

Prevention Mechanism and Judicial Response Strategy of Litigation Abuse under the Background of Criminal and Civil Intersection

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Abstract: In today's judicial environment, there are more and more cross-disciplinary cases, and the accompanying abuse of litigation seriously affects judicial justice and efficiency. This paper focuses on the prevention mechanism and judicial response strategy of litigation abuse under the background of the intersection of criminal and civil. Through a systematic analysis of the basic theory, causes and existing preventive mechanisms of criminal-civil cross-litigation abuse, this paper combs the concept and types of criminal-civil cross-litigation abuse, the connotation, characteristics and harm, deeply analyzes the causes of legal norms, parties and judicial system, and examines the shortcomings of existing preventive mechanisms. The research shows that the causes of abuse of criminal and civil cross-litigation are complicated, and there are many loopholes in the existing prevention mechanism. Based on this, this paper puts forward some targeted strategies, such as perfecting the legal norm system, strengthening the judicial review mechanism, establishing a cooperative mechanism and strengthening the guidance and regulation of the parties, in order to effectively curb the abuse of litigation, optimize the allocation of judicial resources, and safeguard judicial justice and the legitimate rights and interests of the parties.

1. Introduction

In the contemporary complex and changeable social and economic environment, the case of cross between criminal and civil cases has become more and more important and complex in the judicial field [1]. Cross-criminal and civil cases; Abuse of litigation; Preventive mechanism; Judicial coping strategies; Judicial justice, these key concepts constitute the core of this paper [2]. Cross-criminal and civil cases refer to cases involving both criminal and civil legal relations, which are not only intertwined in substantive law, but also complicated in the application of procedural law [3].

With the deepening of judicial practice, the problem of litigation abuse under the background of the intersection of criminal and civil has gradually surfaced, and it is showing a growing trend [4]. Abuse of litigation, that is, the improper behavior of the parties who violate the principle of good faith and maliciously use the litigation procedure to achieve illegal purposes, is particularly prominent in criminal and civil cases [5]. This phenomenon not only seriously wastes valuable judicial resources, hinders the normal operation of judicial order, but also causes great damage to judicial justice and the legitimate rights and interests of the parties.

Under this background, it has become an important topic to be solved urgently in the field of legal theory and judicial practice to deeply explore the prevention mechanism and judicial response strategy of litigation abuse under the background of the intersection of criminal and civil. Constructing a scientific and effective preventive mechanism can curb the occurrence of litigation abuse from the source and ensure the rational allocation of judicial resources. Accurate and efficient judicial coping strategies are the key to maintaining judicial justice and authority and protecting the legitimate rights and interests of the parties. This article will focus on the above points, through in-depth analysis of the basic theory, causes and shortcomings of the existing preventive mechanism of cross-litigation abuse between criminal and civil, and put forward targeted and feasible

preventive mechanisms and judicial coping strategies, with a view to providing useful reference for judicial practice in China.

2. Abuse theory of criminal and civil cross-litigation

2.1. Definition and type analysis of criminal-civil intersection

The intersection of criminal and civil law refers to the situation that criminal legal relations and civil legal relations are intertwined and influenced each other in terms of case facts and legal relations [6]. From the point of view of case facts, the same fact may lead to two different legal consequences, criminal and civil. As far as types are concerned, cases involving criminal and civil cases can be roughly divided into two types [7]. First, the same legal fact infringes on the intersection between criminal legal relationship and civil legal relationship at the same time, which is a typical type of intersection between criminal and civil. Second, because of different legal facts, but there is a relationship between them, there is a cross between criminal and civil cases. For example, in tort cases, tort causes civil liability for compensation, and the infringer may commit criminal acts by evading debts, which leads to the involvement of criminal and civil cases.

2.2. The connotation, characteristics and harm of litigation abuse

Abuse of litigation is the behavior of the parties who deliberately violate the purpose of litigation and the principle of good faith and make improper use of litigation procedures in order to seek illegal interests [8]. In the field of criminal and civil intersection, it has the characteristics of malice, illegality and improper purpose. The parties often bring a lawsuit out of bad motives, such as damaging the reputation of the other party and delaying the performance of debts, knowing that their demands lack proper basis.

Abuse of litigation is harmful. For the judicial system, it consumes a lot of judicial resources for no reason, which makes the already tense resources even more stretched and affects the normal trial of other cases. For the other party, being forced to get involved in unnecessary litigation will not only bear the loss of time and energy, but also suffer reputation damage and property loss. In the long run, it will erode the public's trust in the judiciary and undermine the judicial authority and credibility.

3. An analysis of the causes of abuse of criminal and civil cross-litigation

(1) Legal norms

The poor connection and ambiguity of criminal and civil legal norms provide an opportunity for litigation abuse. There are differences between China's criminal law and civil law in terms of legislative purpose and adjustment means, which leads to unclear provisions in some cross-cutting fields [9]. For example, in the field of intellectual property rights, the boundary is sometimes vague about when an infringement only bears civil liability and when it constitutes a criminal offence. The differences of different procedural rules are also easy to cause problems. Criminal proceedings emphasize the intervention of state public power and pay attention to cracking down on crimes. Civil litigation focuses on the autonomy of the parties and guarantees private rights. This difference makes it possible for the parties to take advantage of the different procedural rules and choose the procedure that is beneficial to them, resulting in litigation abuse.

(2) Party level

Interest-driven is an important reason for litigation abuse. In criminal and civil cases, some parties file malicious lawsuits in order to gain economic benefits, suppress competitors or achieve other improper purposes. Taking commercial disputes as an example, in order to compete for market share, some enterprises deliberately criminalize ordinary civil disputes and use criminal means to force the other party to submit. In addition, the wrong cognition of the parties to the law will also lead to litigation abuse. Some parties don't understand the applicable rules of law in criminal and civil cases, mistakenly believe that they can get support as long as they sue, and blindly file a lawsuit.

(3) The judicial system

The imperfect internal coordination mechanism of judicial organs is one of the factors that it is difficult to effectively curb litigation abuse [10]. There is a lack of effective information sharing, communication and coordination mechanism among courts, procuratorates and public security organs in criminal and civil cases. In order to show the coordination of judicial organs in dealing with cross-criminal cases more intuitively, Table 1 investigates 50 cross-criminal cases in a certain area in the past year. The results show that in terms of information sharing, only 20% of the cases have achieved timely and comprehensive information sharing among the three organs; In the case of joint discussion, only 30% of the cases have been jointly discussed by the three organs to unify the application of the law. This shows that the judicial organs have many shortcomings in coordinating the handling of criminal and civil cases, leaving room for litigation abuse.

Table 1 Investigation on the Coordination of Judicial Organs in Criminal and Civil Cross Cases

Survey items	Proportion
Cases of timely and comprehensive information sharing among three organs	20%
Three organs jointly discuss cases.	30%
There are cases of repeated investigation and evidence collection.	40%
Cases with contradictions between criminal and civil judgments	10%

The lack of judicial supervision mechanism also makes it difficult to correct the abuse of litigation in time. For the obvious abuse of litigation, the lack of effective sanctions leads to the low illegal cost of the parties, which encourages the abuse of litigation.

4. Review and reflection on the existing preventive mechanism

4.1. Existing legal provisions and judicial practices

China's current laws, regulations and judicial interpretations have formulated some preventive provisions against the abuse of litigation. On the legal level, the principle of good faith in the Civil Procedure Law can restrain the litigation behavior of the parties, and the court can deal with the abuse behavior such as malicious litigation according to this principle. There are also related crimes in the Criminal Law, such as the crime of false litigation, and criminal sanctions are imposed for serious abuse of litigation.

In judicial practice, the court has gradually strengthened the review of the link of filing a case, and ruled that the prosecution that obviously lacks factual and legal basis will not be accepted. Some courts have also established the notification system of good faith litigation, informing the parties of litigation rights and obligations and the legal consequences of abuse of litigation when filing a case. At the same time, for cases that have entered the trial procedure, if there is abuse of litigation, the court will reject the litigation request according to law, and impose fines, detention and other penalties on the parties according to the seriousness of the case.

4.2. Problems and deficiencies

Despite the above-mentioned preventive mechanism, many problems are still exposed in practice. First of all, the operability of legal provisions needs to be improved. Taking the principle of good faith as an example, as an abstract principle, there is no clear standard on how to identify the abuse of litigation in specific cases. There are also difficulties in the determination of false litigation's crime, and there is a lack of detailed explanation for key elements such as "serious circumstances". Secondly, the coverage of the existing preventive mechanism is narrow. At present, the prevention mechanism mainly focuses on typical types such as malicious litigation and false litigation, and the regulation of other forms of litigation abuse, such as deliberately delaying litigation and abusing jurisdictional objections, is relatively weak. Moreover, the supporting measures are not perfect. After punishing the abuse of litigation, there is no effective relief mechanism for the injured party. Moreover, the discovery of litigation abuse mainly depends on the judge's review and judgment, and it is difficult to find and deal with litigation abuse comprehensively and timely without special supervision institutions and effective reporting channels. These problems have seriously restricted

the function of the existing preventive mechanism, and need to be improved and perfected urgently.

5. Assumption of constructing preventive mechanism and judicial response strategy

(1) Improve the legal norms system

It is urgent to refine the applicable legal rules in criminal and civil cases. The legislature should issue specific judicial interpretations to clarify the boundaries and standards for the application of criminal and civil laws, in view of the common cross-cutting fields between criminal and civil, such as the cross-cutting between economic crimes and contract disputes, and the cross-cutting between intellectual property rights infringement and crimes. At the same time, the legislature should unify the applicable standards of laws, reduce the differences in handling similar cases in different regions and different courts, and enhance the certainty and predictability of laws.

(2) Strengthen the judicial review mechanism

It is very important to strengthen the judicial review of filing and trial. In the filing stage, a special filing review team is set up to conduct a comprehensive review of criminal and civil cases, not only to review the formal elements of the complaint, but also to make a preliminary judgment on the facts of the case, legal relationship and the litigation purpose of the parties. For cases that obviously do not meet the conditions for prosecution or are suspected of abuse of litigation, a decision not to accept them shall be made in time. In the trial stage, the judge should keep a high degree of vigilance, strictly examine the evidence submitted by the parties, and prevent the parties from abusing the lawsuit by forging evidence and other means. Figure 1 covers four main stages: filing a case, pre-trial, mid-trial and post-trial, and details the key points and handling methods of each stage:

Review stage	Focus of review	Handling method
Filing stage	Purpose of litigation, statement of facts and preliminary examination of evidence	Do not meet the conditions or suspected abuse, will not be accepted
Pretrial period	Subject qualification and legal relationship characterization	If the legal relationship is unclear, organize cross-examination and debate between the two sides
Midterm trial	Authenticity, relevance and legality of evidence	Forge evidence, punish according to the circumstances and investigate the responsibility
Late trial	Rationality of appeal and accuracy of legal application	If the appeal is unreasonable or the law is wrongly applied, it shall be judged according to law

Figure 1 Flow chart of judicial review of criminal and civil cross cases

(3) Establish a cooperative mechanism

Relevant departments should establish a cooperation mechanism and information sharing mechanism among courts, procuratorates, public security organs and other departments, and establish a special information sharing platform. All relevant departments should upload information on filing, investigation and trial of criminal and civil cases in time to realize real-time information exchange. It is also necessary to hold joint meetings on a regular basis to conduct joint discussions on major and complicated criminal and civil cases and unify legal understanding and handling standards.

(4) Strengthen the guidance and regulation of the parties

Judicial organs should strengthen the publicity and education of the rule of law through various channels to enhance the legal awareness and integrity awareness of the parties. For example, relying on the community, media and other platforms to carry out legal lectures, typical case publicity and other activities to help the parties understand the litigation rights and obligations and the legal consequences of abuse of litigation. At the same time, it is necessary to establish a good faith litigation record system to record the litigation behavior of the parties. For the parties who have abused litigation, we should focus on the review in the follow-up litigation, and bring their bad records into the social credit system, restrict their financing, bidding and other aspects, and guide

the parties to rational litigation according to law.

6. Conclusions

The abuse of litigation under the background of the intersection of criminal and civil cases seriously interferes with the judicial order and damages the rights and interests of the parties, so it is urgent to effectively regulate it. Through multi-dimensional research, this paper makes it clear that the abuse of litigation stems from many factors such as legal norms, parties and judicial system. The ambiguity of legal norms and procedural differences, the interest-driven and wrong cognition of the parties, and the lack of coordination and supervision of judicial organs have all contributed to this phenomenon.

Although the existing preventive mechanism has a certain effect, the problems such as poor operability, narrow coverage and imperfect supporting measures are outstanding. In order to solve these problems, it is necessary to construct scientific mechanisms and strategies from various aspects. The legislature should improve the relevant legal norms, refine the specific rules of cross-application between criminal and civil, unify the application standards, and reduce the vague areas in the application of the law. The judicial organs should strengthen the review mechanism and strictly control the whole process from filing to trial. At the same time, it is necessary to establish an inter-departmental cooperation mechanism, promote information sharing and joint judgment among multiple departments, and ensure the uniformity of law application. It is also necessary to strengthen the guidance and standardization of the parties, enhance their awareness of the rule of law and integrity, and establish and improve the integrity litigation record system to effectively restrain their litigation behavior. Through the above measures, it is expected to build an all-round and multi-level prevention system, effectively curb the abuse of litigation under the background of the intersection of criminal and civil, promote the fair and efficient operation of justice, safeguard social fairness and justice, and lay a solid foundation for the construction of a society ruled by law.

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