Research on the Dynamic Quantitative Model of the Boundary between Administrative and Criminal Liability for Extortion from the Perspective of Consequentialism

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Abstract. This article examines the boundaries of administrative and criminal liability for extortion and blackmail using a consequentialist analytical framework. It systematically investigates the sources of their unlawfulness and the determination of liability degrees. The study highlights the dual dilemma of "illegality of means" and "impropriety of demands" in existing law, pointing out the shortcomings of subjective, objective, and hybrid theories in practical application. It argues that, from a consequentialist perspective, the evaluation standard should prioritize the long-term impact of behaviors on social welfare. Incorporating Posner's law and economics theory, the article introduces variables such as expected benefits (MB), damage diffusion coefficients (I), actual losses (D), and enforcement costs (C) to create a dynamic quantitative model (criteria for criminalization = $MB \times I > D + C$). This model allows for a parametric analysis of the boundaries between administrative and criminal liability through case comparisons. The article contends that judicial decisions should prioritize the long-term effects of behavior on the rule of law and social order rather than merely case-specific justice. The dynamic quantitative model provides a novel method for evaluating damages and costs, addressing issues related to monetary centrism, subjective ambiguities, and value conflicts, ultimately aiming to reduce inconsistent judgments and enhance the balance between legal standards and social benefits.

Keywords: Extortion and blackmail, boundaries between administrative and criminal liability, consequentialism, dynamic quantification models.

1 Introduction

From a consequentialist perspective, behavior evaluation adopts a "result-oriented" approach that assesses its impact on overall social welfare. This leads to a binary classification: behaviors that provide positive social benefits, warranting encouragement, and those that produce negative externalities, which should be repressed. The legal system addresses the latter through a tiered responsibility mechanism based on impact severity, encompassing civil, administrative, and criminal penalties. This structure informs the

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"qualitative-quantitative" framework of this paper: it first examines the illegality of "extortion behavior," providing a qualitative assessment, and then quantifies the degree of responsibility using a dynamic quantification model[1].

2 Analysis on the Illegal Source of 'Extortion Act'

2.1 The Dilemma of Determining the Illegality of Extortion Acts

Under the current legal framework, the assessment of extortion's illegality presents a notable binary characteristic. Article 274 of the Criminal Law and relevant judicial interpretations require the evaluation of two core elements: the "illegality of means" and the "impropriety of demands." If a perpetrator employs illegal methods, such as threats, alongside unreasonable property demands, there is widespread agreement on their criminal liability. Conversely, if legal means are used and demands are reasonable, the actions do not constitute a crime. The judicial dilemma arises when either the means or demands are justified independently, leading to ambiguity in determining illegality [2].

When lawful means are coupled with improper demands, the resulting conflict due to the "illegality" of both aspects excludes these cases from the discussion of extortion in this paper [3]. Conversely, when illegal means are linked to legitimate demands, legal evaluations reveal an inherent contradiction. Judicial practice exhibits inconsistencies where such behavior may be classified as extortion, while in other cases, the legitimacy of the demands leads to non-criminal judgments. This divergence stems from the tension between "illegality of means" and "legitimacy of demands," highlighting the legal challenge of balancing procedural and substantive justice.

In this regard, the academic community has mainly formed three explanatory approaches:

1. Subjective Theory: If a debt is lawful, employing illegal methods for collection does not imply "illegal intent" and thus does not equate to extortion. Li Huibin and Dai Gang assert that while using illegal means to enforce original debts is not extortion, coercing derivative debts can be. Liu Mingxiang argues that property crimes infringe on others' property interests. However, if the right holder uses improper means to protect their rights without causing actual loss to the counterpart, it cannot be classified as a property crime [4].

2. Objective Theory: Extortion may occur if coercive or threatening means are used, regardless of the debt's legality. Shen Zhimin states that any action that exceeds lawful rights while using unlawful methods can threaten others and disrupt property order, constituting extortion [5].

3. Compromise Theory: This theory requires a holistic evaluation of both the legality of the debt and the proportionality of the means, considering it a crime only when the methods significantly exceed socially acceptable limits. Xu Guanghua contends that determination of excessive rights protection as a crime hinge on whether the actions surpass "social appropriateness [6]."

However, all the aforementioned theories encounter practical conversion challenges: the subjective intent approach struggles with objectification; absolute objective theory may result in formal convictions; and the proportionality standard lacks quantifiable benchmarks. This theoretical divergence directly leads to the phenomenon of "different judgments for the same case" in grassroots judicial practices.

2.2 Consequentialist Path Analysis

Consequentialism asserts that the morality of an action is determined by its outcomes in terms of maximizing overall welfare or minimizing social harm. Even justifiable motivations fail to justify actions if their negative impacts outweigh the positive benefits. Using extortionate means for legitimate debt recovery entails complex trade-offs of interests.

The benefits are primarily seen in the short-term interests of individuals. Firstly, coercive methods compel debtors to meet their obligations, expediting debt repayment and allowing creditors to quickly restore property rights. Secondly, these actions create a deterrent effect, encouraging potential debtors to fulfill obligations out of fear of illegal repercussions, which somewhat alleviates the judicial issue of "enforcement difficulties [7]."

The negative social effects of such actions are systemic, diffuse, and long-term. Firstly, normalizing illegal means undermines the rule of law, leading to "private remedies" replacing public authority and damaging social trust. Secondly, the inherent personal safety risks can provoke psychological panic or resistance among debtors, escalating situations into physical conflicts or violent crimes, creating a vicious cycle of "rights protection - infringement." Lastly, these behaviors may encourage individuals to engage in "extortion" under the guise of "rights protection," exploiting legal loopholes for profit, which complicates judicial authorities' ability to differentiate between legitimate claims and illegal actions, ultimately depleting limited judicial resources on unwarranted disputes.

Extortion may facilitate debt recovery but significantly undermines the legal ecosystem and societal well-being. Consequently, consequentialism opposes its use for legitimate debt recovery, as the negative impacts on the rule of law and social stability outweigh any short-term gains. Judicial perspectives increasingly classify extortionate actions as illegal, reflecting consequentialism's principle of promoting the greatest happiness for the greatest number. Therefore, this article, grounded in consequentialist thought, asserts that the illegality of extortionate means underpins the illegality of such behavior [8].

3 Analysis on the Identification of the Degree of Administrative Responsibility and Criminal Responsibility for Extortion: Construction of Dynamic Quantitative Model

The establishment of boundaries between administrative and criminal liability for extortion faces three critical challenges within traditional criminal law: Firstly, the mechanical nature of amount-centricism: Judicial interpretations set criminal prosecution thresholds at "2000-5000 yuan," yet similar cases often show significant discrepancies in conviction and sentencing. Secondly, the ambiguity of the subjective criterion: The determination of "intent to illegally possess" is unclear, heavily relying on confessions, leading to inconsistent verdicts in analogous cases. Thirdly, the conflict between social benefits and legal benefits: Professional counterfeiting and debt collection activities highlight a value conflict between "criminal suppression" and the "protection of private rights [9]."

Table 1. Confirmatory factor analysis

Variable class	definition	Measurement method
MB(expected benefits)	The perpetrator estimated the illegal gains	The amount requested
P(Probability of liability)	The probability that a crime will be successfully prosecuted	The crime-solving rate of public security organs × the prosecution rate
S(Penalty intensity)	The severity of the legal sanction	Imprisonment term + fine
I(Damage diffusion coefficient)	The extent of the diffusion of negative effects of illegal activities	Threat means + range of threat + negative social influence
D(actual losses)	Material and mental loss of the victim	Property damage + spiritual loss
C(enforcement costs)	The justice system invests resources	Expenses for investigation, trial and execution

Based on Posner's economic theory of law, this paper constructs an analytical framework for indirect consequentialism (Table 1). Based on the assumption that the actor is a rational person, the decision condition for the actor to commit a crime is as follows:

$$MB > P \times S + Mc \tag{1}$$

where Mc represents moral costs. To achieve optimal deterrence, the law must establish the conditions for the initiation of criminal prosecution:

$$P \times S > D + C \tag{2}$$

When $P \times S \leq D + C$, administrative penalties are applicable. In order to obtain the maximum social benefit with the minimum social cost, it is necessary to set:

$$MB \times I = P \times S \tag{3}$$

Combining equations (2) and (3), we can derive the conditions for initiating criminal prosecution in order to achieve the maximum social benefit with the minimum social cost:

$$MB \times I > D + C \tag{4}$$

Constructing a dynamic quantitative model offers three key advantages over traditional normative analysis:

1. Quantifiability of damages: Converting abstract legal benefits into specific numerical values;
2. Adjustability of parameters: Modifying parameters based on factors such as regional economic development disparities and the degree of professionalization;
3. Referential nature of cases: Employing dynamic models to compare similar cases, thereby minimizing inconsistent rulings and ensuring uniformity in the legal system.

4 Analysis on the Identification of the Degree of Administrative Responsibility and Criminal Responsibility for Extortion: Application of Dynamic Quantization Model

4.1 Study Case

Wang, after purchasing health supplements for 200 yuan online, discovered potential false advertising regarding the product's health benefits. He threatened the seller with reporting them to market authorities and public exposure, demanding 100,000 yuan in compensation, or he would file widespread complaints that could lead to the shop’s closure. The seller, feeling pressured, ultimately paid and reported the incident to the authorities. Does Wang's behavior constitute extortion?

4.2 Comparative Case

According to the Beijing Public Housing Administration Punishment Decision No. 54395 of 2024, the suspect Li was aware of an improper sexual relationship between his wife Chen and the victim Chen Moumou, and suspected that Chen was pregnant as a result of her relationship with Chen Moumou. Consequently, he threatened to expose this information and extorted 100,000 yuan from Chen Moumou. Based on Article 49 of the Public Security Administration Punishment Law of the People's Republic of China, Li was administratively detained for 15 days and fined 1,000 yuan as an administrative penalty.

The maximum standard for administrative punishment for extortion is 15 days of detention and a fine of 1,000 yuan, thus the administrative penalty in this case represents the maximum possible punishment.

4.3 Cases Comparison

Utilizing the "comparative case" to define the parameters of criminal responsibility, and integrating it with formula (4) from the dynamic quantification model, we assess the criminal liability of the "research case." Here, both cases feature an expected gain of 100,000 yuan. However, Wang, as the consumer, is entitled to claims under Article

55 (triple compensation) of the Consumer Rights Protection Law and Article 148 (tenfold compensation) of the Food Safety Law. The product's selling price is 200 yuan: if merely falsely advertised, Wang can claim a maximum of 800 yuan; if it also violates food safety standards, he can claim up to 2,200 yuan. Thus, the amount relevant to illegal appropriation in the research case is less than 100,000 yuan. Regarding the damage diffusion coefficient, both cases involve public exposure threats, yet Wang's threat to "expose false advertising" is justified under his rights to citizen supervision and freedom of speech, resulting in a lower damage diffusion coefficient in the research case compared to the comparative case.

In summary, according to dynamic quantization model formula (4) : $MB_1 \times I_1 < MB_2 \times I_2 < D+C$. Comparing the studied case with those subjected to maximum administrative penalties reveals that both the expected gains and the damage diffusion coefficient are lower in this case, indicating that it does not meet the criteria for criminal liability and should incur administrative penalties per Article 49 of the Law of the People's Republic of China on Administrative Penalties for Public Security.

However, if Wang establishes a pattern of professional claims, the damage diffusion coefficient could surpass that of the comparative case. In scenarios where the direct economic loss in the studied case is only slightly lower than that in the comparative case, this dynamic quantitative model suggests that the behavior may reach the threshold for criminal liability, thus triggering the criminal prosecution mechanism [10].

5 Conclusion

The definition of the boundary for criminal liability in extortion must balance individual justice with the overall social welfare. The dynamic quantitative model constructed in this paper provides insights to overcome the mechanical and ambiguous nature of traditional theories through parametric analysis. However, the practical application of the model still faces numerous challenges, and future research needs to further: Firstly, refine parameter standards: Establish a graded valuation rule based on regional economic development levels and levels of professionalization, enhancing the model's explanatory power in different social contexts. Moreover, improve the construction of case databases: Build a typified adjudication reference system based on judicial big data, refining common patterns through extensive case analysis to enhance the model's universality and precision. Thirdly, promote technological empowerment in justice: Explore the deep integration of artificial intelligence algorithms and quantitative models, and develop auxiliary adjudication systems to reduce human intervention, ensuring the objectivity and consistency of responsibility identification. Only by establishing a scientific and refined mechanism for responsibility allocation can we achieve a positive interaction between legal deterrence and the protection of private rights, thereby constructing a stable and just rule of law ecology [11].

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