2015; 2018).

From this normative framework, evaluating the sealing system and its advocacy discourse requires addressing two questions simultaneously:

3.2.1. Does it genuinely enhance the sense of security and fairness among the broadest sections of the populace?

3.2.2. Is it consistent with the political stance of 'zero tolerance' towards drugs and the overall national security outlook?

Zhao Hong's discourse focuses almost exclusively on 'the rights and dignity of individual offenders,' using this as the sole criterion to judge the merits of the system. It pays scant attention to dimensions such as 'public drug safety,' 'the right of children and adolescents in communities to be protected from drug abuse,' and 'the reasonable expectation of ordinary residents for a secure environment.' This one-dimensional rights discourse risks being perceived by the public as dismissive of their anxieties about personal safety. the rights of children and adolescents in communities to be shielded from drug exposure,' or 'ordinary residents' reasonable expectations for a secure environment.' This one-dimensional rights discourse risks being perceived by the public as dismissive of their security anxieties, undermining the credibility of the rule-of-law narrative. It also creates tension with Xi Jinping's emphasis on ensuring that 'the people can tangibly perceive fairness and justice in its effects' (Zhang Jun, 2025).

Marxist jurisprudence, in addressing the relationship between rights and security, prioritises the 'overall interests of the people.' Regarding typical 'structural risks' like the drug problem, an excessive emphasis on 'forgiveness and redemption' for individual offenders while overlooking the long-term erosion of community, ethnic, and national security by drugs risks falling into a one-sided stance that 'sees only partial humanitarianism, not the overall historical responsibility.'

IV. Xi Jinping Thought on the Rule of Law and Key Discourses on Drug Control: A Re-examination within the Regulatory Framework

4.1. 'Fairness and Justice in Every Case' and Tangible Security

Xi Jinping's Thought on the Rule of Law states: 'We must expedite the development of a socialist judicial system that is fair, efficient and authoritative, striving to ensure that the people feel fairness and justice in every judicial case' (You Quanrong, 2023). This concept of 'fairness and justice' encompasses both procedural safeguards of rights and humanitarian care, as well as substantive functions of punishing evil and rewarding good to uphold social order.

Regarding the sealing of public security violation records, the perception of 'fairness and justice' pertains not only to the penalised individuals but equally to potential victims and the general public.

When the sealing system applies to offences such as drug use, forced indecent assault, and soliciting prostitution, the absence of adequate tiered classification and exception mechanisms may foster a public perception that ‘illegal acts are being concealed.’ This could fuel distrust in the system's perceived ‘bias towards offenders,’ thereby undermining the establishment of the rule of law's authority (Yicai, 2025; The Beijing News, 2025).

4.2. The Boundaries Between the ‘Zero Tolerance’ Stance on Drug Control and the Sealing System

Xi Jinping has repeatedly issued important directives on drug control work, emphasising that drugs ‘concern the security of the nation, the rise and fall of the nation, and the well-being of the people’ and that ‘the fight against drugs must not slacken for a single day as long as drugs remain’. He has called for ‘severe crackdowns on drug-related crimes in accordance with the law’ and ‘maintaining zero tolerance towards drugs’ (Xi Jinping, 2015; Publicity Department of the CPC Central Committee, 2020; State Council of the People's Republic of China, 2018).

Against this backdrop of political and legal frameworks, discussions on ‘sealing records of drug use and related offences’ should not be reduced to mere administrative violations. Instead, they must be considered within the broader context of the ‘People's War on Drugs’:

On the one hand, appropriately avoiding lifelong stigmatisation for isolated instances of ‘simple, small-scale drug use’ may encourage rehabilitation and reduce structural exclusion;

On the other hand, if the sealing system proves overly broad—encompassing repeated relapses, high-risk behaviours, or even scenarios closely linked to criminal networks—while lacking clear boundaries in both institutional design and discourse, it risks creating tension with the strategic goal of ‘zero tolerance’ in drug control.

In his argumentation, Zhao Hong frequently invokes modernist rhetoric concerning ‘forgiveness and redemption’ and ‘countering stigmatisation,’ yet scarcely engages directly with Xi Jinping's political stance on ‘zero tolerance’ for narcotics and the requirements of the overall security outlook. This discursive structure, which ‘discusses rights without addressing security thresholds,’ renders his argumentation incomplete within the broader context of the rule of law in the new era.

V. Perspectives from Logic and Argumentation Theory: Conceptual Distinctions and Fallacies in Reasoning

From the perspective of formal logic and argumentation theory, several key arguments by Zhao Hong exhibit the following issues.

5.1. Overgeneralisation from minor cases to universal systems

His reasoning frequently begins with extreme individual cases—such as ‘an individual facing lifelong restrictions due to a single minor offence’—to derive the systemic conclusion that ‘all public order offence records’ should be subject to ‘comprehensive sealing’ (Zhao Hong, 2025b). Structurally, this reasoning resembles:

Premise: Certain minor offenders suffer severe injustice due to public disclosure of their records.

Conclusion: Therefore, all public order offence records should be comprehensively sealed.

This constitutes a classic logical fallacy of ‘generalising from a single instance’: it disregards the vast differences in the dangerousness, recidivism rates, and links to organised crime networks among various offences. It also overlooks the possibility of addressing specific issues through more nuanced institutional designs such as ‘tiered sealing’ or ‘conditional sealing’ (Corda & Lageson, 2024; Prescott & Starr, 2020).

5.2. The moral dichotomy: ‘Sealing = civilisation, opposing sealing = backwardness’

Zhao Hong characterises opposing views as ‘reverting to ancient branding-style labelling governance’ and ‘traditional punitive thinking,’ contrasting them sharply with ‘modern rule of law civilisation’ and ‘human dignity’ (Zhao Hong, 2025b). This discourse structure logically constitutes a ‘false dichotomy’:

Supporting blanket disclosure ≈ modern civilisation, opposition to labelling;

Questioning blanket disclosure ≈ ancient branding, barbaric governance.

However, systems such as the UK's Rehabilitation of Offenders Act 1974 widely employ a model that 'grades offences by severity and sentence length, sets waiting periods, and retains permanent disclosure or extended disclosure obligations for serious crimes.' This approach acknowledges 'second chances' while maintaining long-term traceability for high-risk behaviours (UK Government, 2009; UK Ministry of Justice, 2022). Clearly, within the Western rule-of-law context, 'refraining from sealing records for certain serious offences' is not simplistically equated with 'barbaric branding,' but rather stems from pragmatic considerations of public safety and recidivism risk.

Reducing such complex institutional choices to a binary opposition of 'civilised/barbaric' constitutes a logical fallacy of equivocation.

5.3. Substituting Risk Assessment with Moral Rhetoric

Zhao Hong frequently employs moralising rhetoric such as 'to be tolerant of others is to be tolerant of oneself' and 'who can guarantee they will never err in life', reducing complex drug control risks and social structural issues to a personal moral test of 'whether one is willing to forgive others for their past' (Zhao Hong, 2025a).

However, drug control fundamentally constitutes a highly structured public risk, not purely individual moral failings. Logically, it should be addressed through:

5.3.1. Empirical data evaluating the links between drug use and criminal chains, violent incidents, traffic safety, etc.;

5.3.2. Analysing the impact of sealing records on recidivism rates, employment recovery, and social exclusion (Prescott & Starr, 2020; Murray, 2024; Love, 2015).

Without systematic risk analysis and data support, suppressing public safety anxieties through moral rhetoric risks being perceived as 'elite legal discourse lecturing the populace on their intuitions,' thereby exacerbating societal divisions.

VI. Western Jurisprudence and Comparative Law Perspectives: The Boundaries of Exemption, Sealing and Extinction

6.1. The Prevailing 'Tiered-Conditional-Exceptional' Framework

In Anglo-American jurisdictions, prolonged debate has surrounded the exemption, sealing, and expungement of criminal records. The current, comparatively mature approach may be summarised as a tripartite structure of 'tiered-conditional-exceptional' (UK Government, 2009; Prescott & Starr, 2020; Corda & Lageson, 2024):

6.1.1. Grading: Classifying offences into tiers based on nature, sentence length, and involvement of violence or vulnerable groups;

6.1.2. Conditions: Establishing prerequisites such as waiting periods, recidivism exclusions, and law-abiding probationary periods; records may only be deemed rehabilitated or sealed upon fulfilment of these conditions;

6.1.3. Exceptions: Long-term or lifelong disclosure obligations typically remain for offences involving children, serious violence, sexual crimes, or posing significant public safety risks.

Crucially, recent reforms also emphasise 'participatory expungement,' achieving case-by-case balance through procedural involvement and judicial review (Murray, 2024).

6.2. Institutional Premise: 'Sealing ≠ Concealing Risks'

Both the UK's ROA and the US 'Clean Slate' movement stress that sealing or 'deemed rehabilitation' does not equate to 'concealing' serious risks. Instead, exceptions for disclosure or access remain in specific contexts. For instance:

6.2.1. Occupational screening involving children, the elderly, or public safety roles still requires disclosure or back-end accessibility;

6.2.2. For high-risk offences, records may never be deemed rehabilitated, meaning they cannot be fully concealed (UK Ministry of Justice, 2022; JR123 Case, 2025).

By contrast, China's current provisions for sealing public security violation records remain highly principled, with vague exceptions regarding querying entities and conditions. In public

discourse, these are often abstracted as 'modern rule of law's tolerance for error and redemption,' lacking explicit refinements such as 'high-risk exclusions' or 'position-specific sensitivity.'

6.3. Comparative Legal Reflection on Zhao Hong's Discourse

From a comparative legal perspective, the issue with Zhao Hong's discourse lies not in emphasising 'second chances' per se, but in presenting 'total sealing' as the sole legitimate and civilised approach, while offering scant justification for:

6.3.1. Why not introduce tiered handling based on crime types and behavioural patterns?

6.3.2. Why not establish heightened disclosure standards for positions involving public safety or child protection?

6.3.3. Why not achieve case-by-case balancing through judicial or administrative review mechanisms?

This creates a marked gap between his argument and the relatively mature 'balancing model' within contemporary Western legal systems, thereby undermining the persuasiveness of his reasoning when conducted under the banner of 'comparative law'.

VII. Conclusions and Regulatory Recommendations

Overall, Zhao Hong's discussion on the 'sealing of public security violation records' holds certain positive value in rectifying the conceptual confusion between public security violations and criminal offences, while alerting society to the dangers of lifelong labelling and institutional discrimination. It also resonates with certain international theoretical achievements concerning the elimination of stigmatisation and the promotion of reintegration (Prescott & Starr, 2020; Corda & Lageson, 2024).

Nevertheless, when examined through the integrated lens of Marxist jurisprudence, Xi Jinping Thought on the Rule of Law, logic, and comparative law, his discourse still exhibits the following prominent issues:

7.1. A one-sided interpretation of the people's stance: An excessive focus on the rights and dignity of individual offenders, coupled with insufficient attention to the broader public's sense of security and fairness, fails to fully align with Xi Jinping's overarching requirement that 'the people should feel fairness and justice in every judicial case.'

7.2. Concealment of class structures: Presenting only images of 'minor, incidental' offenders in arguments while evading the structural linkages between drug issues and poverty, marginalisation, and power networks may objectively reinforce class inequalities.

7.3. Logical Weaknesses: Deriving blanket sealing policies from individual case hardships, substituting risk data and institutional comparisons with moral rhetoric, constitutes classic overgeneralisation, false dichotomies, and equivocation.

7.4. Selective application of comparative law: Emphasis on Western 'destigmatisation' narratives overlooks their sophisticated institutional design of 'grading-conditions-exceptions' and strict exceptions for public safety and high-risk crimes.

Based on the above analysis, this paper contends that establishing a public security violation record sealing system truly aligned with the spirit of socialist rule of law in the Chinese context requires advancement in the following directions:

First, introduce tiered sealing and high-risk exclusion mechanisms. Refine classifications of different types of public order offences, excluding those highly relevant to public safety or strongly linked to organised crime networks from general sealing rules.

Second, establish stringent exception disclosure and job-specific sensitivity rules. Implement more rigorous background checks and disclosure mechanisms for highly sensitive sectors involving minors, healthcare, education, transport, and public infrastructure safety.

Third, enhance procedural participation and case-specific redress mechanisms. Drawing on the experience of 'participatory record expungement,' introduce an application-review-hearing-appeal chain. This transforms sealing from an abstract blanket policy into a flexible tool that assesses risk and rehabilitation status on a case-by-case basis.

Fourthly, reconstruct the discourse framework to align with the people's perspective and the comprehensive security outlook. At both academic and public discourse levels, it is essential to uphold rights protection and the principle of 'second chances' for minor offenders while fully addressing the public's substantive security concerns regarding drug-related issues. This achieves a dialectical unity between rights protection and risk governance.

Only through this dual reconstruction of institutional frameworks and discursive frameworks can the sealing of public security violation records system simultaneously embody the humanitarian concerns of socialist rule of law, the collective interests of the people, and the overall national security outlook in practice. Only then can it truly align with the fundamental requirements of Marxist jurisprudence and Xi Jinping Thought on the Rule of Law.

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