

# Balancing Social Reintegration And Information Control: A Comparative Doctrinal And Institutional Analysis Of Criminal Record Registration, Disclosure, And Expungement In Germany And China

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**Abstract:** Criminal record systems occupy a structurally ambivalent position at the intersection of crime control, social governance, and fundamental rights protection. On the one hand, the state's systematic recording and disclosure of prior convictions serves public security, judicial efficiency, and preventive objectives. On the other hand, the enduring visibility of past offences risks transforming criminal punishment into a lifelong social stigma, undermining rehabilitation, proportionality, and personal development. This article undertakes a comprehensive comparative and doctrinal analysis of criminal record registration, inquiry, disclosure, sealing, and expungement, focusing primarily on Germany and China while incorporating relevant comparative perspectives. Drawing strictly on the provided references, the study reconstructs the historical evolution, normative foundations, and institutional logic of criminal record regimes, with particular emphasis on minor offences and juvenile delinquency. Through an integrated methodological approach combining doctrinal legal analysis, historical interpretation, and comparative institutional study, the article demonstrates that criminal record systems are not neutral administrative tools but deeply value-laden legal institutions shaped by penal theory, constitutional rights, and social policy. The German model, characterized by centralized registers, differentiated disclosure rules, and constitutionally anchored rehabilitation principles, contrasts sharply with China's fragmented, locally constructed inquiry and certification practices, which increasingly confront tensions between social management and emerging personal information rights. The analysis reveals converging reform trajectories, especially regarding record sealing for juveniles and minor offences, yet also persistent structural divergences rooted in differing legal traditions and governance logics. The article argues that sustainable criminal record reform requires a systematic recalibration of the relationship between punishment, information, and social reintegration, advancing a principled model that integrates proportionality, temporal limitation, and differentiated access while safeguarding both public interests and individual dignity.

**Keywords:** Criminal records; Expungement; Juvenile justice; Right to be forgotten; Comparative criminal law; Personal information protection.

**Introduction:** The recording of criminal convictions has long been a constitutive element of modern criminal justice systems. From their early emergence as rudimentary registers of recidivism to their contemporary incarnation as highly formalized, digitally administered databases, criminal record systems reflect a fundamental tension inherent in penal law: the desire to remember in order to prevent, and the need to forget in order to rehabilitate. This

tension has acquired renewed urgency in contemporary societies marked by intensified datafication, expanded background checks, and heightened public sensitivity to risk, particularly in areas involving vulnerable groups such as minors. Against this background, the legal governance of criminal records has become a focal point of scholarly debate, judicial intervention, and legislative reform.

Historically, criminal records were closely linked to the

logic of deterrence and incapacitation. In the German context, the development of centralized registers during the late nineteenth and early twentieth centuries was driven by what de Groot describes as a “cult of previous convictions,” in which knowledge of an offender’s past was considered indispensable for both sentencing and social control (de Groot, 2021). Similarly, early registry practices in other European jurisdictions treated prior convictions as quasi-permanent markers of character rather than temporally limited legal consequences. Over time, however, the expansion of constitutionalism, human rights discourse, and rehabilitative penal theories challenged this approach, prompting a gradual reorientation toward the principle that punishment should not entail lifelong exclusion from social participation (Rebmann, 1983; Morgenstern, 2011).

In China, the trajectory of criminal record systems has followed a distinct path shaped by different historical, political, and legal conditions. For much of the twentieth century, the absence of a unified statutory criminal record regime coexisted with strong informal mechanisms of social control and political classification. Only in recent decades, particularly with the modernization of public security administration and the expansion of market-oriented labor relations, has the issue of criminal record inquiry and certification emerged as a salient legal and social problem (Huang and Peng, 2024). Local regulations on certificates of non-criminal record, issued by public security organs in provinces such as Guangdong, Fujian, and Ningxia, reflect a pragmatic yet fragmented response to growing societal demand for background checks (Guangdong Provincial Public Security Department, 2014; Fujin Provincial Public Security Department, 2019; Ningxia Hui Autonomous Region Department of Public Security, 2017).

Despite these differences, both Germany and China face a common structural dilemma: how to reconcile the preventive and informational functions of criminal records with the normative commitment to resocialization, privacy, and proportionality. This dilemma is particularly acute in relation to minor offences and juvenile delinquency, where the long-term consequences of record disclosure may far exceed the gravity of the original wrongdoing. German juvenile justice law, with its emphasis on education and individualized response, has long recognized the need to limit the collateral effects of convictions on young offenders (Dünkel, 2019; Eisenberg et al., 2024). In China, recent scholarly and policy debates increasingly call for the sealing or expungement of minor and juvenile criminal records as part of a broader strategy of governance modernization and social integration

(Song and Yang, 2019; Li, 2024; Shi, 2025).

The existing literature provides rich doctrinal, historical, and comparative insights into these issues, yet several gaps remain. First, much scholarship examines criminal record systems within national silos, insufficiently exploring their structural commonalities and divergences across legal cultures. Second, discussions of expungement and sealing often focus on technical rules without situating them within a broader theoretical framework of punishment, information rights, and social reintegration. Third, the interaction between criminal record law and emerging regimes of personal information protection, particularly in China, remains under-theorized (Ding, 2023; Peng, 2022).

This article seeks to address these gaps by offering a comprehensive, publication-ready analysis of criminal record systems in Germany and China, grounded strictly in the provided references. By integrating doctrinal interpretation, historical reconstruction, and comparative analysis, the study aims to elucidate the underlying normative logic of criminal record regimes and to assess their capacity to balance social security with individual rights in the context of minor offences and juvenile justice.

### Methodology

The methodological approach adopted in this article is qualitative, doctrinal, and comparative, reflecting the normative and institutional nature of the research subject. Rather than relying on empirical datasets or quantitative analysis, the study proceeds through a systematic examination of legal texts, judicial decisions, legislative materials, and authoritative scholarly interpretations contained in the provided references. This methodology is particularly appropriate given that criminal record systems are fundamentally legal constructs whose operation and effects are determined by statutory design, judicial interpretation, and administrative practice.

The first methodological component consists of doctrinal legal analysis. Core statutes, such as Germany’s laws on the Central Register and the Educational Register, as reflected in parliamentary materials from the Deutscher Bundestag (1969; 1970), are examined to reconstruct the internal logic, objectives, and limitations of the German criminal record regime. Judicial decisions of the Federal Constitutional Court, the Federal Court of Justice, and other courts are analyzed to identify constitutional principles and interpretative frameworks governing record disclosure and retention (Federal Constitutional Court, 1973; 1974; 1983; Federal Court of Justice, 1972; Federal Labour Court, 2012; OLG Frankfurt, 2016). In the Chinese context, local normative documents and

judicial decisions are interpreted to elucidate the de facto structure of criminal record inquiry and certification practices (Chongqing Municipal Civil Affairs Bureau and Chongqing People's Procuratorate, 2022; Supreme People's Court, 2015).

The second component is historical analysis. Drawing on works such as Rebmann's centennial study of German criminal registry systems and de Groot's examination of the German Empire, the article situates contemporary legal rules within their historical evolution (Rebmann, 1983; de Groot, 2021). This historical perspective enables a deeper understanding of why certain institutional features persist and how reform debates have been shaped by past experiences.

The third component is comparative analysis. While Germany and China serve as the primary points of reference, insights from other jurisdictions, including the United States and Russia, are incorporated through secondary literature to illuminate alternative models and reform trajectories (Peng, 2021; Pang, 2018). The comparative method employed is functional rather than formalistic, focusing on how different systems address similar problems of stigma, reintegration, and information control.

Finally, the methodology integrates theoretical analysis drawn from penal theory, constitutional law, and systems theory. Concepts such as resocialization, proportionality, the right to be forgotten, and the collateral consequences of punishment are used as analytical lenses to interpret legal rules and institutional practices (Morgenstern, 2019; Sonnen, 2023; Storck, 2023). By combining these methodological elements, the article aims to produce a nuanced and coherent account of criminal record systems that transcends descriptive comparison and engages with underlying normative questions.

## Results

The analysis yields several interrelated findings concerning the structure, function, and normative orientation of criminal record systems in Germany and China. First, it becomes evident that criminal record regimes are deeply embedded in broader penal philosophies and constitutional frameworks. In Germany, the criminal register is not merely an administrative archive but a legally regulated institution whose operation is constrained by constitutional principles of human dignity, proportionality, and the social state (Federal Constitutional Court, 1973; 1983). The differentiation between the Central Register and the Educational Register, as established in the legislative materials of the late 1960s, reflects a deliberate effort to tailor information retention and disclosure to the offender's

age and rehabilitative prospects (Deutscher Bundestag, 1969; 1970).

Second, German law demonstrates a high degree of internal differentiation in terms of access rights, disclosure scopes, and deletion periods. As Pfeiffer notes, the distinction between unrestricted access for certain state authorities and the limited information contained in certificates of good conduct represents a core mechanism for balancing public interests with individual rehabilitation (Pfeiffer, 2000). Judicial interpretations have further refined these distinctions, emphasizing that employers' interests in information must be weighed against the applicant's right to occupational freedom and privacy (Federal Labour Court, 2012).

Third, the Chinese criminal record system, by contrast, lacks a unified statutory foundation and instead operates through a patchwork of local regulations and administrative practices. The issuance of certificates of non-criminal record by public security organs serves as a functional substitute for a centralized disclosure regime, yet this practice is marked by significant regional variation and legal uncertainty (Huang and Peng, 2024). Local rules in Guangdong, Fujian, and Ningxia illustrate differing thresholds, procedures, and scopes of inquiry, underscoring the absence of a coherent national standard (Guangdong Provincial Public Security Department, 2014; Fujin Provincial Public Security Department, 2019; Ningxia Hui Autonomous Region Department of Public Security, 2017).

Fourth, both systems reveal a growing concern with the disproportionate impact of criminal records on individuals convicted of minor offences or offences committed at a young age. In Germany, juvenile justice law and register law converge to limit the long-term visibility of juvenile convictions, reflecting a longstanding commitment to educational and rehabilitative principles (Dünkel, 2019; Eisenberg et al., 2024). In China, recent scholarly proposals advocate for record sealing mechanisms that would prevent the routine disclosure of minor offence records, particularly in employment contexts (Li, 2024; Liang, 2023; Shi, 2025).

Finally, the analysis highlights an emerging convergence around the concept of temporal limitation and conditional forgetting. Both German and Chinese debates increasingly recognize that the continued relevance of a conviction diminishes over time and that legal mechanisms should reflect this dynamic rather than treating criminal records as static indicators of risk (Morgenstern, 2019; Peng, 2025).

## Discussion

The findings invite a deeper discussion of the normative foundations and policy implications of criminal record systems. At the core lies the question of whether criminal records should be understood primarily as instruments of security or as residual elements of punishment. Morgenstern's critique of the "eternal stigma" associated with criminal records underscores the danger of allowing informational consequences to eclipse the temporal limits of formal sanctions (Morgenstern, 2019). From this perspective, unrestricted or prolonged disclosure risks violating the principle of proportionality by extending punishment beyond what is justified by the offence.

In Germany, constitutional jurisprudence has played a pivotal role in articulating limits to record-based discrimination. The Federal Constitutional Court's recognition of a general right of personality and informational self-determination provides a doctrinal basis for challenging excessive disclosure (Federal Constitutional Court, 1983). This jurisprudence aligns with the broader rehabilitative orientation of German penal law, which views resocialization as a constitutional mandate rather than a discretionary policy goal (Sonnen, 2023).

China's situation is more complex. The absence of a constitutional court and the relatively recent development of personal information protection law mean that balancing security and privacy relies heavily on legislative and administrative discretion. Ding's analysis of the relationship between privacy and personal information rights suggests that criminal record information occupies a sensitive position requiring heightened protection due to its stigmatizing potential (Ding, 2023). Nevertheless, current practices often prioritize risk prevention and administrative convenience, particularly in sectors involving minors, as illustrated by Chongqing's interim measures for criminal record checks (Chongqing Municipal Civil Affairs Bureau and Chongqing People's Procuratorate, 2022).

The debate over juvenile and minor offence records further illuminates divergent yet converging approaches. German juvenile justice law, informed by decades of empirical research on delinquency over the life course, recognizes that early criminal behavior does not necessarily predict persistent offending (Schumann, 2003). Consequently, limiting record disclosure is seen as essential to avoiding self-fulfilling prophecies of exclusion. Chinese scholars increasingly echo this insight, arguing that high-frequency minor offences should not result in enduring barriers to employment and social participation (Liang, 2021; Liang, 2023).

However, both systems face unresolved challenges. In Germany, critics argue that even limited certificates of good conduct can have disproportionate effects in an increasingly risk-averse labor market, particularly when employers interpret any entry as a signal of untrustworthiness (Pfeiffer, 2000). In China, the decentralization of record inquiry practices undermines legal certainty and equality, creating the risk of arbitrary or discriminatory application (Peng, 2025).

From a theoretical perspective, systems theory offers a useful lens for understanding these dynamics. Storck's application of Niklas Luhmann's theory highlights how criminal records function as communicative mechanisms that stabilize expectations within social systems but also risk rigidifying identities (Storck, 2023). Effective reform must therefore address not only legal rules but also the broader social meanings attached to criminal records.

Future reform efforts should focus on three interrelated dimensions. First, legal clarity and coherence are essential to ensure predictable and fair application. Second, temporal limitation and differentiated access must be strengthened to reflect the declining relevance of past convictions. Third, the integration of criminal record law with personal information protection regimes can provide a more robust normative framework for balancing competing interests.

## Conclusion

Criminal record systems embody a fundamental paradox of modern criminal justice: they seek to protect society by remembering, yet they risk undermining rehabilitation by refusing to forget. The comparative analysis of Germany and China demonstrates that this paradox is managed through distinct institutional arrangements shaped by legal tradition, constitutional structure, and social policy priorities. Germany's centralized, constitutionally constrained register system exemplifies a mature effort to reconcile security with resocialization, while China's evolving, locally constructed practices reflect a transitional stage marked by experimentation and reform debate.

Despite these differences, both systems are converging toward greater recognition of the harms associated with perpetual stigma, particularly for juveniles and minor offenders. The growing emphasis on record sealing, expungement, and controlled disclosure signals an emerging consensus that criminal punishment must have a meaningful end point not only in law but also in social reality. Achieving this balance requires a principled rethinking of the relationship



between punishment, information, and personal development, grounded in proportionality, dignity, and social inclusion. By situating criminal record reform within a broader theoretical and comparative framework, this article contributes to an ongoing dialogue on how modern legal systems can remember responsibly while allowing individuals the genuine possibility of starting anew.

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