

Research on the Proof of Cases Involving Justifiable Defense

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ABSTRACT

Justifiable defense is an important ground for elimination of illegality in criminal law, and its proof research has great significance for judicial practice. Discussing the standard of proof of justifiable defense cases is not only helpful to safeguard the right of justifiable defense and the social justice, but also to promote the fairness, justice and rationality of the criminal law system. Starting with the concept and legislative authority of justifiable defense, this paper intends to analyze the burden of proof of defendants in justifiable defense cases and the review and judgment duties of procuratorial organs and people's courts, explore the proof requirements for the establishment of justifiable defense, and further demonstrate the applicability of proof standards in combination with typical cases, in order to have a deeper understanding of the correct judgment standards for justifiable defense cases.

KEYWORDS

Justifiable defense; Case; Proof

1 Legal framework of justifiable defence

1.1 The concept and elements of justifiable defense

Justifiable defense refers to the actions taken within the necessary limits to stop the infringement, in order to protect the legitimate rights and interests from the ongoing unlawful infringement, and to avoid the occurrence of deeper damage. As a right granted to citizens by law, it is one of the most important systems in criminal law. To accurately grasp the connotation of justifiable defense, it is necessary to clarify its composite conditions, including the following aspects. First, justifiable defense must be targeted at unlawful infringements. Unlawful infringements refer to acts that contravene the law or pose a threat or harm to the legitimate rights and interests of citizens, the public or the state. The acts include not only criminal crimes, but also administrative violations or civil torts, but they must be realistic and urgent, otherwise they cannot become the object of justifiable defense^[1]. Second, the act of justifiable defense must be committed while the unlawful infringement is in progress. This element determines the timeliness of justifiable defense, and the key is to stop the danger that is happening and prevent greater harm in the future. If the unlawful infringement has not started or has ended, the act of defense may evolve into revenge in advance or venting anger afterwards, and lose its legitimacy. Third, the purpose of defense is to protect legitimate rights and interests. Whether it is for personal and property safety, or to maintain social and public order, the original intention of justifiable defense must be legitimate and reasonable. If the subjective motive of the actor deviates from the purpose of protection, and carries revenge, provocation or other illegal attempts, his behavior will no longer be protected by law. Fourth, justifiable defense should be necessary. It means that the act of defense must be the only or best way to stop the unlawful infringement. The necessity requires that the act of defense can achieve the effect of preventing the infringement, and avoid causing additional damage or expanding the harm as much as possible. Fifth, the measures and consequences of justifiable defense must be proportionate. In other words, the measures taken in the act of defense must not clearly exceed the limit necessary to stop the infringement.

1.2 Judicial procedure applicable to justifiable defense

Justifiable defense is a kind of legal act, and the judicial procedure applicable to it must be strictly implemented in accordance with the law to ensure the legitimacy and fairness. When dealing with cases of justifiable defense, the judicial organs need to clarify whether the parties meet the statutory requirements of justifiable defense. According to the relevant provisions of the Criminal Law, the act of justifiable defense must be implemented when the defense side is facing the actual illegal infringement, and the degree of defense act should be commensurate with the degree of infringement. Therefore, at the beginning of the judicial procedure, the public security organizations will first place a case on file, and investigate whether there is a legitimate defense. Meanwhile, they will collect evidence to determine whether the defense act exceeds the reasonable limit. Subsequently, the procuratorial organ will decide whether to present public prosecution according to the investigation results. It will review whether there is any legal application of justifiable defense in the case, and carefully evaluate whether the defense is instantaneous, legitimate and moderate, so as to avoid excessive defense or unnecessary excessive defense. Once the case goes to trial, the court will judge whether the defendant constitutes justifiable defense based on the evidence collected during the investigation phase. In this process,

in addition to assessing the nature of the assault, the court should also consider whether the actions taken by the defendant in the course of defense comply with the principle of proportionality, which means that whether the means of defense are too intense or disproportionate. If the act of defense is obviously excessive, the court may find that the defense is excessive, and then make a different judgment. Besides, the trial of justifiable defense also needs to consider public order and fine custom and the wide applicability of law, and be impartial in case handling. The subjective intention of the defender and the objective rationality of behavior must be comprehensively examined to prevent excessive suppression of the defender's rights and interests or neglect of the victim's rights and interests in the judicial process. When the court makes a judgment, all aspects of the judicial procedure should be transparent and fair. If the defender really meets the conditions of justifiable defense, he should be exempted from criminal responsibility according to law, and if there are excessive circumstances in the defense act, he should be punished accordingly.

1.3 The practical significance of justifiable defense system

With the increasing complexity of social contradictions and the enhancement of public security awareness, the system of justifiable defense has shown a high value of the times in the deepening of theory and the practical application. Under the explicit provisions of Article 20 of the Criminal Law of the People's Republic of China, justifiable defense is not only a legal right, but also an important guarantee for the public to take the initiative to safeguard the state and public interests and individual legitimate rights and interests when facing criminal acts. By empowering citizens with the right of justifiable defense, the law effectively stimulates people's enthusiasm in fighting crime, thus building a justice-oriented code of conduct in the society ruled by law, and providing a solid institutional support for the fundamental improvement of social security^[2]. In recent years, the extensive discussion of a series of typical cases such as "Yu Huan case" and "Kunshan Yu Haiming case" has highlighted the core position of the system of justifiable defense in public opinion and judicial practice. The guiding cases successively issued by the Supreme People's Court of the People's Republic of China and the Supreme People's Procuratorate of the People's Republic of China have not only refined the application conditions and judgment criteria of justifiable defense, but also provided a clear basis for judicial organs to accurately apply justifiable defense in specific cases. This series of measures fully reflects the emphasis of the state on the connotation of the system of justifiable defense and its positive response to the value of social justice, and further promotes the public's cognition and application of the right of justifiable defense. Especially in the context of the change of the judicial identification of justifiable defense to a higher standard, the improvement of the system and the case guidance complement each other, and gradually promote the legal value of justifiable defense from the abstract to the concrete practice. In addition, the significance of the system of justifiable defense is also reflected in its promotion of the status of the theoretical system of criminal law. The justification of justifiable defense is related to the reasonable construction of the criminal theory system, and directly affects the actual operation of judicial proof. By clarifying the legal nature of defense acts, judicial organs can more accurately define justifiable defense and criminal acts, and then balance the relationship between the protection of individual rights and the social and public interests. At the same time, this system carries the people's extensive pursuit of fairness and justice, and is highly compatible with the goal of building a harmonious society in China.

2 Analysis of proof difficulties in justifiable defense cases

2.1 The problem of proving subjective intention and objective fact

In the identification of justifiable defense, whether the actor has the intention of defense is the key to judge the legitimacy of his behavior. Subjective intention mainly needs to understand the actor's inner state at that time, and this mental state can not be directly observed, but can only be inferred through objective facts. For example, in the Yu Huan case, the actor Yu Huan stabbed one person to death and injured many others in the face of insults and threats from violent debt collectors. In the trial process, the court needs to discuss whether Yu Huan was motivated by justifiable defense, revenge or other motives. The complexity of this issue lies in the cognitive difference between subjective intention and objective facts. The defendant argues that he acted because he felt his life was in danger, but the prosecution may challenge that his actions went beyond what was necessary. The difficulty of proving objective facts lies in how to restore the real situation of the crime scene. Although evidence such as video surveillance, eyewitness testimony, and scene traces can reproduce the event to a certain extent, it is difficult to fully reflect the subjective feelings of the actor at that time due to the fragmented and subjective nature of different evidence^[3]. In the Yu Huan case, witness stated that "Yu Huan was greatly stimulated", but there was also testimony that "the other party did not directly commit deadly violence". These conflicting information make the proof of subjective intention challenging. Therefore, in justifiable defense cases, the judicial organs need to comprehensively consider the statement of the actor, the scene evidence and the case background, and avoid relying solely on a certain type of evidence to form a one-sided conclusion.

2.2 The continuity and process of unlawful infringement

The core premise of justifiable defense is the existence of unlawful infringements. However, the specific time node, continuity and process of unlawful infringement are sometimes ambiguous, which affects the opportunity to identify justifiable defense. Take the Kunshan case as an example, in the case, Liu threatened the victim Yu with a knife, and the victim stabbed Liu to death after seizing the knife. The judicial organs need to determine whether Liu's assault has ended, and whether the victim has taken measures within the lawful defense time. The law stipulates that justifiable defense must be aimed at "the ongoing unlawful infringement", but what is "ongoing" is easy to produce different interpretations in practice. First, the identification of the "continuity" of the infringement is complex, and whether Liu still poses a threat after being seized is an important basis for assessing the appropriateness of the defensive behavior. According to the video recording, although Liu lost his advantage after being seized the knife, it is still controversial whether his attack completely has stopped and whether he has the ability to continue to threaten the victim. Second, the infringement usually changes dynamically. For example, it may escalate from a verbal threat to a physical attacks, further lead to fatal injuries. In this process, there are significant differences in psychological pressure and danger perception of victims at different stages. Whether the actor has reasonable grounds to believe that he is seriously threatened at a certain time will directly affect the legitimacy of his defensive behavior. In view of this, in judicial practice, the judicial organs need to combine the dynamic process of the case, and start from the behavioral characteristics of the aggressor, the development of the scene and the psychological state of the defender to specifically judge the continuity and process of unlawful infringements, and avoid misjudgment caused by a single static assessment.

2.3 The appropriateness and proportionality of defense act

The core element of justifiable defense also includes the appropriateness and proportionality of the act of defense, which means that whether the act of defense matches the intensity of the unlawful infringement. The focus of controversy of this element is whether the act of defense exceeds the necessary limit, and whether this judgment has universal applicability. For example, the courier Zhang in the Nanjing Courier defense case clashed with the other side because of the other side's long-term malicious default of wages, and when the other side threatened Zhang, Zhang stabbed the other side with a knife. During the trial, prosecutors questioned whether Zhang's action was "excessive defense". The special point of this case is that although the threatening behavior of the other side did not directly cause major physical harm, its long-term psychological oppression of Zhang is difficult to ignore. Whether the "appropriateness" of defense behavior should only be measured by objective results, while ignoring the psychology and situation of the actor has become one of the key points of the case. In addition, the difficulty of determining proportionality lies in the defender's choice space and emergency response at that time. In reality, in the face of sudden infringements, people usually cannot rationally consider whether their defensive behavior fully matches the intensity of the infringement, and the actor may take a stronger counterattack due to fear. Although the original intention of the actor is to prevent greater damage, the rationality and limit of this response should be evaluated in combination with specific situations. From the perspective of law, the proportionality of justifiable defense should not require "absolute equivalence", but should consider more the reasonable judgment and emergency response ability of the actor.

3 Conclusion

In a word, the difficulty of proving justifiable defense cases is mainly reflected in the contradiction between subjectivity and objectivity, the dynamic change of unlawful infringements and the complexity of the limits of defense acts. From the detailed analysis of the above three aspects, it is thus clear that in the specific judicial practice, the judicial organs need to pay more attention to the individual assessment of cases and avoid the mechanical application of legal provisions. At the same time, the comprehensive review of evidence and the ability to restore facts should be strengthened, in order to maximize the maintenance of justice, and finally form a complete solution to the problem of proof of justifiable defense at the macro and micro levels.

References

- [1] Si Xinfu. Research on the Distribution of the Burden of Proof of Justifiable Defense [D]. Chongqing: Southwest University of Political Science and Law Press,2022.
- [2] Song Jiajun. On the Proof of Justifiable Defense [D]. Xiangtan: Xiangtan University Press,2020.
- [3] Zhang Jiajie. Study on Distribution Rules of Justifiable Defense Burden of Proof [D]. Shanghai: Shanghai University Press,2023.