

Study on the Conversion between Criminal Liability and Civil Liability

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ABSTRACT. *The conversion between criminal liability and civil liability means, when the actor is required to bear both criminal liability and civil liability, the two kinds of responsibilities can substitute each other in quality and quantity under certain conditions and in accordance with certain procedures. In essence, it is the impact of civil liability fulfillment on the basis of criminal liability, which further affects the undertaking of criminal liability. The conversion between criminal liability and civil liability includes two levels: the conversion of criminal liability to civil liability and the conversion of civil liability to criminal liability. It is usually applicable to minor offences that infringe on individual legal interests. The conversion should follow specific procedures. In order to realize the conversion between criminal and civil liability, our concepts should be further updated; relevant provisions should be improved in the level of substantive law.*

Keywords: *criminal liability; civil liability; conversion.*

1. Introduction

When studying the legal history at home and abroad, the relationship between criminal liability and civil liability is the first issue that scholars meet. "In all countries of the world, criminal law and civil law in modern sense have all experienced the history of 'indiscriminating civil and criminal liability' and the coexist of punishment and compensation."^[1] With the gradual separation of tort law and criminal law, civil liability and criminal liability are systematically and strictly separated according to their respective social functions. This distinction was not basically completed legally in various countries until modern times. With the development of law, civil liability and criminal liability are placed into different positions. They gradually become independent and distinct from each other.

The separation of civil liability and criminal liability means that the boundary between civil wrong behaviors and criminal crimes should be clear. The wrongful acts lead to civil liability or criminal liability. With the development of the rule of law, criminal law and civil law approach each other again. The trend of the civil legalization of criminal law is gradually emerging. With the approaching of civil law and criminal law, the relationship between civil liability and criminal liability also changes. There is a trend called as "re-compilation of civil liability and criminal

liability“. “In recent years, there has been a tendency to reconsider the scope of civil liability and criminal liability and to link the two responsibilities... In the aspect of criminal responsibility, we should consider the situation of victims in both conviction and sentencing. In addition, in the aspect of criminal law punishment, we should consider not only the relationship with the state, but also the relationship with the victim.“^[2]

The conversion between criminal liability and civil liability is an important link in the re-compilation of the relationship between criminal liability and civil liability. “In judicial practice, criminal liability and civil liability are overlapping. To some extent, there is even the possibility of mutual conversion, which is mainly reflected in the relationship between penalty and the damage compensation.“^[3] Under certain conditions, criminal responsibility and civil responsibility can be exchanged qualitatively and quantitatively; now there are more ways to shoulder the responsibility.

2. The Definition and Mechanism of the Conversion between Criminal Liability and Civil Liability

2.1 Definition of the conversion between criminal liability and civil liability

The conversion between criminal liability and civil liability means, when the actor is required to bear both criminal liability and civil liability, the two kinds of responsibilities can substitute each other in quality and quantity under certain conditions and in accordance with certain procedures. It shows that the fulfillment of one responsibility can reduce or eliminate the other responsibility; failing in fulfilling one responsibility can increase the other responsibility. This kind of conversion is usually manifested in following methods. For an actor who should bear both criminal responsibility and civil responsibility, if he fulfills the civil duty, the criminal liability can be reduced or even eliminated; if he fails to fulfill civil liability, the criminal liability can be increased.

To understand the conversion between criminal liability and civil liability, we should pay attention to following issues.

First is the relationship between the conversion and separation of criminal responsibility and civil liability. The conversion is a special kind of relationship; it does not affect the static systems of the premise, constituent elements and modes of the independent criminal liability and civil liability. Criminal and civil liability, as basic legal responsibilities, has different missions and functions. Whether the perpetrator should bear criminal or civil liability for his unlawful act should be clear from the neutral standpoint. Otherwise, the law will lose its basic guiding function and people will lose the possibility of predicting their own behaviors. The conversion between criminal liability and civil liability happens after the actor facing the burden of criminal liability. Its function is to dynamically adjust the relationship between criminal liability and civil liability; it focuses on the liability burden after legal and illegal acts, rather than the choice of behavior before these

acts. In other words, the transferability of criminal liability and civil liability should not and cannot affect the choice of behavior. When the actor chooses an act, he should clearly understand its consequence: criminal liability or civil liability. After the act, if the actor is faced with the dual burden of criminal liability and civil liability, the conversion mechanism will play its role. Under certain conditions and procedures, dynamic responsibility conversion can be achieved. When the conversion is completed or does not occur, the mechanism of fulfilling criminal and civil liability also starts accordingly. The actor should bear the corresponding legal responsibility according to law, and the responsibility cannot be changed again in the process of fulfillment. It is due to the certainty and seriousness of legal liability.

Second is the path of conversion between criminal liability and civil liability. The so-called conversion refers the process that one thing changes into another thing in part or as a whole. From the formal point of view, the conversion means that one kind of responsibility should be assumed is partly or wholly replaced by another kind of responsibility. In essence, the legal evaluation given to the actor by judicial organs changes; the two different types of legal evaluation are exchanged. The path of conversion between criminal liability and civil liability is the bearing effect of civil liability. Whether the civil liability is undertaken or not as well as the undertaken affects can increase, decrease or eliminate criminal liability. On one hand, the bearing of civil liability is the motive for the conversion of criminal liability; on the other hand, it is the pattern after the conversion of criminal liability. Regardless of the nature, the conversion between criminal liability and civil liability can only be achieved through the effect of bearing civil liability. The fulfillment of civil liability can be divided into four types: partial commitment, full commitment, excessive commitment and refusal to undertake. Different types lead to different consequences of conversion. Partial undertaking can reduce criminal responsibility; full and excessive undertaking can also reduce criminal responsibility, and even eliminate criminal responsibility in most cases; refusal to bear usually increases criminal responsibility.

Thirdly, the conversion between criminal and civil liability does not mean the “conservation of responsibility“ before and after the conversion. Conversion between criminal liability and civil liability refers to the fulfillment of one kind of responsibility can increase, decrease or even eliminate the other kind of responsibility. Conversion is the embodiment of their relationship, and does not necessarily mean “conservation of responsibility“ before and after the process. Before and after the conversion process, the total amount of responsibility can be increased, conserved or reduced. Its premise is that the actor should bear both criminal and civil liability at the same time. The effect of civil liability fulfillment directly affects the qualitative and quantitative changes of criminal liability. Therefore, this kind of change is not a mechanical counteraction, but a dynamic interaction. There are three situations in the total amount of criminal responsibility: reduced, unchanged and increased. First, the total amount decreases. The actor’s commitment of civil liability reduces the criminal liability, but the actor himself should bear civil liability. Thus, the total amount of criminal and civil liability is reduced. Second, the total amount remains unchanged. The actor’s excessive civil

liability reduces the criminal liability and keeps the total amount of criminal liability unchanged. Reduced criminal liability “transforms“ to increased civil liability in “form“. Third, the total amount increases. The actor refuses to bear civil liability, which increases the criminal liability. Meanwhile, the actor still needs to bear the original civil liability. Therefore, the total amount of criminal and civil liability is increased.

Fourthly, the bearing of civil liability does not necessarily lead to the increase or decrease of criminal liability. Usually, the bearing effect of civil liability can change the quality and quantity of criminal liability. But it is not an absolute and inevitable rule. The court should fully consider the nature of the crime, the repentance of the perpetrator, the attitude of the victim and other factors. For some cases which causing great harm to the society or personal interests, the criminal liability should not be reduced or eliminated. In cases which the actor has other serious circumstances or lacks the repentance performance, and in cases the victim cannot forgive, the conversion of criminal responsibility is also inappropriate.

2.2 Mechanism of the conversion between criminal liability and civil liability

The mechanism of the conversion between criminal liability and civil liability refers to the principle and concrete way of conversion. It answers the question of how to change the criminal and civil responsibility. The essence of this conversion process is that, the effect of civil liability has an impact on the basis of criminal liability, and then affects the bearing of criminal liability.

The basis of criminal responsibility is the organic unity of social harmfulness and personal dangerousness. The actor’s behavior results in the dual responsibilities of civil and criminal liability. The bearing effect of civil liability directly affects and reflects the social harmfulness of crime and the personal dangerousness of the offender. Actively assuming the civil liability, the perpetrator can recover the legal interests destroyed by his previous criminal acts to the maximum extent; the social harmfulness can decrease until disappears. This process also reflects that the subjective malignancy of the perpetrator and the possibility of recidivism are decreasing, and the personal danger of the perpetrator is gradually decreasing or even disappearing. The basis of criminal responsibility has changed accordingly, which reduces the amount of criminal responsibility until it is eliminated qualitatively. Reduced criminal liability, to a certain extent, is converted to civil liability. On the contrary, the actor’s refusal to bear civil liability makes it impossible to restore the social harmfulness caused by crime, or even increase it. The actor’s personal danger increases; the subjective malignancy fails to decrease; the possibility of recidivism increases. The basis of criminal liability also changes, which increases the criminal liability.

3. The Levels of Conversion between Criminal Liability and Civil Liability

The conversion between criminal liability and civil liability includes two levels:

the conversion of criminal liability into civil liability and the conversion of civil liability into criminal liability. The conversion is bidirectional rather than unidirectional, but the conditions and ways of conversion are different. Both of them must meet following conditions: the perpetrator should bear both criminal and civil liability for the crime infringing on personal legal interests.

Conversion of criminal liability into civil liability refers to that, the actor actively discharges civil liability, which reduces or eliminates criminal liability. Actively assuming civil liability will reduce criminal liability in quantity or even eliminate criminal liability in quality. At that time, criminal liability is essentially converted to civil liability. Conversion of civil liability to criminal liability means that the actor has the ability to discharge civil liability, but refuses to do. It leads to the increasing amount of criminal liability. At that time, civil liability is essentially transformed into criminal liability.

The precondition of the conversion is that both criminal liability and civil liability are triggered by actions. In the case that the actor only bears civil liability, it cannot be simply and directly converted into criminal liability. Such a conversion is tantamount to compelling the actor who should bear only civil liability to bear the responsibility by means of criminal liability. Although the utilitarian effect of facilitating compensation may be achieved, it violates the basic principles of criminal liability, and can lead to serious consequences of human rights infringement and violation of the rule of law. It also conflicts with the principle of legally prescribed punishment for a specified crime since it is not legitimate or rational. Civil liability led by civil wrong behaviors should be solved in the civil liability system. Criminal law should strictly abide by the bottom line of necessity. The direct conversion is absolutely prohibited. If the actor refuses to bear civil liability, the victim can seek judicial judgment through civil litigation and apply for compulsory execution. The actor's refusal to perform judicial decisions may constitute the crime of refusal to execute judgments or convictions according to law. "At that time, it is the conversion of civil liability to criminal liability in form; but in fact, it is a new evaluation of harmful acts, which has consistent subjective and objective factors."^[4] The actor's refusal to execute judicial decisions is an independent criminal act. Compared with the previous pure civil wrongfulness, new subjective offences and objective harmful acts emerge; the criminal responsibility should be investigated according to law.

To investigate criminal responsibility for simple civil wrongful acts, it is necessary for the legislature to criminalize them and add new charges before they can be brought into the scope of criminal law adjustment. Judicial interpretation cannot be used to directly convert civil irresponsibility into criminal liability. The conversion between civil liability and criminal liability can only be realized in the case that the actor bears both criminal and civil liability, and the criminal liability increases because the actor is negligent or refuse to bear civil liability. Conversion in that case conforms to the basic principle of criminal responsibility, and can help to protect the interests of victims and restore social orders to the largest extent.

4. The Dimensions of Conversion between Criminal Liability and Civil Liability

The conversion between criminal liability and civil liability includes two dimensions: qualitative conversion and quantitative conversion. Materialistic dialectics holds that quantitative changes and qualitative changes are the two basic states of things' development and change, and that the development and change of everything are the unity of quantitative changes and qualitative changes. The conversion between criminal liability and civil liability should also follow this philosophical principle. The conversion of responsibility can be either a qualitative conversion, which means the assumption of one responsibility leads to the elimination of another responsibility, or a quantitative conversion, which means the assumption of one responsibility increases or decreases the other responsibility.

The dimensions of conversion show that the conversion between criminal and civil liability has corresponding flexibility. We should weigh various factors that affect the conversion, including the degree of criminal infringement on legal interests, the effects of bearing civil liability, the actor's attitude towards repentance and performance after the crime, as well as the attitude of the victim, and reasonably determine the critical point of the conversion between criminal and civil liability. In one crime, the perpetrator's fulfillment to civil liability can eliminate criminal liability, but in another crime, the perpetrator's fulfillment to civil liability, or even over-commitment, may only reduce criminal liability. The critical point between qualitative and quantitative conversion is very important, which is related to the elimination of criminal responsibility. Usually, it should be determined by judicial interpretation. Meanwhile, judges should be given certain discretion to achieve the greatest degree of fairness and justice in conversion.

5. Conditions and Procedures for the Conversion between Criminal Liability and Civil Liability

There is no doubt that the conversion between criminal and civil liability is conditional. The conversion must be strictly limited to specific cases and follow specific procedures. Otherwise, it will violate the basic principle of difference between criminal and civil liability. The condition of conversion is the key to ensure the smooth conversion. If this factor is ignored, the conversion will not only lose its basic value, but also bring about serious negative effects.

5.1 The scope of conversion

Conversion between criminal and civil liability is usually applicable to crimes that infringe on the legal interests of individuals. It is generally not applicable to crimes that infringe on super-personal interests, such as crimes that harm the legal interests of the country and the society.^[5] Because these crimes do harm to the legal interests of the public, the state and the society; it harms the public interests, and is highly culpable from moral standards. For the need of general prevention and moral

condemnation, it generally cannot be converted into civil liability. Crimes that infringe on individual legal interests do harm to the important life interests of natural persons and are prohibited by the criminal law. This kind of crime is obvious private aggression; there are direct victims who suffer material and spiritual losses as the result of criminal acts. It does not mean that there are absolutely no rooms for the conversion between criminal and civil liabilities for crimes that infringe on super-personal interests. For crimes that do not harm personal legal interests, if they belong to negligent crimes, such as traffic accidents or environment crimes, as long as there are direct and specific victims in the case, they can be regarded as civil tort and applicable to the conversion. For example, according to the provisions of Article 288, Paragraph 1 (2) of the *Criminal Procedure Law of the People's Republic of China*, the two parties may reconcile the cases of negligent crime which may be sentenced to less than seven years' imprisonment, except for the crime of dereliction of duty.

Conversion between criminal and civil liability can only be applied in cases which the perpetrator needs to bear both criminal and civil liability. In cases which the perpetrator only needs to bear criminal liability or civil liability, the court should strictly abide by the different standpoints of criminal and civil liability, and transform neither of them. For cases which the actor only bears civil liability, the criminal law of course cannot be used to threaten the actor to compel him to bear civil liability. For cases in which the actor only needs to bear criminal liability, there are often no direct victims. The actor does not have the objects and conditions of fulfilling civil liability. At the same time, such cases generally involve with the infringement on social and national legal interests. Undertaking civil responsibility cannot mitigate or eliminate criminal responsibility. Criminal acts that infringe on personal legal interests usually lead to the legal consequences of the dual responsibility of criminal and civil liability, which has the space for the conversion.

The conversion between criminal and civil responsibility are usually carried out in cases of minor crimes, that is, minor intentional crimes and negligent crimes which may be punished with the penalty of less than three years' imprisonment (not subject to the penalty of less than three years' imprisonment). In addition, these cases must also satisfy the conditions of specific victims and sincere repentance of the perpetrators, as well as the unharmed interests of the state and the society after the conversion. In terms of the scope, it includes private prosecution cases and public prosecution cases except cases of intentional infringement on social public safety and public interests. The application of conversion in misdemeanor cases can be the undertaking of civil liability which reduces or even eliminates the criminal liability, and the non-assumption of civil liability which aggravates criminal liability. For felony cases that infringe on personal legal interests, or those cases that may be sentenced to more than three years' imprisonment according to law, there are also rooms for conversion. But due to the serious social harm and personal danger caused by these actions, it is generally impossible to apply the conversion mode which eventually eliminates the criminal liability. In most cases, the criminal liability can only be reduced or aggravated to a limited extent.

5.2 Procedures applicable to conversion

The purpose of setting up the procedure of conversion between criminal and civil responsibility is to ensure the fairness and seriousness of the conversion. There are qualitative differences between criminal and civil responsibility in their attributes and realizing methods. The independent states of criminal responsibility and civil responsibility is the normal state, while the responsibility conversion is the exception. From the procedural point of view, the criminal responsibility is decided by the judicial organs according to law. The parties involved generally have no right to negotiate (except for private prosecution cases and public prosecution cases in which the parties can reconcile according to law). The conversion between criminal and civil liability involves the intersection of public power and private rights. It must be operated under legal procedures, which is the need of human rights protection.

The conversion between criminal and civil liability involves the actor's legal responsibility, as well as the interaction between public and private obligation; the result of conversion can increase, decrease or even eliminate the criminal liability, which should follow strict legal procedures. The result of conversion can only be determined by judicial organs according to law; parties involved cannot transfer them privately. In other words, criminal liability cannot be "settled in private". Specifically, in procedures of investigation, examination, prosecution and trial, mediation and reconciliation can be carried out for the conversion between criminal and civil responsibilities, and judicial organs can also make confirmation according to their functions and powers. For the conversion in quality, the results include withdrawing the case, non-prosecution and acquittal judgment; for the conversion in quantity, the result is reflected in the sentencing suggestion of the procuratorial organ and the judgment of the court for lesser punishment.

The conversion of criminal liability is based on the effect of assuming civil liability, but the civil duty can be performed before or after the commencement of criminal procedure. After the completion of the crime and before the commencement of the criminal procedure, the perpetrator can undertake the civil liability caused by the crime promptly and actively, and effectively restore the infringed legal interests. For instance, the thief can return property to its original place; people who intentionally damaged public and private properties can voluntarily making equivalent compensation; people who injured others can voluntarily and promptly send the victim to medical treatment; the offender of danger can eliminate the sources of danger in time. "The essence of these acts is that the actor automatically assumes civil liability to mitigate the consequences of the original crime, so that the legal interests of victims can be restored to a certain extent, or even completely restored."^[6] At the same time, the perpetrator can also undertake the civil liability caused by the crime at the stages of investigation, review, prosecution and trial after the criminal procedure started. They can compensate victims for their loss through criminal reconciliation, express the goodwill of confession and repentance, seek the forgiveness of the victim, and thus realize the transformation from criminal responsibility to civil liability since the criminal liability can be reduced or eliminated.

6. Realizing the Conversion between Criminal Liability and Civil Liability

In order to realize the conversion between criminal liability and civil liability, it is necessary to update our ideas and the relevant system. Conceptually, we need to get rid of the doctrine which stipulates the opposition between the criminal and civil liability, and establish the modern concept of criminal-civil relationship. Institutionally, we need to further construct the space and platform for the conversion between criminal and civil responsibilities at legislative and judicial levels.

6.1 Renewal of the idea

At present, the mainstream view in the legal circle is, “the irreversibility of criminal liability and civil liability is a basic principle“. After the rapid development of the criminal reconciliation system, this view has changed positively. The *Criminal Procedure Law of the People’s Republic of China* in 2012 stipulates the procedure of reconciliation of the litigants in public prosecution cases. However, in order to further establish the criminal and civil responsibility conversion system in an all-round way, it is necessary to further renew the concept. First of all, we need to recognize and accept the integration and commonality between criminal and civil liability, as well as the possibility of their conversion. This renewal of concept requires us to grasp the criminal-civil relationship and civil-criminal responsibility relationship from a macro-level.

For a long time, the jurisprudence circles have attached great importance to boundaries between departmental laws. After dividing the research territory, they carefully cultivate their own “reserved land“ and pay little attention to interdisciplinary research, resulting in the enlargement of differences between disciplines and the reduction of their commonality. Taking the relationship between criminal law and civil law as an example, it is precisely out of the “sole respect“ status of criminal law that the criminal law academia has always paid little attention to the study of the relationship between criminal law and civil law; the criminal law is always considered as the safeguard for all laws. However, in some cases, one act of the criminal causes two kinds of responsibilities; the relationship and commonness between the two responsibilities are very direct. But they must be separated by two sets of responsibility systems which deny their commonness and the space of conversion.

The renewal of criminal-civil liability relationship requires us to rationally treat the principle of separation between criminal and civil liability, and recognize the commonness of criminal and civil liability. We need to integrate criminal-civil liability into one vision, recognize the blended part in the relationship, abandon the rigid thinking of conceptual jurisprudence, and regard the conversion and interchange between criminal and civil liability as an important way to control crime from the perspective of pragmatism jurisprudence. The understanding of the relationship between criminal responsibility and civil responsibility should be raised to a new height. From the past, we can only see that the difference; now we need to

recognize the coexistence of distinction and generality, as well as division and conversion.

6.2 System construction

6.2.1 Status of legislation and justice

The traditional criminal justice system is established and operated in accordance with the concept of separation of criminal law and civil law. For cases that criminal responsibility integrated with civil responsibility, the civil suits collateral to criminal proceedings are built to solve relevant problems. The civil suits collateral to criminal proceedings are designed from the perspective of judicial utility, aiming at saving judicial resources. Criminal and civil liability is still independently applied to their respective imputation systems. From relevant provisions, the performance of civil liability in criminal justice practice (mainly referring to the returning of stolen goods and compensation) has become an important factor affecting sentencing.

It should be noted that, the impact of compensation on criminal liability has not been institutionalized by the Criminal Code. In some cases, defendants are unwilling to compensate, but they are afraid that the compensation may make no difference. After all, the only stipulation is that, "compensation can be considered as the condition of discretion sentencing". The provision is not powerful enough and too vague to operate. In addition, compensation only has the meaning of discretionary punishment, and does not have the function of conviction circumstances. The defendant often chooses not to pay compensation between the material compensation and the pending penalty discretion. Many incidental civil litigation judgments cannot be enforced and become empty judgments.

From the point of view of procedural law, there is no procedural mechanism for the conversion between criminal and civil liability in the current criminal procedure law except for the provisions on the litigation procedure of public prosecution cases where the parties can reconcile. Although private prosecution cases can be mediated or reconciled according to law, while incidental civil litigation cases can also be mediated, the responsibility of civil liability often gives way to the investigation of criminal responsibility. Reasons include the lack of clear provisions on the effectiveness of mediation, as well as the traditional concept that punishment is more important than people. The provisions on criminal reconciliation in the *Criminal Procedure Law of the People's Republic of China* indicate that China has confirmed that the compensation can have an impact on criminal liability within a certain range through legislation. However, we can also see that the law takes a cautious attitude towards the impact of compensation on criminal liability of criminal offenders. According to the law, the impact of compensation on criminal liability is dependent on the criminal reconciliation procedure, and criminal reconciliation can only be applied to a statutory scope. In a large number of criminal cases involving civil liability such as compensation, parting from relevant provisions in existing judicial interpretations, there are still no clear provisions on whether and

how to affect criminal liability through actively performing civil liability.

6.2.2 Establishing and perfecting the conversion system

The provisions on criminal reconciliation system in procedural law have built a basic institutional platform for the conversion between criminal liability and civil liability. Although relevant provisions still need to be improved, the revision of the law needs a process of discovering problems and accumulating experience. We cannot make frequent changes in policies. Therefore, at present, it is more important to establish the conversion system between criminal liability and civil liability at the level of substantive law. These provisions should clearly stipulate that for crimes infringing personal legal interests, the actor's bearing of civil liability can have an impact on criminal liability in conviction and sentencing; the criminal liability can be conditionally transformed. The legislative mode can adopt three methods: legislation of general rules, legislation of separate rules and judicial interpretation. Legislation of general rules means to establish the conversion system in the form of special provisions in the general provisions of the criminal law, so as to establish the system of conversion between criminal responsibility and civil responsibility, and clarify the impacts of civil liability fulfillment on criminal responsibility. The constitutive elements and punishment principles of the conversion system can be described as follows.

For the loss of victims caused by crime, the offender should take effective measures to bear civil liability actively. If the loss of victims can be effectively reduced through restoring, compensating for the loss and eliminating sources of danger, the punishment can be lightened or mitigated. Among them, those who eliminate the loss of the victim and may be sentenced to less than three years of fixed-term imprisonment may be exempted from punishment; the obviously minor circumstances may not be considered as crimes.

If the offender does not take active and effective measures to bear civil liability, or even evades or refuses to bear civil liability maliciously, a heavier punishment may be given. Among them, those who have the ability to bear but do not bear or do not fully bear the civil liability, which resulting in the further expansion of the victim's losses or serious consequences, shall be given heavier punishment.

To establish the system of criminal liability and civil liability conversion through general rule legislation, on the one hand, can make clear liability conversion system, provide the unified definition and constituent elements, and facilitate the unified operation of the judiciary; on the other hand, it can provide the conversion system with greater tension, which can help judicial organs to increase and reduce its scope of application in specific circumstances and meet the needs of social development. However, due to the generality and ABSTRACTion of the general provision, two problems may emerge. First, since the policy is general and ABSTRACT, the conversion between civil and criminal responsibility may become a virtual system in practice. Second, due to the expansive power of the general provision, unnecessary abuse and misuse may appear in application, resulting in lenient or severe

punishment of crime.

Considering the gradualness of legislation and the complexity of cases, as well as the risk of overly large scope of application caused by the general provision, it is also possible to adopt the legislation of separate rules instead of establishing the conversion system in the general provision of the criminal law. For some crimes that infringe on personal legal interests, the system of conversion between criminal and civil responsibility can be established. On one hand, the separate-rule legislation can avoid the huge impact on the criminal law caused by general-rule legislation; on the other hand, it is conducive to the conviction and sentencing of different types of crimes in judicial operation.

7. Conclusion

Establishing the system of conversion between criminal responsibility and civil liability is of positive significance to restore the legal interests damaged by the crime, to comfort the victims and to effectively control crime. At present, it is necessary to expand the application scope of this system and improve the application procedures through further updating our concept and improving the system on the basis of existing legislative and judicial interpretations.

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