The Problems and Development Direction of the Objection System of Criminal Trial Jurisdiction

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Abstract. China's criminal procedure law has not yet stipulated the jurisdiction objection system, and in judicial practice, different courts have different ways of handling the jurisdiction objection of criminal trial, which not only damages Procedural justice, but also challenges the judicial credibility of relevant courts. During the operation of the jurisdiction system, the parties have almost no say in their own jurisdiction interests. Based on the litigation concept of procedural fairness, the parties should have the right to raise objections due to the lack of jurisdiction or inappropriate jurisdiction of the judicial authorities. In order to correctly safeguard the legitimate rights and interests of litigation parties and the development of judicial practice, it is urgent to learn from the beneficial experience of the relevant jurisdiction objection system in foreign criminal procedure laws, and promote the construction of the jurisdiction dispute system in China's criminal procedure law. Within the basic framework of the criminal litigation legal system and in combination with judicial practice, China can selectively draw on the objection system of extraterritorial criminal trial jurisdiction, construct a criminal trial jurisdiction objection system that is in line with China's national conditions, and achieve the organic unity of cracking down on crime and protecting human rights. This article studies the problems in the objection system of criminal trial jurisdiction and the countermeasures to the issue of objection to trial jurisdiction in China.

Keywords: Criminal trial, Jurisdiction, Objection system.

1. Introduction

The rules for the division of labor and participation of specialized agencies in criminal litigation are regulated by the jurisdiction system in criminal litigation, while the objection system to criminal trial jurisdiction is a subsidiary system that is complementary to the criminal litigation jurisdiction system and provides judicial relief for the parties involved [1]. Currently, there is no objection system established in China's criminal litigation to address the jurisdiction issues of public security judicial organs. However, in judicial practice, there are frequent cases of jurisdiction disputes. In these cases, the parties often make requests for "collective avoidance" or change of jurisdiction, but most courts do not handle them. Instead, after completing the trial, they directly respond in the final judgment document [2].

Although jurisdictional disputes are only a minor issue in the Criminal Procedure Law, they may result in parties and legal representatives being unable to protect their legitimate rights and interests in judicial practice if they discover improper jurisdiction or errors in jurisdiction by public security and judicial organs, thereby damaging the rights and interests of the parties involved in the litigation and affecting the fairness of the proceedings [3]. The Chinese Civil Procedure Law and the judicial interpretation of the Administrative Procedure Law have made specific provisions on the jurisdiction objection system, but the Criminal Procedure Law has never made clear provisions on the jurisdiction objection right of the parties. The lack of legislation directly leads to a lack of theoretical research, and there is relatively little research in the field of criminal prosecution on the issue of objection to jurisdiction. The lack of theoretical research in turn affects the establishment of this system, making it difficult for parties, especially the accused, to apply for objection to jurisdiction in Chinese criminal proceedings, which undoubtedly hinders the protection of the litigation rights of the accused [4]. There are obvious deficiencies and inconsistencies in the legislation of jurisdiction objection system in China's criminal procedure law, and it is also inconsistent with international legislative trends. The highest value of criminal litigation is the accuracy and fairness of the procedure. Objection to criminal

jurisdiction is an important procedural relief right of the parties involved in criminal litigation, which reflects the inherent value of the litigation procedure and cannot be ignored due to its relatively small position in the procedure [5].

The significance of the objection system of criminal jurisdiction is to safeguard the procedural rights of suspect, defendants and victims, scientifically allocate judicial resources, and ensure the normal and efficient development of criminal proceedings. At present, in view of the jurisdiction problems in practice, people's courts mostly adopt the way of designated jurisdiction to solve them. However, this way is full of administrative color, which excludes the effective participation of the defendant, and cannot let people know the basis and rationality of its designation, which is extremely arbitrary and cannot effectively curb the abuse of judicial public power. In addition, in recent years, the Supreme Court has hoped to resolve procedural disputes related to the case as soon as possible through pre-trial meetings to ensure the smooth progress of the trial. Therefore, building a sound system of objection to criminal trial jurisdiction is an inevitable trend and an urgent need in reality.

2. The Current Situation, Problems, and Causes of the Objection System of Criminal Trial Jurisdiction in China

2.1. The Current Situation of the Objection System of Criminal Trial Jurisdiction in China

The system of objection to jurisdiction in criminal trials in China is not a complete establishment at the legislative level. It can only be said that there are some scattered and unsystematic provisions on objection to jurisdiction in the field of criminal litigation in China. For judicial practice, the relevant provisions of the objection system to criminal trial jurisdiction cannot meet the actual needs of judicial practice, and jurisdictional disputes in judicial practice are also difficult to be quickly and effectively resolved. China has not systematically established a system of objection to criminal trial jurisdiction. Although it is involved in legislation, the relevant content is relatively scattered and superficial. The issue of handling jurisdictional objections also appears too principled, and legislation highlights a strong sense of authoritarianism. The litigation rights of parties have not been well valued and protected [6].

Jurisdictional objection is a highly adversarial system that exists in the field of jurisdiction and raises questions about the jurisdiction of the investigating authority, questioning its ability to handle cases. Unlike the objection system of civil litigation jurisdiction and administrative litigation jurisdiction in China, there is still a lack of jurisdiction objection system at the legislative level in the field of criminal litigation in China. The system of objection to criminal trial jurisdiction has not yet been formed in China, with only sporadic provisions. However, in the process of judicial practice, there have been some cases where parties have raised objections to jurisdiction during trial activities. Due to unclear or even no legislative provisions on some issues, many jurisdictional disputes in the actual judicial process have not been properly handled and effectively resolved. On the one hand, this legislative status shows that there is still room for progress in China's procedural rights protection for parties, and significant efforts need to be made in the construction of the rule of law; On the other hand, it also reflects that objections to criminal trial jurisdiction are gradually entering the legal perspective of legislators and judiciary, and a systematic and comprehensive legal system will inevitably be formed in the future [7].

2.2. The Problems and Causes Caused by the Imperfect Objection System of Criminal Trial Jurisdiction in China

Due to China's imperfect system of objection to criminal trial jurisdiction, which does not provide parties with the right to raise objections to jurisdiction in a timely and lawful manner, parties are unable to obtain equal rights with specialized agencies in case jurisdiction issues, and are constantly in a passive situation. As a result, they have to unilaterally submit to the jurisdiction of specialized agencies, unable to provide their own opinions or suggestions, and lose the means of relief for

jurisdiction issues. The litigation rights of the parties run through the entire process of criminal proceedings. However, the lack of objection system to criminal trial jurisdiction has resulted in parties being unable to effectively raise objections to jurisdiction to specialized agencies when they believe that jurisdiction is incorrect or inappropriate [8].

In terms of legal concept, China has a phenomenon of emphasizing entity rather than procedure. The working concept of specialized agencies is how to make suspect and defendants plead guilty and commit crimes, attach importance to the judicial effect on entity, pursue fairness and justice on entity unilaterally, and ignore fairness and justice on procedure. In the traditional criminal procedure culture, suspect and defendants are the targets to be attacked, and they should be strictly controlled by specialized agencies in criminal proceedings. At the level of the criminal litigation system, the administrative color within the judicial organs is relatively strong, and many decisions in judicial practice are often not solely made by judicial personnel in accordance with the law, but rather involve intervention by administrative orders. Objectively speaking, the reason why China has not established a system of objection to criminal trial jurisdiction is due to the judicial organs' emphasis on substantive matters and a lack of procedural awareness in handling cases; The power dominated litigation process overlooks the litigation rights of the parties involved; The guilty thinking of the case handling agency directly determines the serious imbalance in the litigation power between the investigation, prosecution, and trial parties and the defense.

3. The Countermeasures to the Objection of Trial Jurisdiction in China

3.1. Give the Litigant the Right of Objection to Jurisdiction.

The objection system of criminal jurisdiction should not only protect the legitimate rights and interests of the parties, prevent the abuse of public power, supervise the exercise of public power, but also scientifically and reasonably allocate judicial resources, minimize judicial costs, and promote the efficient operation of the criminal procedure system. Although in judicial practice, we naturally recognize that the parties actually have this right, this de facto recognition is far from sufficient for the protection of rights themselves. Therefore, in the construction of the objection system to criminal trial jurisdiction, the primary issue that needs to be addressed is to confirm at the legislative level that the subject of objection to jurisdiction enjoys this procedural right, and to provide corresponding rights relief measures [9].

Based on the consideration of ensuring the fair, transparent, and efficient operation of criminal litigation activities, the accused should have the right to raise objections to the legality and rationality of the functional jurisdiction and trial jurisdiction of specialized agencies. As the subject of prosecution, the defendant should naturally have the right to object to trial jurisdiction. As a prerequisite for the trial of a case, jurisdiction involves many interests of the defendant, especially the ability to obtain a fair trial. Therefore, allowing the defendant to raise objections to jurisdiction is not only a respect for their status as the subject of litigation, but also to achieve the legitimacy of the procedure. Before initiating a public prosecution, the procuratorial organ should fulfill its duty of reviewing its own jurisdiction. Correspondingly, the court being sued is selected by the procuratorial organ according to legal provisions, so jurisdictional errors do not become a reason for the procuratorial organ to raise objections to its jurisdiction. In criminal prosecution cases, in addition to the defendant and their defenders, the victim should be granted the right to raise objections to jurisdiction. In criminal private prosecution cases, the private prosecutor - including the victim, the victim's legal representative, and the victim's close relatives - brings a lawsuit to the people's court in order to hold the defendant criminally responsible. The prosecution court is the choice of the private prosecutor. As a party to criminal proceedings, victims should, like the accused, have the right to raise objections to the jurisdiction of the case to the specialized agency in order to protect their litigation rights from infringement. The jurisdiction of criminal incidental civil litigation should be consistent with that of criminal litigation, and its parties no longer have the right to raise objections to jurisdiction independently of criminal litigation [10].

3.2. Establish Procedures for Reviewing and Handling Jurisdictional Objections

The fairness reflected in criminal litigation should be the fairness of the entire litigation process, rather than just a single subject. Therefore, while safeguarding relevant rights, we also need to prevent the abuse of rights to avoid wasting judicial resources. At present, in the current system of objection to criminal trial jurisdiction in the world, there are mainly two types of provisions regarding the period of objection to jurisdiction: one is that objection to jurisdiction can be raised at any stage of criminal litigation, and the other is that it clearly limits the period of objection to jurisdiction. In the trial stage, the existence of jurisdiction involves the completeness of the elements of litigation activities and the legality of litigation procedures, as well as the limitation of the parties' exercise of jurisdiction objection rights. The exercise of any right should have a deadline, which can not only urge the defendant to actively submit a jurisdictional objection application, but also avoid excessive delay in litigation and improve litigation efficiency. According to the principle of efficiency in criminal litigation, in order to ensure the smooth progress of criminal litigation activities, the deadline for raising objections to jurisdiction should be fixed. Raising objections to jurisdiction, as well as applying for the exclusion of illegal evidence and applying for avoidance, are all matters that cause the trial to be interrupted. Therefore, such matters should be resolved through a pre-trial meeting before the trial.

In cases where a pre-trial meeting is held, the presiding judge shall have the obligation to inform the dissenting party of the right to object to jurisdiction, and shall explain to them that no objection to jurisdiction shall be raised in the absence of new circumstances or reasons during the trial. The designation of jurisdiction or the transfer of jurisdiction will result in changes in the court of jurisdiction of the case, both of which are unilateral actions within the court and lack effective participation by the defendant. Therefore, the defendant should be allowed to raise objections. The review standards for objection to criminal trial jurisdiction are a series of reference standards set from the perspective of the legality and rationality of the court's review of objection applications. In order to ensure the unity and consistency of legislation, the method of raising objections to criminal trial jurisdiction should be similar to the submission form of Chinese litigation documents, that is, raising objections to jurisdiction in writing.

4. Conclusion

In the grand criminal litigation system, although the objection system to criminal trial jurisdiction is not highly regarded, it has significant significance in highlighting the rule of law, fairness and justice, and protecting the litigation rights and interests of parties. From the perspective of legal protection, the right of objection to jurisdiction of parties in criminal cases is a branch of the construction of the national human rights protection system, and this right is a prerequisite for ensuring that the parties in the case receive fair and just judgments; From a humanistic and moral perspective, granting the parties to a case the right to object to jurisdiction is a respect for their personal dignity, and it is also a value for the lives and property of the parties involved. The objection to the jurisdiction of criminal trial is related to whether the criminal procedure can be normally opened and effectively promoted, whether the suspect and the defendant can be justly ruled by the law, and whether the litigants' litigation rights can be fully protected. Establishing the system of objection to criminal jurisdiction is an important component of the further reform and improvement of China's criminal justice system. It has important value in further strengthening the fairness of China's criminal justice system and safeguarding the legitimate rights and interests of parties involved. Although the construction of the objection system to criminal trial jurisdiction in China is still in its infancy, many scholars have paid attention to this system and borrowed useful experience from foreign countries to export to China. In practice, there have also been some cases, and both theory and practice have jointly promoted the establishment of the objection system to criminal trial jurisdiction in China.

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