

On the Boundary between the Exercise of Rights and Property Crimes

Jie Cao*

Zhongnan University of Economics and Law, Wuhan, China

*Corresponding Author

ABSTRACT

In modern rule-of-law societies, the awareness of rights is intrinsic to individuals. Despite having legitimate purposes, the exercise of rights also has lawful boundaries. In the context of criminal law, discussing the exercise of rights pertains to cases of abuse of rights through property crimes, including statutory and inherent rights. Judicial practice often leans towards exoneration in such cases, but a trend towards criminalization has emerged in recent years, necessitating a scientifically unified solution from criminal law theory. To achieve effective exoneration, it is crucial to precisely define the scope and types of rights exercised, targeting the different characteristics of ownership realization and claim realization. By clarifying the protected legal interests of property crimes and exploring the relationship between criminal and civil law, the path of excluding unlawfulness should be adopted for exoneration, decriminalizing situations with a legitimate rights basis where the means are necessary and proportionate. In cases where both the constituent elements and unlawfulness are satisfied, the presence or absence of an intent to unlawfully possess should be examined through the manifestation of claim realization. When the actor has an intent to unlawfully possess, it should be recognized as a property crime.

KEYWORDS

Exercise of Rights; Abuse of Rights; Property Crimes; Exoneration Path.

1. INTRODUCTION

One notable characteristic of modern rule-of-law societies is that any subject of rights can enjoy rights conferred by law. Rights embody the autonomy and independent status of individuals in a socialized context, representing legitimate interests statically and permissible or allowable methods of acquiring interests dynamically, i.e., legitimate or permitted behavioral freedom. When rights are infringed, the existing legal system maximizes public relief. However, public relief does not always resolve disputes timely. With the advancement of the rule of law and the development of information technology, citizens' legal awareness has improved, leading to numerous cases of individuals exercising their rights to protect their interests.

From the general perspective, exercising rights does not constitute a crime because private relief by citizens has legitimate purposes and their claims are based on legal and orderly grounds. Indeed, the exercise of rights is an inherent aspect of the progress of the rule of law, but once it crosses the lawful boundary, it is not permitted by law. However, the specific direction of this lawful boundary is often unclear.

Specifically in the field of criminal law, it involves the boundary between the exercise of rights and property crimes: when a person with the right to acquire property or property interests under civil law uses means of property crimes such as intimidation or deception to assert their rights, does it constitute

crimes like extortion, fraud, or forced transactions? After the release of the Top Ten Criminal Cases of 2023, the behavior of professional anti-counterfeit actions for rights protection has once again attracted widespread social attention, and this issue has increasingly become a hot topic in academia.

The exercise of rights is not a normative criminal law concept and cannot directly influence the establishment of a crime. In cases where the purpose is legitimate but the means are unlawful, the focus of academic debate is whether the illegality of the means of exercising rights harms property interests. If it does harm, should the behavior be given legal legitimacy? In other words, in such exercises of rights, which should be criminalized and what are the paths for exoneration?

This article first examines the judicial practice's stance on the characterization of the exercise of rights, defines the scope and types of the exercise of rights from the perspective of rights themselves, reviews the response plans proposed by scholars from various countries, and then proposes paths for exoneration and standards for criminalization to meet the current needs of crime identification and criminal punishment in China.

2. ENLIGHTENMENT OF CHINA'S CRIMINAL ADJUDICATION POSITION

Some scholars believe that China's practical community generally recognizes the view that the exercise of rights is not punishable. However, through relevant case collections and websites such as China Judgments Online and PKULaw, this article screens the following typical cases (see Table 1) and finds that in recent years, judgments recognizing the inappropriate exercise of rights as property crimes have increased. Judicial personnel tend to convict, and the undesirable phenomenon of inconsistent judgments in similar cases persists.

Among these cases, Case 2 and Case 3 differ only in the threat method (reporting vs. petitioning), but the court's conclusions vary greatly. Since 2010, the probability of courts recognizing the exercise of rights as constituting property crimes has increased. In cases where guilt was affirmed, Cases 9 and 10 corrected errors through re-trial, but the process took years. The rationale for not guilty verdicts was consistently the lack of an illegal possession intent, ignoring the objective elements of property crimes. Other cases at least reached the prosecution stage and were dismissed by the prosecutor or acquitted by the court, failing to resolve such cases earlier.

Reviewing typical cases reveals theoretical issues. China's overall attitude in judgments leans towards acquittal, but the methods of handling and criteria for conviction and exoneration are inconsistent. To avoid judicial inconsistencies, clear theoretical guidelines are necessary. Different types of cases require different focus points for exoneration, and clarifying the connotation and types of rights exercise is essential to delineating exoneration paths.

Table 1. Typical cases

Case No.	Facts of the case	Conclusions of the judiciary
1	Defendant Chen borrowed 780,000 yuan for purchasing caterpillar fungus. When the loan was due and the lender refused to repay, Chen, knowing the lender was still in the fungus business, falsely posed as a buyer, forcibly took 550,000 yuan, and coerced a 230,000 yuan IOU.	First Instance: Robbery. Second Instance: Not Guilty. The debt collection was inappropriate but lacked an intent to illegally possess.
2	Defendant Xia and others, due to house and tomb demolition disputes, met with a real estate company manager, demanded 610,000 yuan in compensation, and threatened to report the project as illegal. They received the first payment of 100,000 yuan.	First Instance: Extortion. Second Instance: Not Guilty. Did not have an intent to illegally possess.
3	Defendant Li, in negotiation with a property developer, demanded 1.5 million yuan by threatening to report incomplete development procedures and tax evasion, forcing the company to sign a compensation agreement.	Extortion.
4	When Wang and Zhang were divorced, the court did not address property division. Wang repeatedly requested division, but Zhang refused. Wang threatened to report Zhang's bribery if the economic issue was not resolved and was arrested after receiving 200,000 yuan from Zhang.	Not Guilty. The coercive request for property did not exceed Wang's rightful claim.
5	In 2006, Huang found an ASUS laptop using a prohibited test version CPU and demanded \$5 million in compensation from ASUS, threatening media exposure.	Huang was arrested for extortion, but the prosecution decided not to proceed.
6	In February 2011, farmer Yang, whose van was impounded for alleged illegal passenger transport, used a spare key to take the van from a police station's yard to avoid punishment.	Yang was summoned by the police; further developments are unknown.
7	Defendant Liu demanded 160,000 yuan in mental distress compensation after assaulting Zhang, who had been sexually harassing Liu's wife.	Intentional Injury and Extortion, combined sentences.
8	Su reported Su for illegal house construction, leading to an order to stop building. During negotiations, Su demanded 20,000 yuan to not report further. Su paid 18,000 yuan.	Extortion.
9	In 2008, Guo demanded 3 million yuan in compensation from an infant formula company after his daughter suffered kidney damage from melamine-tainted milk.	First Instance: Extortion. Second Instance: Upheld. Re-trial: Upheld. Re-trial: Not Guilty.
10	In 2000, Liu took old scrap from Cheng's wife after Cheng stole from Liu's welding shop and slapped her. He sold the scrap for 630 yuan.	First Instance: Robbery. Second Instance: Robbery. Re-trial: Not Guilty. Liu lacked an intent to illegally possess.
11	To collect a high-interest loan, Chen and Xiong detained the victim for over 48 hours and Chen assaulted the victim during detention.	Collecting illegal debt.
12	Defendants Fu and Li ordered gold-leaf-adorned ice cream from a restaurant, knowing it might be illegal, and then demanded five times the purchase price in compensation, claiming to be government officials. They sued for refund and public apology.	The Pudong New Area People's Procuratorate indicted them for extortion but later withdrew the prosecution.

3. DELIMITATION OF THE SCOPE OF THE EXERCISE OF RIGHTS AND CLASSIFICATION OF TYPES IN CRIMINAL LAW

3.1. Delimitation of the Scope of the Exercise of Rights in Criminal Law

Rights inherently comprise five elements: interest, claim, qualification, power, and freedom. However, not all realizations of rights need to be discussed within the realm of criminal law. Only when the means of realizing rights resemble or are identical to the means of property crimes does criminal law evaluation become necessary .

Does the "right" here refer solely to statutory rights? This article answers in the negative. From the perspective of legal philosophy, rights exist in three fundamental forms: the initial form being deserved rights, which arise from material living conditions, political traditions, and cultural traditions . Statutory rights are the legislative confirmation and specification of deserved rights , but they only have practical value to the subject when transformed into actual rights. Actual rights are the rights that the subject practically enjoys and exercises. Legal subjects usually establish legal relationships to implement statutory rights as actual rights . The three developmental stages of rights essentially reflect the conscious or unconscious embodiment of citizens' interests and needs. These three forms can transform into one another under certain conditions: the creation of law converts deserved rights into statutory rights, the implementation of law turns statutory rights into actual rights, and the acquisition of actual rights further stimulates new claims or reassessments of the feasibility and reasonableness of existing claims, thereby initiating a new developmental process and advancing the rule of law .

If legitimate rights were limited to statutory rights, many acts of exercising rights would be criminalized, leading to inevitable mechanization and rigidity in the judiciary . Rights are not necessarily all explicitly stipulated by law, reflecting the principle of "everything which is not forbidden is allowed." The sources of recognized rights should include both legal and factual grounds, i.e., statutory rights and deserved rights. Acts of claiming property based on factual entitlements are common in judicial practice. Although certain rights may not be explicitly stipulated by law, they are widely acknowledged by society. For example, in Case 7, although the husband's claim of "husband's rights" is not included in the marital and family law, Professor Wang Zejian argues that marital relationships involve personal interests, and interference with another's marriage inevitably infringes upon the other party's personal interests, akin to the violation of reputation rights . The husband should enjoy the right to claim compensation based on "husband's rights." In Case 11, although the law does not recognize the portion of the interest rate on a usurious loan exceeding four times the LPR, the lender and borrower, based on their genuine intentions, have mutual trust interests, and the lender still enjoys a relative right to the debt. The natural debt beyond the legal protection of civil law is not prohibited by it either. Protecting this interest in criminal law does not violate the principle of legal order unity.

3.2. Classification of Types of the Exercise of Rights in Criminal Law

Exploring decriminalization pathways necessitates typological research as a prerequisite. The classification of the exercise of rights should focus on the concerns of criminal law in relation to such behaviors, incorporating factual circumstances to remain progressive and not overly narrow. This article adopts a dichotomy to organize the aforementioned cases. Broadly, the exercise of rights and property crimes can be divided into two categories:

(1) Ownership Realization Type: This involves the owner reclaiming their own property possessed by another through threats or similar means . Cases such as a person threatening to expose infidelity to gain a share of marital property, reclaiming a legally impounded vehicle through theft, or using intimidation to retrieve stolen goods fall under this category.

(2) Debt Realization Type: This involves the creditor asserting their claim to a debt through threats or similar means. Even if the repayment period has lapsed, the debtor's possession of the property remains legal. This category encompasses four sub-scenarios:

- 1) The creditor has a legitimate claim, such as in cases where a person loans money for business purposes, the creditor's property is stolen, or demands for demolition compensation.
- 2) The creditor has a natural claim, such as in demanding damages based on marital rights.
- 3) The creditor has an illegal claim, such as collecting usurious loans or gambling debts through threats.
- 4) The creditor has a fictitious claim, including situations where the debtor is coerced under false pretenses or through mistaken belief of a debt.

The answer to whether ownership and possession are the same directly impacts the classification of the exercise of rights. Generally, specific tangible goods are relatively stable, whereas debt claims involve more variables and complexities, often leading to practical challenges, most commonly extortion cases.

4. THE LEGAL BOUNDARIES OF EXERCISING RIGHTS

4.1. The Legal Interests Protected by Property Crimes

The essence of crime is the infringement of legal interests. The purpose of criminal law is to protect legal interests, and understanding the content of protected legal interests guides the interpretation of statutory elements, affecting the scope of punishment.

4.1.1. Ownership Theory, Possession Theory, and Intermediate Theory.

Similar to Japanese criminal law theory, Chinese academia debates among ownership theory, possession theory, and intermediate theory regarding the protection of legal interests. Ownership theory asserts that the protected legal interest in property crimes is ownership and other primary rights. This theory has largely fallen out of favor due to its narrow scope of punishment. Possession theory holds that the protected legal interest is the factual possession of property by others, irrespective of the legitimacy of such possession. However, this logic implies that reclaiming one's property through illegal means constitutes a property crime, which seems unreasonable. Intermediate theory emerged to address the flaws of the first two theories. It combines aspects of both, proposing that property crimes protect ownership and other primary rights, as well as possession that needs legal procedures for restoration. This view maintains that the rights of possessors should be secondary to those of owners unless the possessor has a reasonable counterclaim. Thus, actions like reclaiming one's impounded vehicle do not constitute theft as they do not infringe on others' property interests. In practice, ownership realization-type rights exercises often directly relate to legal interest disputes. As long as extreme possession theory is not upheld, these cases typically do not infringe on property interests, negating property crime charges.

Notably, the newly introduced crime of collecting illegal debts under the "Criminal Law Amendment (XI)" aims to specifically address the use of illegal means to collect illicit debts, primarily protecting social order and personal rights rather than property rights. Even if the collection is not successful, the use of violent or coercive means constitutes this crime, emphasizing the protection of social order.

4.1.2. Civil Law Dependence Model and Order Maintenance Model.

The debate on the legal interests protected by property crimes includes the civil law dependence model and the order maintenance model. The relationship between criminal and civil law forms the basis of this discussion. The civil law dependence model posits that property crimes align with civil law rights, requiring the violation of substantive civil rights for a crime to be established. However,

strict adherence to this model would hinder the unique objectives of criminal law and leave certain factual entitlements unprotected. However, The order maintenance model argues for the independent basis of criminal law, emphasizing the protection of pure legal order regarding property, which extends beyond civil law rights . While protecting possession aligns with property interests, this model risks overextending criminal penalties.

Balancing these models poses a challenge in addressing property crimes. The ultimate goal of criminal law is not merely to maintain order but to protect specific interests through order management. Therefore, while criminal law often aligns with civil law's understanding of property interests, it can independently acknowledge factual property value.

4.2. Pathways to Exoneration in the Exercise of Rights

4.2.1. Existing Pathways to Exoneration.

Ownership realization-type exercises of rights generally do not constitute property crimes as they do not infringe on protected legal interests. However, debt realization-type exercises remain contentious.

In Japan, historical precedents have fluctuated, with earlier judgments allowing certain debt claims without constituting extortion, while later ones upheld property crimes if rights exercise exceeded legal boundaries . Japanese academia remains divided between positive and negative views on this issue. German judicial practice mostly refrains from penalizing rights exercises, except during certain historical periods. Mainstream exoneration paths include the absence of constitutive elements or the justification of rights exercise. In the U.S., the Model Penal Code provides a general defense for property crimes based on the sincere belief of having a rightful claim . However, this subjective standard differs from the continental law system's three-tier crime theory. To summarize, the current academic community for the realization of the right to exercise, the main solution path is as follows:

First, there is no loss of property. Scholars who take this path believe that when the creditor realizes the right, the extinction of the debt makes up for the loss of the debtor's property, and thus does not meet the constitutive element of property crime appropriateness. However, on the one hand, even if the debtor is obliged to fulfill the debt, his possession of the property is not unlawful and still deserves protection under criminal law. A creditor who exercises his right to infringe upon such a lawful state of property, and a debtor who is coerced into delivering property that would not have been delivered, does in fact suffer a property loss. On the other hand, property crimes are also not status crimes, and in determining whether the appropriateness of the constituent elements is met, no consideration should be given to whether the perpetrator has the special status of a rights holder. Thirdly, the assertion is made on the basis of the whole property doctrine, which holds that property crimes are committed against property as a whole, not only with a view to the property or property benefits delivered by the victim, but also with a view to the reverse payment received by the victim, and decides on the existence of a loss after subtractive calculations have been made. As a result, there is no room for the establishment of a property crime as long as the corresponding consideration is provided. However, this conclusion is not reasonable, and the mainstream view in Chinese and Japanese criminal law is in favor of the substantive individual property theory. In the case of fraud, for example, the perpetrator deceived the victim into believing that the sale was of a genuine watch, but actually bought a copycat watch after making the payment. When calculating the amount of fraud, the court will only consider the amount paid by the victim and will not subtract the value of the cottage watch. The same should be true for the crime of extortion.

Second, there is no purpose of illegal possession. From the perspective of the path, regardless of legal or illegal means, the actor with a legitimate claim to exercise the right to get back the property belonging to them, there is no illegal possession of other people's property purpose. However, this interpretation also suffered a large number of challenges. Because the subjective intention of the perpetrator must be demonstrated through objective behavior, once there is a loss of property, it is difficult to determine the perpetrator does not have the purpose of illegal possession. The occasion of

the exercise of rights, is the lack of exclusion of meaning, or the use of meaning, is not clear. Purpose of property inseparable occasions, the perpetrator if the excessive demand for property, will form part of the affirmative and part of the negative illegal possession of the purpose of the embarrassing situation.

Third, to exclude illegality on the basis of private remedy or self-help behavior. This path takes private remedies as the justification cause, as a dispute resolution mechanism earlier than public remedies, it helps to realize corrective justice and retributive justice, and it is also more economical. From the perspective of value measurement, private remedies can block illegality. This paper does not think so. (1) The measurement of value is not enough to block the illegality, the creditor's claim and the debtor's property should be subject to the same legal protection. Even if the creditor's claim is more superior, it cannot be used as a basis for directly blocking illegality. (2) The law will not allow private remedies that harm others, otherwise it would be tantamount to encouraging violent private remedies in disguise, so that the power of the state is void. The unauthorized use of property crimes by rights holders to seize property is actually a manifestation of reckless disregard for the state's penal rights. This also means that such private remedies cannot be recognized, and thus cannot be an independent cause of deterrence of violation of the law. (3) From the viewpoint of judicial practice, a large number of cases of exercising rights do not actually meet the constitutive elements of self-help behavior. This is also true of the typical cases cited in this article.

Fourth, there exists a margin of illegal deterrence. This path advocates an overall evaluation of the means and end behaviors, because separate evaluation does not have a doctrinal basis, and unlike Japan, which has the crime of coercion, there is no corresponding crime in China to regulate means behaviors that do not meet the threshold of other crimes, which is suspected of indulging in the crime. In order to maintain the overall property order and more effectively protect citizens' legitimate property rights, it is necessary to further tighten the legal net. Therefore, after affirming the loss of property, the conformity of the constituent elements of the act of exercising the right should be recognized, and after examining factors such as the existence or absence of rights, the necessity of the means of realizing the right, and the equivalence of the means, it should be judged whether there is any room for blocking the unlawfulness of the law.

4.2.2. Advocacy of the Path of Illegality Exemption.

This article advocates for the path of illegality exemption as the most rational approach. While protecting individual property rights, it also emphasizes the maintenance of overall property order, discouraging private remedies. When determining the conformity to the elements of an offense, the core issue lies in the objective factor of whether property loss has been caused. This is easier to judge than the purpose of unlawful possession, aligning more with the objective legal philosophy of criminal law. Generally, as long as the creditor subjectively recognizes the conflict between their behavior and the norms of property interests distribution, it can be affirmed that there is unlawful intent. The stability of the property state and the disruption of legal order by the creditor's actions can also support this argument. In the assessment of illegality, the path of illegality exemption primarily focuses on two issues: the presence of a right and the evaluation of means.

(1) Presence of Rights.

There is a challenging boundary between the exercise of rights and property crimes, centering on the legitimacy of the actor's purpose and the appearance of authority, which we refer to as justification. Even if certain behaviors slightly exceed the boundaries of rights, they cannot universally be deemed criminal. Thus, legitimate exercise of rights must have a legitimate basis, which is the causality of the exercise of rights. As previously mentioned, the sources of rights include legal and factual bases. Debts that have expired, debts arising from moral obligations, and debts arising from illegal causes can all be granted the appearance of the exercise of rights.

Cases where the presence of rights is unclear, such as Cases 2, 3, 5, and 9, involve actors who, feeling disadvantaged, demand higher compensation. Although the actors have the right to claim compensation due to being harmed, this right has not yet materialized into a specific debt, and the disputed interests still require legal procedures for confirmation. If the actors directly demand exorbitant compensation, property loss will inevitably occur, affecting the evaluation of the proportionality of the means.

Illegal debts also need separate judgment. The Criminal Law specifically sets the crime of collecting illegal debts. Thus, using the three illegal means stipulated by law to collect usurious loans, gambling debts, drug debts, etc., should be prosecuted under this crime, correcting the previous practice of extensive analogy to the crime of picking quarrels and provoking trouble. However, Chinese courts have not fully achieved a conceptual transformation in practice. In Case 11, the actor should be convicted of the crime of collecting illegal debts and unlawful detention due to imaginary concurrence and should be punished for the former crime, with no direct association with property crimes.

(2) Evaluation of the Means.

Regarding the means of action, the principle of proportionality should be introduced, evaluated from the perspectives of necessity and proportionality.

First, the necessity of the means. Necessity comes before proportionality because it is necessary to logically determine the object with the least impact before determining how that object should be applied. The necessity of exercising a right needs to be assessed based on the degree of infringement on legal interests, the urgency of the behavior, the fault of the victim, and the attitude of the victim. In Case 1, we see the creditor forcefully taking property, but we must also recognize the debtor's repeated concealment of their whereabouts to evade repayment and the creditor's multiple failed attempts to lawfully collect the debt. In such a scenario, using verbal threats and minor physical coercion to compel the debtor to repay the debt constitutes necessary means for debt collection.

Second, the proportionality of the means. The exercise of rights must not clearly exceed the socially tolerable degree. Once exceeded, even if the actor has a legitimate right basis, the illegality cannot be denied. Additionally, what is permissible under civil law is not necessarily legal under criminal law. Civil law's allowance is a confirmation of its civil effect, but a behavior's validity under civil law cannot be a reason for illegality exemption.

Among the various means of property crimes, coercion is the most difficult to identify: what threats are permissible, and which should constitute extortion. Some highly coercive threats still have room to be allowed as a bargaining means. Only when the actor's threat of harm interferes with another person's freedom of will does it meet the objective elements of extortion. Lawful means are not part of extortion's intimidating behaviors, as the opposite party is obligated to tolerate lawful behavior, and thus, there is no infringement on the freedom of will. Taking Case 5 of the Asus exorbitant compensation case as an example, the actor's threat to expose to the media is a neutral behavior, but it does not have the explicit characteristics of mediation or litigation stipulated by law, so it is inherently controversial. Based on the case facts, this approach was not to resolve the computer quality issue nor to inform consumers but to force the other party to succumb to exorbitant compensation, possessing the nature of psychological coercion. However, this does not mean the threat constitutes the coercive means in extortion. From the proportionality of the means, such a consumer threat to obtain compensation is a common means of interest negotiation in a market economy, allowed by market order. Even if negotiations fail, it should not automatically escalate to a criminal law issue. This rights exercise may cause some psychological pressure on the business, but it is a legitimate pressure the business must bear, and the business's freedom of will is not deprived. If the business indeed sells defective products, the consumer's exposure through the media can be considered legitimate defense of rights; but if the product defects are not confirmed, using the media for false reports exceeds the legitimate boundaries of rights exercise. As for exorbitant compensation, this article believes that in situations concerning food safety, product quality, etc., affecting people's

vital interests, consumers demanding higher compensation is common and understandable. For uncertain debts, demanding amounts exceeding legal stipulations or general recognition should not be the standard for determining illegality. However, if the actor does not use exposure, litigation, or petitions, but employs violence endangering personal rights to claim exorbitant compensation, it might constitute extortion.

5. CRITERIA FOR CRIMINALIZATION OF ABUSE OF RIGHTS

5.1. Basic Connotation of Abuse of Rights

The exercise of rights inherently has boundaries. Professor Liu Zuoxiang proposed the theory of limits of rights, asserting its underlying logic is consistent with the relativity of rights, which is the essential attribute of rights. The concept of rights is not inherently just, and the absolutist notion of rights does not apply to modern rule-of-law states. Once individual rights harm or threaten public interests, they fall within the scope of criminal penalties. When an actor exercises rights contrary to the purpose for which the rights were established, causing unreasonable harm to others, it constitutes an abuse of rights. China highly values this issue and explicitly stipulates the prohibition of abuse of rights in Article 132 of the Civil Code to regulate rights exercise, coordinate conflicts between rights, achieve interest balance, and uphold the principle of good faith. The constitutive elements of abuse of rights are: first, the rights holder enjoys the right and is in the stage of exercising it; second, the behavior violates the original purpose of the right, pursuing other improper benefits or purposes, harming others; third, the rights holder has subjective intent, with the intent to harm others needing to be reflected through external behaviors, including indirect intent of disregarding others' harm; fourth, the exercise of rights infringes on others' legitimate interests, which is a key element in determining the clear exceeding of the boundaries of rights exercise. Once an actor abuses their rights, any exercise of rights beyond limits will not have corresponding legal effects and may even constitute a property crime.

5.2. Conditions for the Establishment of Property Crimes

After determining that a behavior constitutes an abuse of rights, it must be examined step-by-step from the three-tier perspective to see if it establishes a property crime, reflecting the principle of proportionality. At the level of the element of constituting an offense, the exercise of creditor's rights causing property loss must also evaluate whether the creditor's behavior meets specific means of infringing on property and whether it meets the threshold of property crime amounts. Property crimes are all behavior-related crimes; robbery requires the actor to use violence, coercion, or other means, where the latter means must be equivalent to the former two; fraud requires the actor to deceive, causing the victim to fall into error and deliver property, resulting in property loss; extortion requires the actor to threaten harm, causing the victim to fear and deliver property. As previously stated, threatening exposure to the media to obtain exorbitant compensation does not constitute coercion required for extortion. Moreover, threatening with reporting or exposure is hard to recognize as extortion. In Cases 2 and 3, the actor's reporting of illegal behavior is legitimate, and whether the victim unit delivered property due to fear is doubtful, as the case lacks legally protected freedom of will. In Case 4, the actor's reporting of the victim's bribery is a right conferred by law, and the law does not protect the victim from this fear, making it impossible to criminalize.

At the level of illegality, the presence of rights, the necessity, and proportionality of means must be considered. If these conditions are met, it can constitute an illegality exemption, thus exonerating the actor.

If the above conditions are not met, the debt collection behavior is considered unlawful and should be examined for culpability. Property crimes require the perpetrator to have subjective intent, including the implicit element of intent to illegally possess property. The presence of such intent

signifies a loss of legitimate purpose and the illegality of means, warranting criminal prosecution. The existence of illegal possession intent can be distinguished based on the nature of the debt.

First, for legitimate debts, using illegal means to collect legitimate debts is generally not recognized by academia and practitioners as having an intent to illegally possess property.

Second, for illegal debts and natural obligations, such as usurious loans or gambling debts, which arise from the autonomy and genuine transactions between parties, there is a fundamental difference from property crimes that involve the creation of nonexistent debts and forcibly taking others' property without compensation. Hence, the intent to illegally possess should also be denied in these cases. The criminal law has never explicitly required the legality of the debt's origin; illegal actions can still generate genuine debts. This principle also applies to natural obligations, where illegal debts may be considered natural obligations.

Third, for false debts, such as those in Cases 8 and 12, where the debts do not actually exist, the perpetrator does not have a legitimate right. If the perpetrator knowingly collects on a nonexistent debt, it should be affirmed that there is an intent to illegally possess property. However, in the case of mistaken belief about a debt, if the perpetrator's error is reasonably based, it should be acknowledged that there is no malicious intent and no intent to illegally possess property.

Next, for excessive debts, they can be divided into two categories. One is where the creditor-debtor relationship is clear, but the perpetrator uses illegal means to obtain property far exceeding the legitimate amount of the debt, indicating an unquestionable intent to illegally possess property. The other is where the creditor-debtor relationship is still in dispute, and the perpetrator demands compensation exceeding the legal protection, mainly occurring in consumer rights protection cases such as Cases 2, 3, 5, and 9. Proponents of the illegal possession intent argue that, in such cases, the compensation demanded by the consumer far exceeds the amounts specified in laws such as the Consumer Protection Law and the Food Safety Law, thus falling outside the scope of substantive rights and indicating an intent to illegally possess property. However, this article argues that the compensation specified by relevant laws is merely a guideline for adjudication. The final determination of the scope of rights requires mutual negotiation and consensus between the parties. Consumers have the right to request higher compensation, and businesses have the right to refuse the corresponding amount. Furthermore, when determining other property crimes, the amount involved has never been used to judge the presence of illegal possession intent. This logical consistency should be maintained in the assessment of extortion.

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