

# The New Characteristics of Crimes that Undermine Market Economy Order and Regulation in Criminal Law

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## ABSTRACT

Chapter 3 of the Criminal Law of the People's Republic of China makes specific provisions for acts that undermine market economy order. However, with the development of society and economy, some new types of acts that undermine market economy order have emerged in market economic activities. These acts either have new subjects or new means and tools, or have new objectives, which seriously undermine market economy order and cause property losses to the state and people. Perfecting the criminal law regulation of these new types of acts is crucial for maintaining a regulatory system for undermining socialist market economy order.

## KEYWORDS

Violations of the Socialist Market Economic Order; Trends in Criminal Activities; Regulation of Criminal Law.

## 1. INTRODUCTION

Creating a good market economy order is crucial for standardizing economic activities and promoting healthy operation within a country's economic framework. In addition to regulatory measures, punitive damages, and other coercive measures are necessary against socially harmful actions disrupting this balance. The third chapter of the criminal law of our country specifically stipulates the crime of destroying the socialist market economic order. Including smuggling crimes, crimes of disrupting the management order of companies and enterprises, crimes of disrupting financial management order, financial fraud crimes, tax crimes, intellectual property crimes and other crimes of disturbing market order, etc. With the development and changes of social economy, the reform of economic system is still not perfect. Under the influence and impact of globalization, marketization and information technology, some new behaviors that destroy the order of market economy begin to appear in the operation of market economy, bringing extensive and bad effects to the national economic order. Due to the relative lag of criminal law, scholars and judicial practice departments are more inclined to give substantive explanations for such acts that seriously disrupt economic order, so as to safeguard national economic security. New crimes against economic order (hereinafter referred to as illegal acts) are relative to traditional acts against market economic order. The reason why they are called new is that the illegal acts show new characteristics in the fields involved, behavioral means and objects, causal chain, etc. These new conditions will further affect the conviction and sentencing of the case.

## 2. EVOLVING CRIMINAL METHODS

Criminals are exploiting emerging fields such as e-commerce, express logistics, automobile financing & leasing to commit illegal activities by taking advantage of legal loopholes. The rapid development

has opened up one field after another leading to complex professional features in newly emerging crimes against socialist market economies.

The illegal elements rely on the new economic field, the implementation of the destruction of market economic order. The rapid development of the market economy opens up one new economic field after another, and the emerging economic market makes a variety of new and complicated economic relations emerge constantly, and thus determines that the crime of disrupting the order of the socialist market economy comes into being with more complex professional characteristics. [1]Market economic activities cover many industries and fields such as investment and finance, futures and securities, network and telecommunications, and new fields are spawned due to the emergence of new economic models, such as e-commerce, express logistics, automobile financial leasing and so on. These new areas give rise to new economic relationships and new economic orders. It is easy for lawbreakers to take advantage of loopholes in laws, evade administrative supervision and carry out activities that disrupt economic order.

Lawbreakers use new tools to carry out activities that disrupt the market economic order. With the progress of the society, the means of committing crimes against the order of the market economy have developed from the traditional and primary means to the direction of high-tech and intelligent, and the trend of the behavior of destroying the order of the economy is obvious. For example, more and more MLM organizers use the network, media and other means to build pyramid pyramid "empire" to cover up their illegal activities. In October 2013, Wu, a native of Xinjin County, learned about the investment model of Internet "daily finance network" through CAI, a native of Zhangzhou, Fujian Province, in Nanning, Guangxi Province: Every investment of 16,000 yuan for 1 single can be registered as a website user in the "daily financial network", after the successful registration of every single by 320 yuan cash back (up to 64,000 yuan can be returned), each member can also recommend 2 single registration as a website user, each recommended 1 single can get 1600 yuan direct push award, Recommended more than 2 orders will get an additional 1600 yuan touch award. After Wu investment joined the "Daily gain", and invited Ren, Lv to join, after Ren, Lv that the project can make money, in order to obtain higher profits, they recommend their friends and relatives to join the "Daily gain". On December 15, 2013, the "Daily gain" project stopped returning money, and the website was closed on December 20. By the time the website was shut down, it was verified that there were more than 40 users with an investment amount of more than 1.4 million yuan. After the responsible person CAI, Wu and so on were prosecuted according to law.

The way the lawbreakers make profits is more and more concealed. For example, in some disguised pyramid selling crimes, the illegal elements require the subscribers to spend money at a designated place, and in this way obtain illegal profits. For example, in some chain franchise fraud crimes, the illegal elements use the network, media and other means of publicity, under the banner of promoting "brand chain franchise", to trick the franchisee's franchise fee. On the surface, these illegal interests have a legitimate name, in fact, are just illegal actors through the destruction of economic order to obtain illegal interests of the gimmick. So in practice, we must be clear about the illegal activities under the cover of legal economic activities, so as not to be confused by its external characteristics when investigating such crimes, so as to accurately convict and punish.

### **3. ORGANIZED CRIME TRENDS**

In recent years there has been an increase in organized crime structures involved in mass-involvement cases related to financial frauds or pyramid schemes where criminals exploit societal vulnerabilities leading to widespread social instability events like group petitions.

From the cases of stakeholder economic crimes in recent years, we can find that the structure of criminal organizations is more rigorous, and the division of labor within the organization is more clear, which is highlighted by the tight and orderly interest relationship.[2] The organization, chain

and industrialization of illegal behaviors are more harmful to the market economic order than individual crimes, which is the focus of investigating and dealing with new crimes that disrupt the market economic order.

In the new type of crimes against economic order, there are a large number of perpetrators of illegal acts and victims of illegal acts. For example, in the multi-stakeholder fraud crimes and pyramid selling crimes, the acts of disrupting economic order involve many or no specific victims, and these victims are also the illegal perpetrators of fraud or pyramid selling. For this kind of crime, the accurate delineation of the scope of responsibility is the key to achieve accurate conviction and sentencing, and practice criminal justice.

There is a saying "the law does not blame the crowd", which means that even if a certain behavior should be punished by the law, it is no longer punished because so many people do it. Judging from the cases convicted of illegally absorbing public deposits in recent years, only the principal person in charge was held criminally responsible. For example, the once sensational case of "Oriental Venture Capital illegally absorbing public deposits" was the first case of illegal P2P fundraising in China that was publicly tried, and the amount involved was up to 120 million yuan. After the trial, the two main leaders, the defendant Deng Liang, were sentenced to three years in prison and fined 300,000 yuan. Therefore, for the processors of criminal consequences, not all the "causes" in the causal chain should bear criminal responsibility, the author believes that the scope of criminal responsibility should be limited to the main person in charge of the crime of disrupting economic order.

#### **4. CROSS-REGIONAL & INTERNATIONAL CRIMES**

With globalization on the rise, criminals exploit differences between national legal systems to engage in international economic crimes involving cross-border transactions causing difficulties for case investigation due to jurisdictional limitations affecting accurate statistical assessment regarding their impact. As a result, crimes such as fund-raising fraud, illegal absorption of public deposits, online pyramid selling, contract fraud, transnational smuggling, and infringement of intellectual property rights are showing a high and frequent trend, which not only involves a large number of people, but also involves a wide range, and the cross-regional and international trend is obvious. Criminals take advantage of the imbalance in the development of the international and domestic markets and the differences in legal systems between countries to carry out international economic crimes, and extend and expand the criminal space abroad[3].

In June 2012, the Intermediate People's Court of Wuxi, Jiangsu Province tried Singh Pryak and other illegal business cases in accordance with law. Defendants Singh Pryak, Zhang Haifeng and others violated China's drug administration laws and regulations by selling drugs imported without the approval of the State drug regulatory department without obtaining the national Drug distribution License and without the qualifications to engage in drug distribution, which seriously disturbed the order of China's drug market. Several defendants were later sentenced to illegal business.

The cross-regional and international nature of illegal crimes brought many difficulties to the investigation of the case. Due to the active nature of economic activities, the characteristics of trans-regional and international economic activities are obvious, but judicial activities are subject to jurisdiction and other restrictions, it is difficult to investigate trans-regional and international illegal and criminal activities, and the harmful consequences can not be accurately counted, which will directly affect the sentencing of the case.

#### **5. DISRUPTION BEYOND ECONOMIC ORDER**

Certain illegal activities not only disrupt economic orders but also interfere with social management orders through illicit trading practices such as buying/selling publishing numbers or household

registration quotas creating challenges when determining appropriate penalties under criminal law regulations.

The call number is the number assigned to the official publication by the General Administration of Publication to each publishing house, including the code name of the publishing house and the code name of the book and publication category. A book can be published only after it has been reviewed and obtained a call number. Without a call number, a written work can only be used as internal information and disseminated within a small range. The state limits the total number of ISBN approvals each year, making ISBN a valuable publishing resource in its own right. The buying and selling of ISBN numbers is that the publishing house provides the ISBN numbers to the units or individuals outside the publishing house, and collects the ISBN number fee, or management fee, and other names to carry out power-money transactions, while the buyer takes the opportunity to make money for personal gain. In recent years, buying and selling ISBN numbers has become an increasingly prominent problem in publishing work, which not only destroys the economic order of publishing industry, but also seriously impairing the social management order of publishing.

In addition to the call number can be bought and sold, even the household qualification can also be bought and sold as a commodity. In the case of forged account trading in Liaoning that was concluded in 2002, the defendant Zhang Xu, together with Zhong, Jia, Wang and others, went to the vicinity of Zhuanghe City passenger station and Taoyuan Street in Zhongshan District of Dalian City, and carved seven fake seals including the special seal for account of Dalian Public Security Bureau, the special seal for account of relevant police stations, and the seal of the police. And instigate Wang to hold a forged "Dalian City Public Security Bureau account seal" blank paper "letter of introduction", with 3,000 yuan through Cong contacts, in a printing factory illegally printed "relocation permit" 100 copies, permanent population registration form more than 70 copies, and at a price of about 1,000 yuan each to buy more than 100 copies of the registration form, relocation permit, migration certificate. The gang buys and sells accounts to form an industrial chain, some people in the gang engraved seals, some people run printing factory to do false, some people to the society to attract "customers". Later, the court found that more than 20 people, including Zhang Xu, Wang and Luo, for the purpose of making profits, illegally made profits by forging documents and obtaining household accounts for others, and were guilty of forging, trading documents, official documents and seals of state organs, bribery, harbouring, concealing and transferring stolen goods. [4]Although the reform of household registration has been repeatedly mentioned, the disadvantages of the existing household registration system are indeed obvious. Trapped by a series of indicators attached to the registered permanent residence, such as house purchase and school enrollment, people are willing to pay a high price for the qualification. Therefore, the behavior of buying and selling household registration index appears to be an illegal business case without legal business objects, and its essence is a serious behavior that impedes social management order. In the trial of Gong, who own lots of houses in Shanxi Province, whether the fact of buying and selling household registration can be established has also become the focus of the trial.

For the illegal trading of various indicators, the criminal law has not made clear provisions, nor has it issued relevant judicial interpretation. If the scalping of vehicle and ship tickets is included in the scope of criminal law regulation, and the illegal trading of call numbers and other indicators, which are more harmful, are left unchecked, it will inevitably cause the injustice of the criminal law in legislation. The author believes that with the increasing marketization and liberalization of the publishing industry, ISBN has increasingly become a valuable scarce resource and should become a commodity. Therefore, it is reasonable to include the act of buying and selling ISBN into the penalty scope of the crime of illegal business in the judicial practice of some regions. However, for the purchase and sale of accounts and other indicators with personal dependence, there is no legal economic interests that can be bought and sold, it is mainly a violation of social management order behavior, so it is not appropriate to be punished for illegal business crimes.

## 6. CONCLUSION

Regulating these evolving forms of criminal activity requires careful consideration due to their complex nature involving legitimate business operations intertwined with illegal ones while balancing interests between maintaining from engaging positive aspects within an active market place. The balance between the interests of maintaining economic order and the majority of consumers and maintaining the enthusiasm of engaging in economic activities makes it more difficult to legalize this policy idea. The criminalization and decriminalization, the penalization and decriminalization of the acts that harm the economy become a dilemma in legislation and theory. For example, speed up the legalization of private financing, protect the normal new market economic activities, and attach importance to the criminal law means to regulate the behavior that destroys economic order.

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