

A Study on the Effectiveness of Governance in Ethnic Areas with Xi Jinping's Thought on Rule of Law at Its Centre

Based on the Criminal Trial Perspective of Dangerous Security Cases

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ABSTRACT

Along with the acceleration of China's day-to-day urbanization process, the traditional community governance system in ethnic areas began to be reconstructed, the social structure underwent transformation, causing substantial adjustments in social relations, and the increasingly complex and diverse external forms put forward new requirements for court trials to endanger the lives and health of the majority as well as the smooth and peaceful public life of dangerous and safe criminals, the people's courts actively exercise their trial functions. Through "politics plus rule of law", "improving efficiency plus increasing quality" and "through cohesion plus gathering strength", Xi Jinping's thought on the rule of law has been used as the centrepiece to improve the effectiveness of governance in ethnic areas. The people's courts should practise Xi Jinping's thought on the rule of law in the trials of dangerous security offenders, base themselves on the "two major situations", have the "greatness of the state" in mind, and focus on the general situation of the work of the Party and the state, in order to perform their duties for the smooth operation of the economy and the well-being of society.

Keywords: Xi Jinping's thought on the rule of law, Governance effectiveness, Criminal trials in security cases.

1. INTRODUCTION

Along with the acceleration of China's day-to-day urbanisation process, the traditional community governance system in ethnic areas has begun to be reconstructed, the social structure has been transformed, giving rise to substantial adjustments in social relations, and the increasingly complex and diverse external forms have placed new demands on the courts' trial work to endanger the lives and health of the majority of people as well as the smoothness and tranquillity of public life as dangerous security offenders, whose main characteristic is to endanger public security. How do the people's courts, as adjudicative bodies, exercise their adjudicative functions? Zhou Qiang, Secretary of the Party Group and President of the Supreme People's Court, stressed the need to adhere to Xi Jinping's thought on socialism with Chinese

characteristics in the new era as a guide, to thoroughly implement Xi Jinping's thought on the rule of law, to promote the high-quality development of the work of the people's courts in the new era, and to provide strong judicial services for the comprehensive construction of a modern socialist country to start well. Ultimately, the judicial quality of court trials will be enhanced, forming a perfect unity of the three major values of justice, efficiency and society.

The people's court accurately understands the major political responsibility of the special struggle for the trial of dangerous safety offenders. In addition to strengthening the organizational guarantee, institutional guarantee and financial guarantee, it actively promotes the "four musts" system: The president of the court must undertake or serve as the presiding judge of the case involving

the dangerous safety offenders; The judgment results of cases involving dangerous safety crimes must be studied and decided by the judicial committee; The trial management department must investigate every case involving dangerous safety crimes; People's assessors must be invited to participate in all cases involving dangerous safety crimes, to promote the accused to plead guilty and serve the sentence, and minimize social confrontation. The people's court has promoted the trial of dangerous safety criminals by establishing a cooperative case handling mechanism with the political and legal organs and by means of joint investigation and "double special classes" case handling.

As a full-time judiciary, the People's Court plays or shoulders the important duty and sacred mission of guarding the fairness and justice of cases and maintaining social harmony and stability in criminal trials of dangerous security cases. The people's courts at all levels adhere to the socialist rule of law, focus on the effectiveness of governance in ethnic areas, follow the development of the times, closely follow their functions and positioning, closely follow the regional reality, focus on difficult cases, always uphold the value of justice for the people, the pursuit of fairness and justice, and actively participate in and promote innovation in social governance in the municipality, to properly resolve disputes and properly adjust conflicts, to combat crime in accordance with the law, to create a good atmosphere for the rule of law, to practice a new style of democracy and the rule of law, to create a new pattern of the rule of law and to write a pleasing story of the rule of law to show due commitment, highlight the value of guidance and provide the necessary reference. As far as the effectiveness of governance in ethnic areas under the broad dimension of criminal justice cases is concerned, it is worthwhile to reflect on, consider and deepen any of the aspects or dimensions, so as to promote the deep development of the effectiveness of governance in ethnic areas based on criminal justice cases, and thus promote the optimisation, transformation and upgrading of court functions.

2. POLITICS + RULE OF LAW: CLARIFYING THE THEORETICAL VALUE OF IMPROVING THE EFFECTIVENESS OF GOVERNANCE IN ETHNIC

AREAS UNDER CRITICAL SECURITY CASES

The rule of law is a major theme and basic strategy for adhering to and developing socialism with Chinese characteristics, and a basic way for the Party to govern the country; whether it is building a socialist market economy, developing socialist democracy, developing advanced socialist culture, building a socialist harmonious society, building a socialist ecological civilization, or building a moderately prosperous society and a strong socialist modern state, the rule of law is an inherent requirement. It plays an indispensable role in leading, regulating and safeguarding.¹

It is necessary to deeply understand the great significance of improving the governance efficiency of ethnic areas, and carry out in-depth rule of law thinking and judicial reform practice of Xi Jinping of important references and functional bearers. Serious comprehension, scientific research and profound understanding of the basic consensus and realistic differences in governance effectiveness in criminal trials of critical security cases are conducive to exploring the normative path of optimizing governance effectiveness, gathering rational consensus on the transformation of court functions, and broadening the scientific dimension of increasing the quality of governance effectiveness. In other words, it can also integrate the building of a firm sense of Chinese national community into the whole process and all aspects of governance effectiveness, thus strengthening the political, ideological, theoretical and emotional identity of Xi Jinping's thought on the rule of law in the new era of socialism with Chinese characteristics, and reinforcing the great force of conviction, ideological determination and forward momentum of comprehensively following the rule of law in the new era of socialism with Chinese characteristics, so as to build a China governed by the rule of law, and promote the modernization of the national governance system and governance capacity.²

Security is the basic premise for promoting development, and development is an important

1. The Writing Group of Xi Jinping's Introduction to the Thought on the Rule of Law, An Introduction to Xi Jinping's Thought on the Rule of Law [M]. Higher Education Press, 2021, p.3.

2. The Writing Group of Xi Jinping's Introduction to the Thought on the Rule of Law, An Introduction to Xi Jinping's Thought on the Rule of Law [M]. Higher Education Press, 2021, p.3.

guarantee for maintaining security. The "rapid economic development" created by the Chinese people under the leadership of the Communist Party of China is a miracle of "development" and "long-term social stability" is a miracle of "security". The "long-term social stability" is a miracle of "security".³ It is necessary to promote the process of socialist rule of law with Chinese characteristics, improve the national governance system and enhance the capacity of social governance forerunners, consciously convert our inner feelings into practical respect for the rule of law, respect for the system, faith in the rule of law, implementation of the system, practice of the rule of law, and maintenance of the system in typical practice, and transform it into the essence of judicial reform that is people-oriented, innovation-oriented, science-based and practice-oriented.

3. IMPROVING EFFICIENCY + INCREASING QUALITY: A PRACTICAL GUIDE TO IMPROVING GOVERNANCE EFFECTIVENESS IN ETHNIC AREAS UNDER THE EXTENSION OF CRITICAL SECURITY CASES

Implementation is the life of the law, implementation is the authority of the law, and implementation is the greatness of the law. In the legal operation system, law-making (legislation) is the foundation and starting point, while law implementation is the process of concretizing the legal norms formulated by the state and realizing the legal requirements, the process of transforming the law on paper into the law in action, and the process of transforming the abstract pattern of legal behavior into the concrete behavior of legal subjects.⁴

3.1 Strengthening Synergies and Bringing Together Powerful Synergies

There is a necessity to do a better job of judging safety and security cases, refine the content of governance effectiveness, uphold legal authority, establish faith in the rule of law, demonstrate judicial fairness and justice, shape friendly relations

3. The Writing Group of Xi Jinping's Introduction to the Thought on the Rule of Law, An Introduction to Xi Jinping's Thought on the Rule of Law [M]. Higher Education Press, 2021, p.277.

4. Zhang Wenxian, chief editor: Jurisprudence (fifth edition) [M]. Higher Education Press, Peking University Press, 2018 edition, p242.

and advocate new social civilization. First of all, it is a must to further strengthen the exchanges, communication and cooperation between various departments of the court, increase the construction of the system of connection between trial and enforcement and effective supervision, and jointly assist in verifying the composition, nature, source and whereabouts of the assets involved in the case through early communication, early docking, timely consultation, and real-time follow-up with the judicial trial departments through full-time enforcement special classes, grasp the base number of "property" involved in the case, familiarize themselves with the location of the "property" involved in the case, and ensure that the assets involved in the case are "ascertainable, clear, controllable, controllable, operable, and disposable"; Second, it is necessary to continuously strengthen the integration, coordination and linkage with the procuratorate, public security, industry and commerce, finance and other practical departments, strengthen the leadership of the party committee, deepen coordinated governance, adhere to overall planning, and extensive cohesion, and then build a systematic linkage mechanism with the court as the main line and other departments as the participation, and finally form a useful work pattern in which relevant departments cooperate and courts take the lead in joint management and cooperation. Third, the court should combine the legal interests of the protection of crimes endangering national security, that is, the state power, sovereignty, unity and territorial integrity, people's well-being, sustainable economic and social development and other major national interests are relatively free from danger and internal and external threats, as well as the ability to ensure a continuous state of security⁵, closely follow the specific case, closely follow the actual situation of the field, constantly optimize work functions, constantly innovate work methods, and gradually form a good situation of mutual support, extensive exchanges and close cooperation with relevant functional departments. What's more, it is a necessity to increase the intensity of court financial support year by year, gradually broaden the scope of judges' training, gradually explore the depth of judges' training content, and choose to follow the requirements of centralized, dispersed, long-term, and short-term training in a regular and irregular manner, so that case-handling judges can more clearly understand and familiarize themselves with how assets involved in cases are sealed and

5. Zhang Mingkai: Criminal Law (sixth edition, second) [M]. Law Press, 2021 edition, p869. (in Chinese)

seized, how to freeze and enforce, and how to recover and confiscate. Aiming at the governance efficiency of ethnic minority areas, taking dangerous security cases as the perspective, it is hoped that it can enrich judges' theoretical knowledge reserves, improve judges' judicial practical skills, and cultivate judges' professional qualities. Finally, there is a must not only to strengthen the intensity of trials according to law and the overall planning of policies, but also to learn to distinguish between seditious crimes and the freedom of expression granted to citizens by the Constitution of China. People should affirm and protect citizens' speech in public affairs, as Anthony Lewis said: "Speech that directly incites 'violent resistance' should be punished, but not speech that merely refers to government policy, whether euphemistic or explicit."⁶ It should be noted that words are uncertain and multimeaning, and generally speaking, speech includes two dimensions: a statement of fact and a personal opinion or value judgment expressed based on a statement of fact. The purpose of the Constitution's freedom of expression is to protect individual opinions, which, as the German Federal Constitutional Court decided in the Sampaigh Slurh case, "has nothing to do with whether an opinion is 'valuable' or 'worthless', 'right' or 'wrong', or whether it is emotional or rational and irrelevant".⁷ The reason is that when every citizen expounds his or her own value judgment based on the representation of facts, regardless of the content it presents, it should not be treated as a crime of danger, which is important in giving play to the synergistic function of the court, forming a strong joint force, and doing a good job in governance efficiency.

3.2 Standardizing the Adjudication of Cases, Highlighting the Value Guidance of "Professionalism" and "Specialization"

By exploring the generation path of trial specialization, the court summarizes the influencing factors of trial specialization, forms a management model of trial specialization, and then introduces a matching guidance mechanism for the implementation of trial specialization, which not

6. (U.S.) Anthony Lewis, *Freedom for the Thought That We Hate: A Biography of the First Amendment* [M]. Xu Shuang, trans., Law Press, 2010, p34.

7. Zhang Qianfan, *French and German Constitutionalism* [M]. Law Press, 2011, p387.

only promotes the transformation of judges' roles around knowledge, compound, and expert, but also promotes judges to handle high-quality cases, create high-quality cases, and establish typical cases. In summary, the logical essence and management model of trial specialization not only reflect the comprehensive quality of judges, but also forge the overall quality and efficiency of cases, and also form a good driving effect, and promote the improvement of the quality and efficiency of governance in ethnic areas.

4. COHESION + AGGREGATION: IMPROVING THE EFFICIENCY OF GOVERNANCE IN ETHNIC AREAS UNDER DANGEROUS SECURITY CASES

As an important component of the national judicial organs, the courts play their adjudication functions through legal procedures, in accordance with legal norms and strict application of law, thereby achieving the functions of resolving case disputes, resolving conflicts and reconciling conflicts of interest. However, limited by the current political system and composition structure and social governance pattern in China, grassroots courts must not only undertake the major challenges brought about by the downward transfer or sinking of national governance authority during the period of social transformation, but also in the extensive practice of playing the role of social governance. In addition to case adjudication, they should also change their concepts to make breakthroughs and make a difference. It is true that if the judicial power on the track of rule of law can appropriately participate in grassroots governance and do a good job in the governance efficiency of ethnic areas. It is not only a typical embodiment of its own functions, but also a useful manifestation of the perfect practice of guarding justice. And it is also a rule of law mapping for improving the social governance system, promoting the modernization of governance capabilities, and creating a new situation in social governance. As far as judicial practice is concerned, it is not so much that judicial adjudication is the entire work of the court, but rather that it is its unshirkable responsibility and mission to undertake social governance and do a good job in the united front. Although these works are not as logical as the deductive reasoning syllogisms "major premises", "minor premises" and "conclusions" that people use when learning the application of law in the classroom, they are based

on their factual examination, and they are responsive and participatory in judicial application to promote grassroots social operation and governance efficiency towards good governance.

4.1 Promoting Fair and Just Trials Through Accurate Application of Law

As judicial organs, the basic functions of courts are to try all kinds of cases and curb illegal and criminal activities that are not conducive to the smooth progress of socialist construction. The current stage is a critical moment or an important stage in the construction of socialist rule of law in China, and it is obvious that improving the legal literacy of judicial personnel and cultivating legal thinking logic have become the top priority. The court must adjudicate through the legal thinking and legal logic reflected in the fair and just judgment, and carefully adjudicate each case out of respect for the law and the responsibility of the parties. When applying the law provisions and accurate legal sense can improve the efficiency of adjudicating cases, cultivating an accurate sense of law has become an important way to improve the efficiency of trial governance.

4.2 Promoting Open Governance Through Joint Efforts in Trial Enforcement

The court must uphold the original mission and sacred duty of "striving to let the people feel fairness and justice in every legal system, every enforcement decision, and every judicial case", and ensure that the trial process is "people-oriented". Every case will involve the basic interests of the perpetrator (defendant) and the victim (plaintiff). According to these, in the process of enforcement, regardless of whether the perpetrator (defendant) can perform the judgment, the court will assess the enforcement ability as soon as possible and act as a third party to communicate with the families of both parties, which is in line with the public will and social justice, so as to greatly encourage the joint force between trial and enforcement, and be conducive to the resolution of social conflicts and the improvement of social governance. Therefore, judges should conduct reasonable analysis during trial, leave sufficient leeway to protect the due rights of both parties, resolutely avoid various value conflicts caused by judicial rigidity, and integrate the unique warmth and gentleness of the adjudicators in the cold application of the law. Guiding the person subject to enforcement to actively perform the judgment through soft

guidance is an important way to solve the problem of "difficult enforcement" in a society ruled by law, and it is also the meaning of doing a good job in governance efficiency.

5. CONCLUSION

While exercising their daily judicial functions, the people's courts are guided by Xi Jinping's thought on socialism with Chinese characteristics in the new era, to practice Xi Jinping's thought on the rule of law, based on the "two major situations", with the "greatness of the country" in mind, focus on the general situation of the work of the Party and the State, and perform people's duties for the smooth operation of the economy and social peace and prosperity, adhere to the concept of national security, make every effort to combat dangerous security crimes, provide comprehensive judicial protection and escort the implementation of major national strategies. It is a matter of sustained improvement in governance effectiveness, social harmony and stability, people's happiness and well-being, orderly promotion of grassroots social governance, and the stability of grassroots power.

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