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The Positive Impact of Public Opinion on Legislation in China

Abstract. The study highlights the important role of public opinion in driving legislative changes. By illustrating the positive impact of public opinion on refining the law of necessary defense in China, it demonstrates how public discourse surrounding notable cases can generate substantial social influence, prompting legislative changes. The study argues that legislative bodies should give greater consideration to public sentiment during the lawmaking process to align legislation with public expectations, thereby enhancing its legitimacy and societal acceptance. Furthermore, the study outlines the potential risks associated with radicalized public opinion and the possibility of laws being modified due to excessive pressure. It also highlights the considerable potential for cooperation in the legal sphere between Russia and China. Strengthening mutual exchanges and collaborative efforts could allow both nations to gain valuable insights into each other's legislative practices, fostering progress in refining their respective legal systems.

Keywords: public opinion; legislative amendments; necessary defense; China and Russia

In September 2020, the Supreme People's Court of China, the Supreme People's Procuratorate of China, and the Ministry of Public Security of China jointly published a document titled “Guidelines for the Application of Necessary Self-Defense” to define the scope of permissible self-defense. On November 27 of the same year, the Supreme People's Procuratorate of China released six typical cases where individuals acting in self-defense were not arrested or prosecuted. This publication further clarified the rights of citizens to self-defense.

The report on the work of the Supreme People's Court of China, presented at the National People's Congress (NPC) and the Chinese

People's Political Consultative Conference (CPPCC) in March 2024, highlighted that between 2021 and 2023, 77 defendants were acquitted in self-defense cases. The report emphasized that “the law must not yield to criminal acts” and called for the practical enforcement of “Article 20”¹. Notably, public opinion has played a significant role in the application of self-defense regulations, starting with high-profile cases such as those of Deng Yujiao, Yu Huan, and Yu Haiming in Kunshan, Jiangsu Province. As a result, China's criminal code has become more refined, reflecting these societal shifts.

1. Typical Self-Defense Cases and Public Opinion. Advancements in science and technology, coupled with growing citizen awareness, have led to increased public participation in affairs of the state, particularly online. As a result, public opinion, especially online, now plays a significant role in shaping legislation. The Deng Yujiao case in 2009 brought the concept of *self-defense* into the public spotlight for the first time, marking the beginning of online public discussion influencing court decisions. This was followed by the landmark cases of Yu Huan and Yu Haiming, which had a profound impact on judicial practice and contributed to the refinement of Chinese legislation. Striking the right balance between emotions, rationality, and the law remains a critical challenge for legislative and judicial authorities.

In the eyes of the public, Deng Yujiao, Yu Huan, and Yu Haiming were compelled to act in self-defense, which was seen as justified rather than excessive, and they should not have faced criminal charges. Public discussions largely focused on the urgency, necessity, and intent behind their actions. Many began questioning previous rulings of “excessive self-defense” in similar cases, as well as the current legislation, calling for urgent amendments and improvements to the law.

This surge in public attention to the issue of self-defense can be explained by the fact that self-defense corresponds to citizens' fundamental need to protect themselves and resist in order to safeguard their own lives when faced with sudden and unjustified aggression. In the process of building a law-abiding society,

¹ “*The law must not yield to crimes*”, and “*Article 20*” must be put into practice, available at: <https://www.shszx.gov.cn/shzx/mtsd/content/7ebf8ce7-51ff-4ae2-a6f1-5c36ba276642.html> (accessed March 09, 2024). (in Chinese).

the definition and application of self-defense as an important legal means of self-protection for citizens have always been surrounded by much discussion. According to Article 20 of the Criminal Code of the PRC, “an act committed to stop an unlawful infringement, undertaken to protect the state, public interests, or the life, property, and other rights of the defender or others from an ongoing illegal infringement, is considered necessary defense and does not entail criminal liability if harm is caused to the person carrying out the unlawful act. If the force used in self-defense clearly exceeded the necessary limits and caused significant harm, criminal liability arises; however, the prescribed punishment must be mitigated or the person may be exempted from punishment. If defense against ongoing fights, attempted murders, robberies, rapes, kidnappings, and other crimes involving violence that pose a serious danger to personal safety results in the perpetrator's death or injury, such defense is not considered excessive, and criminal liability does not arise”².

2. Positive Influence of Public Opinion on Legislation.

The self-defense cases of Deng Yujiao, Yu Huan, and Yu Haiming illustrate the profound impact of public opinion on legislation. In 2009, Deng Yujiao was initially arrested for intentional murder, but the court ultimately ruled her actions as excessive self-defense, reflecting public sentiment that she acted out of necessity rather than malice. This case, widely discussed in the media and online, highlighted concerns about the application of self-defense laws and led to a shift in legal thinking. Similarly, in 2016, following public outcry, Yu Huan's sentence was reduced from life imprisonment to five years, signaling the influence of public opinion on judicial decision-making. In 2018, the prosecution intervened in Yu Haiming's case, recognizing his actions as legitimate self-defense and dropping the charges, further emphasizing the growing impact of public opinion on legal rulings. Over nearly a decade, these cases demonstrate how public opinion has shaped the legislative process in China, pushing for changes that reflect the values and expectations of society, and ultimately increasing the legitimacy and social acceptance of the law.

² Article 20. The Criminal Code of the People's Republic of China (as amended in 2011). (in Chinese).

To prevent the misuse of the law, all countries, including China, set limits on when self-defense is justified. In China, the vast majority of court rulings related to self-defense have concluded that the actions exceeded the boundaries of legitimate defense: 95 % were classified as intentional harm to health, and 4 % as intentional murder³. From an emotional perspective, public opinion tends to sympathize with individuals in vulnerable positions, such as Deng Yujiao, Yu Huan, and Yu Haiming. The concern and apprehension these cases generate often lead to distrust and dissatisfaction with the judicial system and the government, as people question whether the law is applied fairly and justly in cases of self-defense.

The judicial system of China has responded to both the contentious issues in public opinion and the problems inherent in judicial decision-making. The “Guidelines for the Application of Necessary Self-Defense” require that the subjectivity of individuals be considered in legal proceedings, and that the intent to defend oneself be taken into account. This document also advocates for moving away from consequentialism and effectively transforming the judicial concepts influenced by it. When determining whether the defendant acted with the intent to defend themselves, the judgment should be made from the defender's perspective, taking into account the nature, intensity, and danger of the unlawful intrusion, as well as the circumstances the defender was facing.

3. The Influence of Media and Public Opinion on Legislation. The media plays a crucial role in the discussion of self-defense cases, serving as a key channel for information dissemination. Beyond reporting the facts, the media amplify contentious issues through in-depth analysis by legal professionals, sparking broader public debate which not only expands the scope of discussions but also deepens the public's understanding of self-defense. However, the anonymity of the internet can fuel negative emotions, leading to collective sentiments that may undermine the quality of legislative consultations⁴. Excessive emotional responses and the spread

³ Tung Yukting, Quan Quan. Defensive Intent as a Flaw in the Theory of Self-Defense, *Politics and Law*, 2021, no. 310(3), pp. 118–127. (in Chinese).

⁴ Zhang Aijun, Zhang Yuan. Practical Advantages, Dilemmas, and Solutions of Networked Consultative Democracy, *Forum Jianhuai*, 2019, no. 296(4), pp. 63–69. (in Chinese).

of rumors hinder the circulation of objective information, contributing to alienation in the public sphere. As Habermas noted, this reflects the tyranny of the majority, with heightened emotionality and a lack of rational procedural mechanisms⁵. The fast pace of law-making, driven by public pressure, can result in flawed procedures and hastily adopted laws⁶. In short, the quality of legislation can suffer under the weight of public opinion.

Thus, the transition from public opinion to legislative amendments is complex and dynamic. It involves the growth of public opinion, media analysis, the development of public consensus, and the review and refinement of laws. This process not only highlights the relationship between public opinion and legislation but also embodies the socialist spirit of the rule of law.

Russia and China have significant potential for cooperation in the legal sphere. Strengthening exchanges and collaboration can deepen mutual understanding of each country's legislative experiences, fostering progress in improving their respective legal systems. Moving forward, Russia and China can expand their cooperation in areas such as environmental protection, intellectual property, e-commerce, and other emerging markets. They can also collaborate to address global challenges like transnational crime, cybersecurity, and terrorism, contributing to global peace and stability.

⁵ Xu Yang. Retrial of Public Opinion: The Dilemma and the Way Out of the Judicial Process, *Chinese Legal Journal*, 2012, no. 2, pp. 182–193. (in Chinese).

⁶ Zhang Xin. New Media: Public Participation and Legislation Under Pressure, *Hebei Law*, 2016, vol. 34, no. 10, pp. 90–101. (in Chinese).