

Criminal Law under the Guidance of Chinese Characteristic Legal Thought

Guanyu Han

School of Criminal Justice, China University of Political Science and Law, Beijing, 100091, China

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Abstract: General Secretary General Secretary, in close connection with the conditions of the new era and the new practice of the rule of law, has closely focused on the major cognitive and practical issues concerning the rule of law in a comprehensive manner, expanded and deepened his understanding of the construction of the rule of law in the new era with a new vision, formed a series of new views and new assertions, and achieved significant theoretical results on the rule of law and constructed the concept of the rule of law in the new era. General Secretary's concept of the rule of law in the new era represents the latest achievement of the Chineseisation of Marxist thought on the rule of law and embodies the essence of the long-term practical experience of the Party and the people in the rule of law; it is a core component of the theoretical system of the rule of law of socialism with Chinese characteristics and has become the guideline for the action of the construction of the rule of law in China in the new era, and plays a crucial leading role in the development and improvement of China's criminal law, and is of far-reaching significance in guaranteeing the fairness and authority of the criminal law. It has far-reaching significance. The comprehensive overview of legislation, law enforcement and justice in General Secretary's thought on the rule of law is of great significance to the construction of criminal law.

1. Introduction

In the new era, the development of the legal system in China is undergoing profound changes. General Secretary's thought on the rule of law, emerging from the new - era conditions and the new practice of the rule of law, has become a guiding light for China's legal construction. This thought not only expands and deepens our understanding of the rule of law in the new era with new perspectives but also forms a series of innovative views and assertions. As the latest achievement of the Sinicization of Marxist thought on the rule of law, it embodies the long - term practical experience of the Party and the people in the rule of law. Among various aspects of the legal system, criminal law is significantly influenced. It is crucial to explore how General Secretary's thought on the rule of law guides criminal law in terms of legislation, law - enforcement, justice, and compliance. By analyzing these aspects, we can better understand the development and improvement of China's criminal law under the guidance of this important thought, and how it guarantees the fairness and authority of the criminal law, which is of great theoretical and practical significance for promoting the modernization of the national governance system and governance capacity.

2. Criminal legislation under scientific legislation

In the report of the Nineteenth National Congress, General Secretary General Secretary put forward the four principles of "scientific legislation, strict enforcement of the law, fair administration of justice, and full compliance with the law", with "scientific legislation" at the top of the list, implying that the goal of a State ruled by law in a comprehensive manner is based first and foremost on sound legislation. Under the framework of General Secretary's rule of law thinking, the theoretical basis of legislation is regarded as the benchmark and guide for all actions to rule the country by law. General Secretary General Secretary has stressed that the legal system must continue to develop and improve with the progress of the times and the deepening of social practice, and that the optimisation and reform of the legislative system is crucial. At a time when the world is in the midst of major changes not seen in a century, and when social life continues to bring new challenges to established criminal law provisions, General Secretary's thought on the rule of law should be used as a guide to uphold and implement the principles of the law of crimes and penalties, equality before the law and the proportionality of punishment and crime, and to promote the modernisation of criminal legislation.

2.1 Amendment and addition of norms

Legislation is not only the preliminary but also the crucial link in the operation of the law, which sets the tone and direction of the law. Therefore, in order to promote the comprehensive rule of law, the first and foremost task is to implement scientific legislation. Scientific legislation means the application of scientific methods and principles to formulate forward-looking and effective legal provisions in accordance with the actual needs of society and public aspirations. In the field of criminal law, by amending the criminal law, we can establish a tight legal net to effectively punish all kinds of offences. Amending the criminal law can not only severely combat and punish crimes, but also address the serious misconduct and social phenomena strongly reflected by the people in recent years. Amending the law is a positive means of social governance that can respond to social problems in a timely and effective manner, safeguard social justice and protect the rights and interests of the people. In general, scientific legislation and law amendment are not only important means of building the rule of law, but also necessary measures to advance social progress and maintain social stability. Therefore, we must adopt a higher standard and a more rigorous attitude in making scientific legislation and amending laws, so as to meet the needs of social development and the expectations of the people. For example, in recent years, cases of juvenile delinquency have occurred from time to time, which not only jeopardises the public safety of society, but also has an impact on people's moral concepts. In order to respond to the real needs of society, reduce the probability of juvenile delinquency, and realise the people's need for good law and good governance, the Criminal Law Amendment (XI) Law has lowered the age of criminal responsibility from 14 years old to 12 years old. As can be seen from this, criminal legislation has been actively amended to address the concerns of the people and to achieve early prevention of juvenile delinquency. In addition to this, new offences have been created for acts that affect the safety of the people in their daily lives, including throwing objects from a height and snatching the steering wheel of a driver, i.e., the Criminal Law Amendment (XI) creates the offences of throwing objects from a height and obstructing safe driving. In response to the situation of Internet crimes and offences that have continued to emerge in recent years, General Secretary General Secretary emphasised at the first meeting of the Central Network Security and Informatisation Leading Group that a legislative plan on Internet information content management must be swiftly formulated and implemented. Under the trend of proactively responding to the development of the information revolution, criminal legislation needs to continuously improve laws and regulations related to cybersecurity, strengthen the security protection of critical information

infrastructure, and govern cyberspace in accordance with the law. Although cyberspace is virtual, it needs to follow the principle of the rule of law just like real life. Especially when unlawful acts are rampant in cyberspace, criminal legislation should crack down on illegal trading of personal information, telecommunication network fraud and other illegal and criminal activities, so as to vigorously safeguard the legitimate rights and interests of the people. Therefore, the establishment and improvement of laws and regulations against Internet behaviours as soon as possible has become a must for the effective governance of cyberspace to make it a well-ordered space rather than a lawless and chaotic place, and the principle of the rule of law has been carried through to every corner of the Internet to safeguard the cybersecurity of citizens and their personal privacy. We should actively take measures to crack down on cybercrime and reasonably manage cyberinformation in order to build a fair, just, safe and orderly cyberenvironment.[1]

2.2 Recognition of new types of legal interests in criminal legislation

In criminal law legislation, traditional criminal law treats the concept of legal interest as being vaguely defined, and as more and more new types of rights are being created, it is necessary to recognise the legal interest of new types of rights. The principle of the legality of offences and penalties is fundamental to the clear regulation of the legal interests infringed by new types of rights, and only by making the legal interests infringed by new types of rights explicit in criminal law legislation can the generality of the application of underpinning provisions be reduced. Secondly, in the field of contemporary criminal law legislation, preventive legislation has become a trend, in terms of legislative technology, the use of intervention prioritisation, risk prevention and control against possible future dangers, so as to cut off the path of serious crimes. Legislation first is of great significance to the construction of a socialist rule of law system with Chinese characteristics, and it is necessary to give full play to the leading and promoting role of legislation. Criminal law is an important tool of the State, and its legislation should fulfil the principles of good governance and good law. Criminal law legislation has gradually formed a relatively perfect criminal law system; the technology of criminal law legislation has also been scientific with the progress of the times. Criminal legislation must be good law and good governance; firstly, criminal preventive legislation should follow the principle of science; secondly, criminal preventive legislation should be studied carefully, and should not be allowed to develop without limits in the field of criminal law offences, limiting the areas in which it may be applied. In contrast to traditional criminal law legislation, preventive legislation is aimed at potentially dangerous behaviour that does not cause actual harm and is designed to prevent the occurrence of serious crimes. Preventive legislation should therefore be limited to areas where the protection of important legal interests, such as in the context of major public security offences, could be considered for appropriate preventive legislation.

3. Interface between strict law enforcement and criminal justice

Strict law enforcement is one of the basic requirements of the rule of law and a fundamental prerequisite for the fulfilment of judicial justice and authority.

The Decision on Certain Major Issues Concerning the Comprehensive Promotion of the Rule of Law states: "We need to deepen the reform of the administrative law enforcement system, improve the mechanism of convergence between administrative law enforcement and the administration of criminal justice, clarify the criteria and procedures for the transfer of cases, and establish a system of information-sharing, notification of cases, and the transfer of cases between administrative law enforcement, public security, procuratorate, and judiciary authorities. We must resolutely eliminate the phenomenon of cases not being transferred, cases being difficult to transfer, and penalties being used in lieu of penalties, and achieve a seamless connection between administrative and criminal

penalties." In judicial practice. The handling of many cases often has gaps in the interface between administrative law enforcement and criminal justice, leading to lax law enforcement. In fact, in judicial practice, many administrative law enforcement actions and criminal justice are closely related. When dealing with cases involving the interface between administrative law enforcement and criminal justice, two principles should be followed: the "principle of non bis in idem" and the "principle of criminal priority." The "principle of non bis in idem" means that the same offence should not be punished more than once; the "principle of criminal priority" means that if administrative and criminal penalties need to be imposed simultaneously for the same offence, criminal liability should be pursued as a matter of priority. Therefore, if, in the course of dealing with an administrative offence, an administrative law enforcement agency discovers that the act in question has violated the criminal law, it should immediately hand the case over to the judicial authorities for the purpose of pursuing criminal responsibility. If there are problems in the interface between administrative law enforcement and the administration of criminal justice, this may result in the impartiality of the administration of justice being compromised. For example, inconsistent treatment of the same offence may lead to a decline in public trust in the law and affect the delivery of justice. Therefore, both administrative law enforcement and criminal justice authorities need to work closely together in order to achieve effective penalties for offences and to maintain the rule of law and social justice.[2]

In the field of food safety protection, some suspected criminal cases that may endanger personal health and safety often stop at the level of administrative violations, resulting in insufficient deterrence of the law for the field of food safety, the field of food safety will be frequent outbreaks of some of the events endangering the lives and health of the public, so it is necessary to link administrative law enforcement and criminal justice. The mechanism of administrative and criminal convergence is to highlight the administrative power and judicial power of collaboration and cooperation, and jointly complete the collaborative fight against crime, to protect the social objectives of public safety, which requires the administrative power and judicial power between the distribution of power and improve.

In the field of environmental protection, administrative law enforcement and criminal justice are two ways to manage and punish different degrees of environmental damages: administrative law enforcement in environmental protection refers to the management of various behaviours affecting or likely to affect the environment by administrative law enforcement authorities according to the authorization of the law; and criminal justice in environmental protection refers to the activities of judicial authorities in handling cases of suspected environmental crimes in accordance with the legal competence and procedures, and the norms of criminal law. Criminal justice in environmental protection refers to the activities of judicial organs in dealing with suspected environmental offences in accordance with criminal law norms in accordance with statutory powers and procedures. Although there are differences between administrative law enforcement and criminal justice in terms of applicable procedures, they are not mutually exclusive. Generally speaking, if the harm of environmental damage is less serious, it is usually regarded as an administrative offence and needs to be adjusted and dealt with through administrative law enforcement; while if the harm of environmental damage is more serious, it needs to be regulated by means of criminal justice. However, from the perspective of current practice, there are still significant problems in the interface between administrative law enforcement and criminal justice in environmental protection. These problems have prevented suspected environmental offences from entering the judicial process properly, resulting in those who commit environmental offences not being severely punished by the criminal law. As a result, the protection of the ecological environment has not been substantially implemented, and the problem of environmental pollution still lingers. It is only by extending the criminal law to these acts of disregard for environmental protection laws and regulations that the

protection of the ecological environment can be truly realised and the goal of sustainable development further advanced.[3]

4. Criminal justice under fair administration of justice

General Secretary General Secretary stressed that "impartial justice is the last line of defence in maintaining social fairness and justice." Impartial justice is not only a requirement of the rule of law, but also a manifestation of social fairness and justice. The law is the foundation of society; it sets out the rights and responsibilities of each individual and provides the framework for maintaining social order. Justice, on the other hand, is the main means of implementing the law, and it is through fair and impartial judicial trials that the normative role of the law in society can be truly realised, ensuring the protection of civil rights and the maintenance of social justice. Only when people are convinced that their legitimate rights and interests can be safeguarded through the judicial process will they have trust in the administration of justice and will respect and abide by the law. Conversely, if justice is not done fairly, the people's trust in the law will be greatly diminished and the prestige of the law and the judiciary will be undermined.

4.1 Criminal justice

General Secretary stressed that "we should always adhere to the people-centred approach, insisting that the rule of law is for the people, relies on the people, benefits the people, and protects the people. We must implement the embodiment of the people's interests, the reflection of their aspirations, the safeguarding of their rights and interests, and the enhancement of their well-being throughout the entire process of constructing the rule of law system. Furthermore, we should focus on issues of concern to the people, and increase penalties for cases such as telecommunication fraud that have been hotly debated by the public."

General Secretary General Secretary has emphasised the importance of "applying heavy penalties to violators of the law, and using the rule of law to safeguard the lives, safety and health of the people", a concept that is particularly evident when dealing with major safety issues involving the lives, safety and health of the people. In the face of vaccine safety incidents, for example, General Secretary General Secretary stressed the need to "crack down on violations of the law and ensure the safety of vaccine production and supply," and to "improve relevant laws and regulations as soon as possible, so as to solve the outstanding problems of low costs of violating the law in respect of vaccines and medicines, as well as the weakness of penalties. ". With regard to the destruction of the ecological environment, General Secretary General Secretary even emphasised that "we must firmly establish the concept of ecological red line, and on the issue of ecological environmental protection, we cannot allow any behaviour that crosses the minefield, and once someone violates this principle, he or she must be duly punished." This has undoubtedly given criminal justice a greater responsibility and mission. In criminal justice practice, we must endeavour to ensure that the people can feel the presence of fairness and justice in every criminal justice case. This is both an adherence to the spirit of the rule of law and the practice of social justice.

4.2 Adherence to criminal justice ethics by judicial officers

Judicial ethics refers to the moral and behavioural norms that judicial staff should observe when performing their duties and exercising their powers. In accordance with the definition of China's criminal law, judicial personnel mainly include those with investigative, prosecutorial, adjudicative and supervisory duties, and the professional ethics that they jointly uphold is what we call judicial ethics. Whether judicial personnel can adhere to their duties, maintain integrity and enforce the law

impartially has a direct impact on the fairness of justice and the correct implementation of the law, which is the key to the transformation of our country from the rule of man to the rule of law, and the true realisation of the rule of law. Judicial ethics is reflected in the degree of fit between the adjudication process and the outcome of the judgement and the mainstream values of society. This degree of fit is an important condition for judging whether a ruling is good or not. A good judgement should not only comply with the provisions of the law, but also with the moral expectations of the public and the requirements of fairness and justice, which is the core essence of judicial ethics. Judicial ethics refers to the moral and ethical norms that should be observed by judicial officers in the exercise of judicial power, that is, judicial officers should be loyal, clean and fair.

4.3 Prevention of wrongful convictions

General Secretary General Secretary has repeatedly emphasised the "credibility" of the judiciary behind the impartial administration of justice, which can be safeguarded by the impartial judgements it brings to the people, especially when the outcome of a criminal judgement includes the possibility of the death penalty and life imprisonment. A single wrongful conviction can be a factor in destroying an entire family, or even lead to a loss of faith in the judiciary by an entire social group. General Secretary General Secretary said that "the deeper cause of wrongful convictions is the unscientific configuration of judicial powers and the mechanism for the operation of those powers, and the institutional mechanism for the mutual constraint of investigative, prosecutorial, adjudicative and enforcement powers has not really taken shape". It can be concluded from this that the main causes of unjust and false cases are, firstly, the responsibility of judicial personnel, in which regard it is necessary to establish and improve the lifelong accountability of judicial organs and judicial personnel, and secondly, to improve the configuration of judicial powers and the mechanism for the operation of powers.

5. Compliance by all

General Secretary General Secretary pointed out that "for the law to work, it requires faith in the law on the part of all society". Comprehensive compliance with the law requires that we raise the concept and spirit of the rule of law in society as a whole and ensure that all members of society have faith in the rule of law. Universal compliance with the law means that everyone is equal before the law, and no organisation or individual can go beyond the boundaries set by the constitution and the law. General Secretary's idea of the rule of law therefore aims to enhance the concept of the rule of law for all people, and to promote the formation of a social atmosphere of respect for and compliance with the law through the popularisation of the law, in which the education of citizens on the concept of the rule of law is particularly important how. Law-abiding citizens need to do the following:

5.1 Improvement of civic education on the rule of law

The first thing that needs to be done to educate citizens about the rule of law is to educate them about the legal system, that is, about laws and institutions. At this level, the focus is on the dissemination of general and basic knowledge of the law. General Secretary's thought on the rule of law emphasises the need to guide the public to look for the law and rely on the law to solve problems, and to gradually change the phenomenon in society whereby people look not for the law but for others. Since the reform and opening up, citizens' awareness of the legal system has been greatly improved, but it does not mean that civic legal education can be abandoned. The legal system has the nature of the times, with the deepening of the reform of socialism with Chinese characteristics, China's legal system is also constantly optimised, the concept of the rule of law contained behind the legal system

is also adjusted with the changes of the times. In-depth public education on the legal system is needed, especially for the grassroots, and legal education is of great significance to their understanding of the current legal system, legal procedures and legal channels.

5.2 Fostering a civic concept of the rule of law

In the historical context of the new era, rule of law education that relies solely on promoting citizens' knowledge of and compliance with the law can no longer meet the needs of current rule of law practice. In order to improve people's legal literacy and cultivate citizens' concept of the rule of law, it is necessary to focus on education in legal beliefs and to develop rule of law education with the Constitution as the core, which is a new requirement for improving people's legal literacy in the new era. General Secretary's thought on the rule of law holds that if the law and the rule of law are to play a role, a social atmosphere of respect for and compliance with the law as well as a firm belief in the law must be formed. Comprehensive education of citizens on the rule of law is a basic requirement for comprehensively promoting the rule of law. In addition to extensive legal publicity and education, we also need to incorporate rule of law education into the national education system and spiritual civilisation construction. In order to effectively popularise knowledge of the law, we should conduct publicity in a way that is acceptable to the general public. Only in this way can we ensure that civic education on the concept of the rule of law plays its proper role.

6. Conclusion

In conclusion, General Secretary's thought on the rule of law serves as a comprehensive and far-reaching guiding ideology for the development of China's criminal law. In the realm of criminal legislation, it promotes scientific legislation, guiding the amendment and addition of norms and the recognition of new types of legal interests, thus making the criminal law more adaptable to the changing social environment and better safeguarding the rights and interests of the people. In the interface between strict law - enforcement and criminal justice, it emphasizes the importance of seamless connection, following principles such as "non bis in idem" and "criminal priority", to ensure the effective punishment of offences and the maintenance of social justice. In criminal justice, it adheres to the people - centered approach, focuses on the fairness of justice, requires judicial officers to adhere to criminal justice ethics, and prevents wrongful convictions, which is essential for upholding the authority of the law and the trust of the people in the judiciary. In terms of compliance by all, it calls for the improvement of civic education on the rule of law and the fostering of a civic concept of the rule of law, aiming to create a social atmosphere of respect for and compliance with the law. As China continues to progress in the new era, continuously deepening the implementation of General Secretary's thought on the rule of law in the field of criminal law will be of great significance for building a more just, harmonious, and legally - sound society.

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