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Article

A Critical Analysis of Several Legal Proposals by Zhu Zhengfu, Deputy to the National People's Congress of China: Reflections Grounded in Marxist Jurisprudence and the Comprehensive National Security Outlook

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Abstract

In recent years, Zhu Zhengfu, a deputy to the National People's Congress, has consistently advocated for issues such as 'abolishing the crime of provoking trouble', 'sealing minor criminal records', and 'sealing public security violation records for drug use'. His proposals have generated significant influence in both public discourse and legislative debates. On the surface, these proposals appear to champion 'rights protection' and 'humanitarian concerns.' However, when re-examined within the frameworks of Marxist jurisprudence, Xi Jinping Thought on the Rule of Law, and the overall national security outlook, they reveal a series of concerning issues in their logical structure, value orientation, and security perspective. This paper, while clarifying online rumours and adhering to factual foundations, focuses solely on Zhu Zhengfu's publicly available and verifiable legal propositions for analysis. It critiques these from three dimensions: logical reasoning, national security implications, and ideological roots. Furthermore, it proposes a tiered reform pathway for optimising the crime of provoking trouble and the systems governing prior convictions and records under the comprehensive national security outlook. The article contends that several of Zhu Zhengfu's assertions exhibit dualistic reasoning in logic, display pronounced formal liberal rights-centrism in values, and underestimate systemic risks within complex social structures in security perspectives. His discourse system is highly isomorphic with Western legal liberalism, creating significant tension with the path of socialist rule of law with Chinese characteristics in the new era. Subjecting the rule-of-law discourse of NPC deputies to public scrutiny from the perspectives of the people's stance and national security is essential to upholding the people's congress system and the overall national security outlook.

Keywords: NPC deputies; crime of provoking trouble; sealing of prior convictions; overall national security outlook; Xi Jinping thought on the rule of law; western legal liberalism

1. Problem Awareness: When "Rights Discourse" Meets the People's Stance and National Security

Over the past two years, Zhu Zhengfu, a deputy to the National People's Congress, has consistently raised high-profile calls on three legal governance issues: Firstly, in published articles and media appearances, he has advocated for the 'timely abolition of the offence of provoking trouble', characterising it as a 'catch-all offence' and arguing that it should be removed from the Criminal Law; Secondly, he has repeatedly called for the establishment of a 'system for sealing minor criminal records' during the National People's Congress sessions and in multiple media outlets,

arguing that adults convicted of minor offences should also be granted the opportunity to have their criminal records sealed. Thirdly, in lengthy interviews with outlets including the Beijing News, he discussed the sealing of public security violation records for drug use, stressing that behaviours such as drug consumption pose 'relatively minor social harm' and should be treated equally with other public security violations under the sealing system. He characterised their exclusion as 'institutional discrimination'.

On the surface, these arguments cloak themselves in the guise of 'rights protection' and 'humanitarian concern,' readily eliciting emotional resonance in public discourse through individual case narratives. However, when re-examined within the overarching framework of Marxist jurisprudence, Xi Jinping Thought on the Rule of Law, and the overall national security outlook, one discerns a tension worthy of high vigilance between their inherent logic and value orientation and China's current path of the rule of law, which upholds the organic unity of 'the Party's leadership, the people's sovereignty, and governance according to law.'

More significantly, Zhu Zhengfu is not an 'ordinary commentator' but a sitting deputy to the National People's Congress. This implies that his legal propositions transcend mere academic views, potentially translating into legislative proposals, institutional designs, or even shaping public discourse. Consequently, subjecting his legal assertions to systematic, fact-based, and theoretical critique constitutes not merely academic debate but a public scrutiny of a NPC deputy's legal discourse—one that concerns national security, social order, and the collective interests of the people.

It must be explicitly stated: regarding the 'sealing of drug use records' system, online rumours about his 'family members' involvement in drugs' have been unequivocally refuted by mainstream media and Zhu himself. He has reported these claims to the police and initiated defamation proceedings. This article does not rely on any unverified personal hearsay whatsoever, analysing solely publicly available and verifiable statements and positions.

2. Critique of the Logical Layer: The Slippery Slope from "Defective Provisions" to "Must Abolish the Offence"

2.1. *The Crime of Picking Quarrels and Provoking Trouble: The Logical Fallacy of Reducing 'Amendment Space' to a Binary Choice of Retention or Abolition*

In his public arguments concerning the crime of picking quarrels and provoking trouble, Zhu Zhengfu broadly presents the following line of reasoning: the provisions governing this offence contain ambiguous wording, exhibit significant overlap with other criminal charges, and are prone to abuse; In certain circumstances, conduct insufficient to constitute other specific crimes may nonetheless be prosecuted under this offence, potentially leading to harsher sentencing that violates the principle of proportionality between crime and punishment; The relevant conduct can be regulated by other criminal offences and the Public Security Administration Punishment Law, thus the offence of provoking trouble should be 'abolished at an appropriate time'.

Formally, he deduces from 'the provision has obvious flaws' to 'the offence should be abolished.' Yet this reasoning deliberately overlooks a crucial question: why cannot 'legislative refinement' replace 'direct abolition'?

According to the fundamental Marxist legal perspective, legal norms evolve through continuous adjustment, revision, and development within the context of specific class struggles and social contradictions. They are not static texts subject to abolition merely because of perceived flaws. The proper approach to problematic provisions includes refining the elements of the offence through legislative techniques, adjusting sentencing ranges, and constraining abuse through judicial interpretations and guiding precedents.

By bypassing this entire pathway of 'systemic optimisation' and directly proposing 'abolishing the offence,' Zhu Zhengfu essentially reduces complex legislative issues to a binary choice of 'retain or abolish.' This represents a classic example of formalistic liberal dualistic thinking.

2.2. *The one-Sidedness of 'Calculating Only Individual Losses, Not Order and Security'*

Zhu Zhengfu emphasises that in some cases of provocation and disturbance, the perpetrators face severe penalties despite causing only minor harm to persons or property, resulting in an 'imbalance between crime, culpability and punishment'. However, his argument almost entirely overlooks the cumulative impact of such behaviour on public order: Firstly, repeated, organised malicious disturbances—even if individually minor—can generate widespread fear within communities and commercial districts through cumulative effects; Secondly, behaviours such as 'vulgar disturbances,' 'soft-violence debt collection,' and 'harassing rights advocacy' often operate on the margins of traditional specific offences, yet inflict significant disruption on grassroots social governance.

Within this framework, the crime of provoking trouble serves a practical function as a criminal safety net for 'grey-area behaviours': not to broaden the scope of punishment, but to safeguard the public's sense of security and order in daily life. Logically, Zhu Zhengfu simplifies the harmfulness of such conduct into two metrics: 'direct physical injury plus direct property damage,' thereby downplaying damage to public order and social psychological security. This creates the apparent paradox of 'minor acts warranting severe punishment.' Such narrow metric selection represents a clear weakness in his logical structure.

3. Sealing of Criminal and Drug-Related Records: The Downward Spiral from 'Resocialisation' to 'Risk Blind Spots'

3.1. *Framing Drug Use as 'Primarily Harming Oneself': The Logical Premise Underlying Underestimation of Systemic Harm*

In interviews concerning the sealing of public security violation records for drug use, Zhu Zhengfu repeatedly emphasised that drug use is not criminalised under the Criminal Law but constitutes a public security violation under the Public Security Administration Punishment Law. Such behaviour 'primarily harms one's own body without harming others,' posing relatively minor social harm. Therefore, it should be treated equally with other public security violations under the sealing system, and excluding it constitutes 'institutional discrimination.'

This argument rests upon a highly critical yet contentious premise: that the harm caused by drug use is primarily confined to the individual. Given the reality of China's drug problem, this premise is difficult to uphold: there exists a close structural link between drug demand and supply, with the expansion of demand directly fuelling the development of the drug crime chain; drug use often accompanies indirect externalities such as domestic violence, drug-impaired driving, professional misconduct, and secondary crimes, whose harms extend far beyond 'damaging one's own body'; In critical positions such as transport operations, hazardous materials management, and financial fund handling, a history of drug use itself constitutes a highly relevant risk indicator.

3.2. *Equating All Differential Management with 'Institutional Discrimination': Conceptual Overreach*

In multiple statements, Zhu Zhengfu directly characterised 'excluding drug use from the record sealing system' as 'institutional discrimination against drug users,' arguing it stems from moral aversion rather than legal standards. The issue lies not in opposing discrimination, but in deliberately blurring the boundary between reasonable differential management and discrimination.

In modern rule-of-law nations, establishing stricter disclosure and vetting regimes for minors, specific occupational groups, or high-risk individuals is widely regarded as legitimate risk management. Systems such as public disclosure of sex offenders' details or lists of defaulting debtors fundamentally constitute differential treatment based on the high societal risk of certain behaviours, and cannot be simplistically categorised as 'institutional discrimination'.

In his discourse logic, Zhu Zhengfu employs a strategy of 'conceptual extension': any differential treatment of certain individuals in record disclosure or employment screening is categorised as

“discrimination”. This approach pre-emptively labels any tiered management mechanism based on national or public security as ‘guilty’, providing his blanket sealing stance with a veneer of moral righteousness that effectively undermines security safeguards.

3.3. Emphasising Solely That ‘Public Security Oversight Remains Undiminished’ While Deliberately Sidestepping Multi-Stakeholder Safety Responsibilities

In responding to public scepticism, Zhu Zhengfu repeatedly stressed that ‘sealing’ refers only to inaccessibility for societal and organisational entities, with complete records retained internally by public security organs and dynamic oversight remaining uncompromised. While seemingly reasonable, this approach exhibits a fundamental blind spot: modern national security and public safety governance are no longer the exclusive domain of public security alone. Financial institutions, educational establishments, healthcare providers, transport enterprises, and critical infrastructure operators all bear statutory responsibilities for safeguarding public life and property. Holding appropriate levels of risk information within lawful and compliant frameworks constitutes an essential component of their duties.

A blanket policy of sealing records of drug use and certain minor offences, prohibiting any tiered disclosure in employment contexts, effectively achieves the following: it deprives multiple societal stakeholders of their right to information and their capacity for prevention under controlled risk conditions. It sinks information on certain high-risk individuals entirely into an ‘information black box,’ forcing uninformed employers and the general public to passively bear high risks that should rightfully be borne by the individuals themselves.

4. Intellectual Origins: The ‘Imported Logic’ of Western Legal Liberalism Discourse

Synthesising the aforementioned propositions reveals a marked consistency in Zhu Zhengfu's discourse on the rule of law: in criminal legislation, he tends to emphasise the risks of ‘over-criminalisation’ and ‘catch-all offences’, advocating for the reduction of criminal law as a tool by abolishing certain offences; in public security and criminal record systems, he highlights ‘discrimination against those with criminal records’ and ‘privacy as a priority’, proposing comprehensive sealing of records to constrain the use of offenders' information by state and societal entities; Regarding risk perception, he predominantly adopts a narrative framing offences as ‘primarily self-harming + deserving a second chance,’ reducing complex societal risks to individual rights and emotional narratives.

When contrasted with Western legal liberalism and proceduralist rule-of-law discourses, striking homogeneity emerges: Firstly, a tendency towards ‘decriminalisation/depenalisation,’ emphasising reduced criminal law intervention and greater reliance on civil and administrative mechanisms; Secondly, the supremacy of privacy and anti-discrimination, where formal equality and privacy rights serve as the paramount criteria for regulating information disclosure and risk management; Thirdly, the perception of the state as a potential oppressor, where any long-term record-keeping or information disclosure is viewed as potential ‘oppression’ by the state or institutions against individuals, rather than as a necessary means for the people to maintain collective security through the state apparatus.

In contrast, the Marxist conception of the state and Xi Jinping Thought on the Rule of Law emphasise that the socialist state is the ‘central embodiment and realiser of the people's interests.’ The fundamental function of state power tools lies in safeguarding the fundamental interests of the broad masses, not in absolutising abstract ‘individual rights.’ Rule of law development must uphold the organic unity of Party leadership, the people being masters of the country, and governance according to law, using the people's sense of fulfilment, security, and happiness as a key yardstick for measuring the quality of the system. The overall national security outlook requires coordinating traditional and non-traditional security, guarding against both the abuse of power and the

uncontrolled escalation of risks, thereby establishing institutional 'safety valves' capable of genuinely safeguarding fundamental boundaries.

Against this backdrop, it can be argued that certain legal governance propositions put forward by Zhu Zhengfu directly reflect his ideological roots, which align more closely with Western legal liberalism and proceduralist conceptions of the rule of law. This does not imply any malicious political intent on his part, but rather indicates that as a deputy to the National People's Congress, the theoretical resources and discursive frameworks he employs on critical issues exhibit significant tension, or even misalignment, with the path of socialist rule of law with Chinese characteristics in the new era. Such positions warrant serious attention through theoretical critique and practical correction both within and outside the Party.

5. Institutional Recommendations: Optimising the System for Criminal Records and Prior Convictions within the Framework of the Comprehensive National Security Outlook

Critiques of Zhu Zhengfu's legal propositions must ultimately transcend mere negation. Guided by Xi Jinping's Thought on the Rule of Law and the comprehensive national security outlook, they should propose viable alternative pathways. Through institutional refinement, we must genuinely achieve both safeguarding security thresholds and accommodating the need for individual resocialisation.

5.1. *Implementing Dual Optimisation of the Crime of Picking Quarrels and Provoking Trouble: Structural Reconstruction and Refined Application*

Whilst preserving the crime's catch-all function for 'grey-area conduct severely disrupting public order,' one approach involves explicitly defining constituent elements such as 'repeated occurrence, gang involvement, and egregious nature' to relegate isolated minor conflicts to administrative penalties. Concurrently, tiered constitutive elements and graded sentencing would prevent minor offences from incurring severe penalties. Concurrently, the Supreme People's Court and Supreme People's Procuratorate should utilise guiding and exemplary cases to meticulously categorise typical patterns of 'typified conduct' under this offence, forming an operational judicial application checklist. A mechanism for accountability against abusive application should be established, employing case review and responsibility-based accountability to 'regulate power' rather than 'abolish the crime'.

5.2. *Establishing a Tiered and Graded Management System for Prior Convictions and Public Order Records*

Regarding the management of minor criminal convictions and public order records, a tiered and graded system with multiple pathways should be established, avoiding the binary choice between 'permanent retention' and 'universal sealing'. For single, clearly minor offences and general public order violations, a fixed observation period plus a probationary assessment period could be established under certain conditions, modelled on the juvenile justice system. Upon completion, records would be sealed or restricted to specific queries within defined parameters. For acts highly relevant to national security, public safety, or financial security, longer observation periods should be mandated. Certain industries and positions may require permanent accessibility or a high-level management model where records circulate only among specialised vetting bodies. Simultaneously, establish tiered visibility based on information users and purposes: grant full access rights to public security and state security agencies; provide limited access to institutions bearing public safety responsibilities (e.g., banking, securities, education, healthcare, transport) under strict authorisation; and implement 'selective disclosure and controlled access' for general employers and the public through anonymised scoring, risk labelling, and time-limited visibility.

5.3. *Establishing a Dynamic Assessment Mechanism Integrating 'Reintegration' and 'Risk Control'*

By establishing a joint assessment mechanism among public security organs, judicial administrative organs, community correction agencies, and social organisations, periodic risk and performance evaluations are conducted for individuals with minor criminal records or those undergoing drug rehabilitation. These assessment outcomes are linked to systems governing record sealing, unsealing, and restricted access. Through positive incentive mechanisms, shorten disclosure periods and expand sealing scopes for individuals who comply with treatment or rehabilitation requirements, actively participate in community service, and maintain no reoffending records, thereby translating 'reformation' into operational rules. Establish appeal and redress channels to prevent prior convictions and record management from becoming new tools for power abuse in practice.

6. Conclusion: An Examination of the People's Stance in the Rule of Law Discourse of National People's Congress Deputies

As a deputy to the National People's Congress, Zhu Zhengfu enjoys full rights to speak and submit proposals. However, this does not imply that his legal principles are inherently correct, nor does it preclude public and academic scrutiny and criticism from the perspectives of the people's stance and national security. As the foregoing analysis demonstrates, his positions on issues such as the crime of provoking trouble, sealing prior convictions, and sealing drug use records exhibit significant flaws in their logical structure, value orientation, security perspective, and ideological foundations. A true NPC deputy meeting the requirements of the new era should, guided by Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era, adhere to the value coordinates of putting the people first and prioritising security in all rule of law matters, rather than circling within the orbit of Western legal liberalism. Such legal propositions that deviate from the people's stance and downplay national security must be unequivocally criticised within academic circles and public discourse. This constitutes a fundamental defence of the people's congress system and the overall national security outlook enshrined in the Constitution.

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