

Rules of Criminal Law Interpretation and Its Application Research

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Abstract: Criminal law explanation is connected to the criminal legislation and criminal justice indispensable bridge and link, and the explanation of criminal law must follow certain rules. About rules in accordance with the criminal law explanation to explain the criminal law, or what conclusion is reasonable explanation to the conclusion that the explanation of criminal law educational world mainly include the theory of subjective interpretation and objective interpretation and the theory of integrated interpretation, etc. This idea has its rationality and defects. Rules of the criminal law explanation should be an orderly review rules.

1. Introduction

Rules of interpretation of the criminal law refers to the criminal law provisions to interpret language must follow the guiding principles and guiding ideology. Only in the process of interpretation of criminal law provisions of follow certain guidelines to reasonable explanation conclusions [1]. The rules of the criminal law explanation is of concern should be how to explain the criminal law, or what kind of conclusion is reasonable interpretation conclusions. Questions about the criminal law theory circle have the theory of subjective interpretation and objective interpretation, compromise said wait for all sorts of ideas. Have some of these ideas, the author thinks that, the rationality of the again there is a defect. Rules of the criminal law explanation should be an orderly inspection rules.

2. Interpretation of criminal law and the principle of overview

2.1 Explanation of criminal law.

So-called explanation of criminal law refers to the explanation subject from a certain Angle to the existing criminal law norms of the inner meaning of understanding and interpretation and explanation [1]. Explanation of criminal law of our country mainly has three:

1) The legislative interpretation. Say simply is the legislature to explanation of meaning of criminal law, namely the National People's Congress and its standing committee explained.

2) The judicial interpretation. Mainly refers to the supreme people's court and supreme people's procurator ate to the explanation of criminal law.

3) Theoretical explanation. Mainly refers to the experts and scholars and related legal staff of interpretation of criminal law. In these three kinds of interpretation, legislative interpretation and judicial interpretation has the force of law, also known as the power to interpret and theoretical explanation although no actual legal effect, but for the other two explanations have important significance.

2.2 Principles of criminal law interpretation.

Principles of criminal law interpretation, simply means when carries on the explanation of criminal law must always be adhere to the fundamental principles [1]. Interpretation of criminal law principle of exploration achievements in China are not as rich as basic principles of criminal law, at present there are two main types of the more popular point of view, a is five principles, one is three principles.

3. Explain necessity and significance of criminal law

The object of interpretation of criminal law is the criminal law, criminal law explanation is refers to the meaning of the criminal law; The purpose of the criminal law explanation is in order to accurately understand and apply the criminal law explanation is that the meaning of criminal law provisions of the criminal law [2]. The necessities of the explanation of criminal law mainly include the following:

First of all, the content of criminal law is made up of words. The criminal law provisions on the basis of regular expressions, this determines the criminal law needs to explain. Despite the law at the core of the meaning is clear, but any language is always to the edge of the meaning expansion, makes language extension of fuzzy. When apply the criminal law, therefore, by interpreting is required to define the term of the criminal law marginal expansion [2]. At the same time, some words have different meaning in different context, this also needs through the explanation of criminal law to clear terms of criminal law should choose what kind of meaning. With the development of the era, some terms will be given new meaning, and the criminal law provisions have stability, this needs through the explanation of criminal law whether to accept a new meaning.

Second, the criminal law as a legal norm should strive for short. Through to abstract and summarized all kinds of crime stipulation that the specific provisions of criminal law in our country various types of crime, so to speak, typed type of crime is a crime. However, the abstract provisions in criminal law is not comprehensive regulations all kinds of the specific construction form of crime, but the reality is a specific case, forms of diversity, and abstract of the criminal law and then there is a distance between specific criminal case [1]. In this case, must through the explanation of criminal law provisions, the abstract of the criminal law is applicable to the specific criminal cases in real life.

Again, because of the limitations of understanding and partly due to the restrictions of the legislative level, the defect of criminal law inevitably. Some legislative intent of the defects and some words of defects, to avoid the defects in the criminal law applicable, must be to explain the criminal law [2]. Through the explanation, can eliminate the stylistic disadvantage of legal documents; eliminate the improper use of legal methods and technical means or errors.

Finally, in meet the need of punishing crimes, protection of interests of the criminal law at the same time, must have a relative stability [3]. On the one hand, to make the criminal law has the actual effect of the law, so that in the past of the criminal law to adapt to the changing social demands, will need to be based on realistic society requires explanation of criminal law. Criminal law provisions, on the other hand, the real meaning of "original intention" is not from the legislation, but in social life, in the face of the changing social life, constantly to explain the criminal law provisions.

The necessity of the criminal law explanation illustrates the explanation of criminal law is of great importance. Criminal law explanation is the bond and bridge connecting the criminal legislation and criminal justice, is indispensable to the whole criminal judicial procedure is important one annulus, it helps people to accurately grasp the meaning and spirit of the criminal law; To overcome the defects of law itself; For the unification of the criminal law implementation's beneficial to the perfection of criminal law, give full play to the role of the criminal law, finally achieve the purpose of criminal law

4. The basic principles of China's criminal law interpretation

4.1 Principle of legality.

Principle of legality is mainly refers to the criminal law explanation to legally in form, as to whether should return to rationality principle essentially. But both in essence and form, its legitimacy follows the method refers to the constitution and laws. Explanation of criminal law and criminal law has the force of law, therefore cannot arbitrarily interpreted, subject to regulation in the form of criminal law and the law [4]. In the criminal law explanation will directly by the norms of criminal law regulation, also indirectly by the constitution and to the rules of his legal norms.

4.2 Principle of rationality.

Rational principle refers to the explanation of criminal law in accordance with the "three", legal,

ethical sense and social development. Principle of rationality is the core of the criminal law interpretation, on its real regulation plays a role [4]. The conservatism of the principle of rationality and legitimacy on the contrary, it requires the interpretation of the punishment must be forward-looking and flexibility. There will be such a request because the "three" is not immutable, they also have not unified standard, only in a period of relative stability.

It is important to note that maximize the rationality of the interpretation also need is restrained, blindly pursue the essence of the criminal law explanation legal can lead to extreme liberal interpretation, and this is where the principle of legality of conservative for regulation. And the two conflicting principles show how to coordinate with each other? This goes to explain the conflict between the principle of criminal law regulation problem.

4.3 Purposiveness principle.

Purposiveness principle is specifically solve the contradiction between the principle of legality and rationality of regulatory principles. Concrete containing is: China's specific historical environment, with the objective historical environment requirement for criminal law to determine the interpretation of the criminal law in general [4]. Historical environment is in constant quantity, when its qualitative change occurs, the interpretation of the criminal law tendency will also change. It is important to note that when to explain the principle of mediation must avoid flaunting the banner of dialectical rejecting western criminal law explanation of phenomena.

4.4 Independent interpretation principle.

This principle is mainly aimed at the legislative interpretation and judicial interpretation of two types of explanation, in fact its return to rationality legality principle or principles are also possible [5]. The authors are listed separately because the legislative and judicial organs in the explanation of criminal law are susceptible to the interference of other kinds of power, plus is vigorously promoting the independence of the judiciary in our country, the criminal law explanation is its. Reasonable explanation of criminal law can listen to the advice, but must not disturb to explain the independence of the independence they did fairness will be affected.

As for the theory of five principles of guided by the policy principle, integrity principle and specific principles, these principles in and of itself is reasonable, but they lack of an inner is closely linked with each other relations, was established on the basis of inadequate.

5. The views about the rules of interpretation of the criminal law and its theoretical basis

In view of the current criminal law theory circle, the questions about the rules of interpretation of the criminal law study basically as "the goal of criminal law interpretation" to understand. These ideas will be the rules of the criminal law explanation as "the goal of criminal law interpretation", namely the conclusion of criminal activity form. The interpretation of criminal law activities should eventually form what kind of conclusion, or what kind of conclusion is proper and reasonable explanation of conclusion? Criminal law theory circle is mainly composed of the following views:

5.1 The theory of subjective interpretation.

Theory of subjective interpretation, also known as subjective lawmakers said, saying, take this view believe that the interpretation of the criminal law goal should be to reveal the law meaning, makes every effort to clarify the meaning of legislation when lawmakers [5]. The theoretical bases of subjective interpretation theory mainly include:

- 1) The traditional hermeneutics is regarded as the philosophical base of the theory of subjective interpretation. The core of traditional hermeneutics is the concept of "original intention", "original intention" is in legal interpretation, and can reproduce the correct understanding. According to the traditional hermeneutics, "meaning" is not only the objective standard explain and understand the law, but also determine the explanation and understanding of the law is in accordance with the legislative purpose of scale.

- 2) The separation of powers doctrine is regarded as the theory of subjective interpretation, a

political science foundation. According to the theory of separation of powers, only the legislature has the right to make laws, and it is the duty of the judicial organs according to lawmakers willing to enforce the law; otherwise, is unauthorized. As the application of law, therefore, the premise of legal interpretation must aim at to explore legislators' legislative intent.

3) Pay attention to the legal guarantee of the safety value and function are regarded as theoretical basis of the theory of subjective interpretation. Advocated the theory of subjective interpretation of scholars believe that, as a law regulating the behavior of people must have the stability, only has the stability of the law to prevent judicial impetuosity, in order to provide people with a sense of security [6]. Only the legislative intent is the only criterion for the interpretation and application of law, to maintain the stability of the law, so as to realize the safety value of the law. If you give up the legislative intent of this standard, can make the interpretation of the law and apply is arbitrary, it is hard to according to the law of the wild sex to arrange their own behavior, legal boundaries become blurred, leading to people feel fear before the law, laws are difficult to realize the value of its security.

4) The legislation purpose said. It said that the law has a certain purpose, is the product of human will. Therefore understand the law in order to achieve the purpose is to interpret the law. The basis of legal interpretation is that the law is by lawmakers have legislative purpose [6]. Moreover, when the literal meaning of the law is difficult to fully reflect the legislative purpose, even violates the legislation purpose, shall, and according to the literal meaning of the legislative purpose of law is revised.

5) The legislative purpose restrictions. They said, although shall be conducted according to the legislative purpose of law explanation. The conclusion of legal interpretation, however, not beyond the meaning of law terms may have, namely the conclusion of legal interpretation cannot beyond the law "range" of semantics [6]. To explain the law, and shall, according to the literal meaning of the legal language interpretation of the law to limit the conclusions. In terms of the law is the only and the meaning of specific cases, it should not be through legal interpretation for the change of its meaning.

5.2 Objective explanation of the theory.

Objective explanation theory, also known as objective saying, objective law said. Of scholars believe that the purpose of the criminal law explanation is to reveal the meaning of other applicable criminal law, not legislators when making law has given the meaning of the criminal law provisions [7]. Objective interpretation theory is formed in the process of criticizing the theory of subjective interpretation, its philosophical basis and theoretical basis and the theory of subjective interpretation is very different.

1) Philosophy hermeneutics is regarded as the philosophical base of the theory of objective interpretation. Philosophical hermeneutics deny work independently of the interpreter to understand, "meaning". Philosophical hermeneutics thinks that the real meaning of the works can only appear in the interpreter and conversation of the works, therefore, the meaning of the work is not a constant, but changing with The Times.

2) Attaches great importance to the protection function of fair value and the law is seen as the objective interpretation theory of jurisprudence basis. Advocates the objective interpretation theory of scholars believe that the value of law has a high-level, law of fair value is better than the safety value [7]. Purpose and basis of legal interpretation is to realize the law of fair value, if the interpretation that a law the conclusion enough to ensure that the law will be able to get the application of the fair, so even if the explain the stability of law, beyond the legislative intent (assuming you have the original), the interpretation should also be regarded as justified. In objective explanation theorists, law is neither mechanical characters, more is not rigid rules, it is full of vigor and vitality. Therefore, in order to keep stable legal vitality, fully realize the function of the protection of the law, must be closely linked to explain when explaining legal implications of the social reality, but not limited to enact laws when lawmakers gave the "original intention" of the law.

5.3 Compromise said.

Compromise is to reconcile the subjective and objective of a legal interpretation theory, also known as the integrated interpretation theory. It is theoretical basis with neutral color [7].

1) Will tell from the philosophical foundation, said compromise both in favor of the traditional hermeneutics theory of "meaning", affirmed the existence of legislative intent, and agreed to philosophical hermeneutics on explaining the meaning of the object changes over time of proposition, think also can go beyond legislative intent.

2) In terms of jurisprudence foundation, said compromise both concern method of safety value, but also to the justice value of law; both emphasize the legal safeguard function, also pay attention to the protection of the law function.

6. Summary

To sum up, the explanation of criminal law to ensure the correct implementation of the criminal law of our country has important practical significance, when carries on the explanation of criminal law must abide by the good legitimacy, rationality and purposiveness of three principles, but also ensure the independence of the explanation, ensure to the criminal law explanation is in conformity with the specification in the current criminal law, conform to the fundamental interests of the people. We learn that the theory of subjective interpretation and objective interpretation has certain rationality, but he couldn't alone is suitable for the occasion of all criminal law needs to explain.

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