

The Application of Textual Interpretation in the Exclusionary Rule of Illegal Evidence

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Abstract

In the process of a large number of judicial practice, the connotation of the law, the application of problems often bring to the legal practitioners. Similarly, in the practical application of the exclusionary rule of illegal evidence, there are still some problems to be improved, and there are also some problems to be explained. At present, the interpretation methods commonly used in legal circle mainly include textual interpretation, objective interpretation, system interpretation and so on. Among them, semantic interpretation is in a high order in the sequence of interpretation. This article in respect of current illegal evidence elimination rule and the existing legal framework, compared with direct interpretation and other interpretation methods in the illegal evidence exclusion rules in use, the analysis methods of interpretation in the way of concrete application of the illegal evidence elimination rule and path, in the hope to better promote the illegal evidence elimination rule to apply in practice, promoting the rule of law, fairness and justice.

Keywords

Exclusion of Illegal Evidence; Textual Interpretation; Hermeneutics.

1. Introduction

With the continuous improvement of the legal system, the role played by law in resolving disputes and maintaining social fairness and justice is irreplaceable. For judicial trial, the authenticity, quantity and proof ability of evidence is one of the most influential factors for the final outcome of the trial, which is of great significance both to the parties in the case and to the judicial organs. In the process of handling a large number of cases, the most intuitive feeling brought to people is that "going to court is big evidence". For example, for the parties, the possibility of winning the lawsuit will be greatly increased if they have enough evidence. For the court, to find out the facts of the case and understand the truth, also need a lot of evidence support. In China's criminal proceedings, there are relevant provisions and requirements for evidence. During the proceedings, all sources of evidence presented must comply with legal procedures, and their form and legality must be confirmed by law. In the trial of any case, it is necessary to go through the process of verifying the evidence, and only the verdict based on legal and compliant evidence can be fair. If illegal evidence cannot be excluded, it will have a negative impact on litigation activities and trial. In 2012, China revised the Criminal Procedure Law of the People's Republic of China, which was the first time that China's law clearly stipulated the exclusion rule of illegal evidence at the legislative level. It is true that this is a great progress in China's criminal litigation.

In practice, how to use the exclusionary rule of illegal evidence to explain the relevant legal provisions, so as to promote the fair trial of cases, it is particularly important. In the process of increasingly complex social development, the relevant provisions will encounter various problems in practice, but once the law is formulated, it cannot be modified at will. Based on this, it is necessary to explain the exclusionary rule of illegal evidence in some ways, including its

connotation and denotation. At this time, we can use the method of legal interpretation to promote the perfection of the exclusionary rule of illegal evidence by using hermeneutics. In the system of legal interpretation, textual interpretation, objective interpretation, system interpretation, historical interpretation and so on coexist, but whether in the theoretical circle or in the process of practice, textual interpretation is often the most used one, is also accepted by most people. Therefore, this paper will talk about how to use semantic interpretation in the exclusion of illegal evidence rules, and by comparing with other interpretation methods, find the advantages and disadvantages of semantic interpretation in the operation of the exclusion of illegal evidence.

2. Related Concepts of Textual Interpretation and the Exclusionary Rule of Illegal Evidence

2.1. The Concept of Textual Interpretation

The word "explanation" may be clear to everyone, but what does it mean? In everyday life, explanation is nothing more than explaining the cause and effect of an event based on basic facts. But for the law, the interpretation of this action, or method, is much more complicated. The legal interpretation we emphasize refers to focusing on the legal text on the basis of philosophical hermeneutics and linguistics, emphasizing the meaning of the text itself, including the words, words and even punctuation marks used in the text. From another perspective, legal interpretation is the basic understanding and interpretation of a certain legal provision by legal practitioners or case-related personnel with professional legal knowledge and perspective. Due to the differences in social systems and legal systems of different countries, scholars in different countries have different views on the role of hermeneutics in the exclusion of illegal evidence. Robert Alexi thinks that legal hermeneutics mainly includes three activities: one is to describe the current effective laws; Second, the system of studying this legal concept; Third, put forward suggestions to solve difficult legal cases. Legal hermeneutics can also be divided into three dimensions: one is description-experience dimension; Second, the dimension of logic-analysis; The third is the dimension of normal-practice. , therefore, direct interpretation is perfect.this as the research object, the controversial point in the current legal provisions, fuzzy points to carry on the analysis, in order to interpret the law text the real meaning, and the legal text meaning or show, to solve the applicable law, the law in using the problems encountered in the process of providing a solution to a science.

2.2. Legal Provisions on the Exclusionary Rule of Illegal Evidence

In nature, the exclusion rule of illegal evidence is a procedural rule, which is different from other substantive legal norms. In terms of legal concept, the concept of substantive legal norms is often affected by social development and progress. In the legal text, for example, the word "weapons", its connotation in the original law does not include the concept of "imitation guns", but with the constant improvement of the social manufacture level, the imitation guns in the society, the construction and real gun difference is not big, has a common basic functions of guns, the damage would be enough to cause casualties. If simulated guns are allowed to circulate and be used in society, social stability will be seriously affected. Therefore, relevant laws and regulations are needed to regulate the manufacture and use of simulation guns. At this time, the simulation guns can be included into the scope of "weapons" through literary and artistic interpretation and expanded interpretation by using hermeneutics. Along with the social progress, ordinary people can be seen or via the Internet, television, a variety of ways to understand the structure of the imitation guns and harm, cognitive level and knowledge reserves is higher, the imitation guns interpreted as weapons, will not violate the basic cognitive knowledge of the public, also won't beyond the forecast possibility of social masses,

therefore this explanation as to meet the requirements of the rule of law. But for procedural rules, social development has little influence on them and will not cause great changes. For example, the application of the exclusionary rule of illegal evidence is relatively stable in a long period of time, and will not be affected by people's cognitive level and technological development. The initiation, review and supervision procedures of the exclusionary rule of illegal evidence are a set of systems summed up in a long time of practice, and its changes are often some specific circumstances that need to be excluded.

Integrated with the above argument, the author thinks that the hermeneutic meaning of illegal evidence elimination rule refers to the current legal provisions of the illegal evidence elimination rule as object of interpretation, on the basis of abide by the rules and enforcement of existing laws, by using a variety of interpretation methods, the illegal evidence exclusion rules to interpret the relevant legal norms and instructions, Finally achieve the purpose of maintaining the existing legal order. Today, with the continuous improvement of the rule of law, the construction of a country and society under the rule of law needs the joint efforts of lawyers and the combination of illegal evidence exclusion rules and legal hermeneutics, so that the rule of illegal evidence exclusion can be better used in case handling.

3. The Application of Textual Interpretation in the Exclusionary Rule of Illegal Evidence

In the trial of cases, most legal provisions can be directly applied to specific cases, but for ambiguous cases, legal provisions can not be directly applied, so judges need to flexibly choose and use a variety of interpretation methods. This paper will focus on the path of the application of semantic interpretation to the rule of illegal evidence exclusion, and the advantages it can play.

The law is expressed in words, the application of law must start from the literal interpretation, but the words and sentences expressed in the legal text cannot cover all matters. As mentioned above, the textual interpretation refers to the interpretation method of the criminal Procedure Law according to the textual meaning and common usage of the terms. It has also been argued that textual interpretation is the method of determining the legal meaning in terms of the meanings of the words that make up the legal provisions, which are secondary to the ordinary meaning in linguistics.

Textual interpretation method is the most frequently used by legal practitioners, because its interpretation logic starts from the language itself, is a basic interpretation method that most people use the most and cover the most in the process of growing up and learning. Because of its inherent characteristics, it has priority in legal interpretation methods. Therefore, the interpretation of criminal evidence should first be carried out in the context of interpretation, only in the context of interpretation can not clarify the true meaning of the provisions of the criminal Procedure Law, other interpretation methods can be used. The application of contextual interpretation to the exclusionary rule of illegal evidence does not mean that only contextual interpretation can be used to exclude other interpretation methods. Because of the limitation of the textual interpretation, when a legal provision is still not applicable after the textual interpretation, it is necessary to use other legal methods to coordinate.

The application of hermeneutics in the exclusionary rule of illegal evidence should pay special attention to the following two points: first, respect the existing exclusionary rule of illegal evidence should be regarded as the precondition. Only when legal interpretation conforms to literal meaning can it be meaningful, legitimate and persuasive. This requires legal interpreters to abide by strict procedures and interpret laws in the established exclusion rules of illegal evidence and within the existing legal framework. Second, clarify the role of interpretation, interpretation of the exclusion of illegal evidence rules, not change the exclusion of illegal

evidence rules. Once the exclusionary rule of illegal evidence is established, the legal interpreter can only interpret this rule.

4. Conclusion

Law needs interpretation, and the meaning of law lies in interpretation. Although the exclusionary rule of illegal evidence has been established in China, it has some imperfections. The deficiencies and gaps in legislation can be filled through flexible legal interpretation. Legal interpretation can provide method guidance for solving concrete practical problems. But we still need to provide legal interpretations that meet the needs of reality within the scope of the law. From the point of view of hermeneutics, this paper studies the hermeneutics and interpretation methods of the exclusionary rule of illegal evidence. I personally adhere to the interpretation position of law doctrine and judicial restraint doctrine, but it does not mean that judges can only be rigid and passive as the mouthpiece of law, but allow judges to play their subjective initiative appropriately and reasonably under the premise of legal provisions. Legal interpretation cannot solve all the problems in the exclusionary rule of illegal evidence, but it can provide a way to solve the problems. It is not long since the establishment of the exclusionary rule of illegal evidence, and various situations will inevitably be encountered in judicial practice, so we must interpret and apply it with an open attitude. In a society full of changes, we need to flexibly apply the exclusionary rule of illegal evidence to demonstrate the power of law and achieve fairness and justice. In addition, the application of hermeneutics in the exclusionary rule of illegal evidence remains to be further studied.

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