

Research on the Legitimate Defense of Domestic Violence Crimes

Mengru Wei

Dalian Ocean University, Dalian, Liaoning, China

Abstract

Domestic violence is a universal social problem in the world, which not only violates the victim's personal rights, but also causes great harm to the family and society. In the process of coping with domestic violence, self-defense, as a legal system, provides the victim with the right to self-protection. However, in practical application, how to correctly identify justifiable defense in domestic violence crime has always been a difficult problem in law circles and judicial practice. In order to protect the legitimate rights and interests of the abused women in domestic violence cases, this paper proposes some suggestions and relevant thoughts on the identification of justifiable defense. Through the discussion of the identification of justifiable defense in domestic violence crime, it is expected to provide useful reference for reducing domestic violence crime and protecting the legitimate rights and interests of victims.

Keywords

Domestic violence crime; Self-defense; Identify; Rationality.

1. Research purpose and significance

(1) Research objective

Nowadays, domestic violence has gradually become a hot topic of social concern. In recent years, there have been numerous cases of justifiable defense arising from domestic violence. In domestic violence crimes, there is confusion in the judicial practice regarding the recognition of legitimate self-defense actions carried out by the victim for self-defense purposes after being violated. Domestic violence is significantly different from general unlawful infringement; Domestic violence occurs in specific environments and involves specific actors and victims. However, in current judicial practice, the special nature of domestic violence is often overlooked, leading to many problems in determining the limits of defense in the field of domestic violence. Scholars in the academic community have paid attention to this phenomenon and have begun to conduct in-depth research on the issue of justifiable defense in family crimes.^[1]

With the continuous progress of society, there is an urgent need to strengthen the prevention and control of domestic violence crimes, with the core being to effectively protect the rights and interests of victims. By studying the current situation of domestic violence crimes, exploring the issue of their justifiable defense time and limits, and further identifying the behavior of defense victims. Although many scholars in the academic community have paid attention to the issue of determining justifiable defense in domestic violence crimes, there are still many problems in current academic research.^[2] The determination of justifiable defense in domestic violence crimes involves a large number of practical cases and specific situations, requiring in-depth analysis to understand the actual situation of domestic violence and discover existing problems.

(2) Research significance

Studying the issue of legitimate defense determination in domestic violence crimes has dual significance in theory and practice.

In theory, many scholars in the academic community have explored the recognition of justifiable defense in domestic violence, but the recognition of justifiable defense from the perspective of domestic violence crimes lacks systematic theoretical significance from the perspective of domestic crimes. This article explores the recognition of justifiable defense in domestic violence crimes through an analysis of China's justifiable defense system and the current situation of domestic violence.

In practice, there are certain difficulties and controversies in determining justifiable defense. Due to the concealment and complexity of domestic violence, there are significant difficulties in collecting and identifying evidence; There are differences in the standards and scales for the recognition of legitimate defense by judicial organs, resulting in inconsistent judgment results in practice, which also leads to a certain disconnect between theoretical research and practical application. Therefore, based on such issues, this article proposes some countermeasures and suggestions in order to deeply study and explore the application of justifiable defense in domestic violence cases, so that it can play a role in the recognition of justifiable defense in domestic violence cases and promote further improvement of China's legal system.

(3) Brief summary

Domestic violence is a widely concerned social issue. At the legal level, China has initially formulated relevant laws and regulations to address the issue of domestic violence. For example, the Civil Code, Criminal Law, and specialized Anti Domestic Violence Law all have certain regulations on domestic violence. However, there is still some ambiguity and controversy in the determination of justifiable defense in domestic violence crimes in China's laws. Domestic scholars are more concerned about the application of justifiable defense itself. However, domestic violence is different from general violent behavior, and its particularity has led to difficulties in the application of traditional self-defense theory. Foreign scholars have analyzed the characteristics of domestic violence crimes and the difficulties in determining justifiable defense from multiple perspectives such as law, society, and psychology, and proposed corresponding theoretical frameworks and models.^[3] Foreign countries are also strengthening the construction of social support systems to help victims of domestic violence obtain better protection and support. For example, establishing shelters specifically for victims of domestic violence, providing psychological counseling and legal assistance, etc.

2. Overview of Domestic Violence Crimes and Legitimate Defense

(1) Overview of Domestic Violence

Domestic violence, also known as domestic violence, involves forms of physical, psychological, and sexual abuse, where harm is inflicted between family members through physical attacks, verbal insults, and other means. This behavior seriously damages family harmony and the health of members. Domestic violence is a manifestation of power and control, where the perpetrator maintains a dominant position over the victim through violent behavior. This behavior may be singular or long-term, cyclical.

Domestic violence has the following characteristics. Firstly, objects have specificity. The victims of domestic violence cover a wide range, including not only the family members who live together permanently in the same registered residence as stipulated in the Marriage Law, but also those who do not live together in the same registered residence but actually live together for a long time in the name of husband and wife. Obviously, having a marital relationship is not the only criterion for determining the target of domestic violence. The essential characteristic of domestic violence is that it is limited to within family members, which is significantly different from ordinary violent behavior.^[4]

In the second place, behavior has universality. The global issue of domestic violence has attracted much attention in China and other countries. According to statistics from World

Population Review, in 2024, 11 states in the United States will have a domestic violence incidence rate exceeding 40%. But these data are far from the complete picture of domestic violence incidents in the United States. According to data released by the US Department of Justice, 53% of intimate partner violence and 52% of domestic violence victims have not reported to the police. Data from Japan shows that over 35% of women frequently suffer from domestic violence; However, over 30% of families in China experience varying degrees of domestic violence. Domestic violence has been widely regarded as an illegal act. However, due to the deep-rooted traditional Chinese beliefs, many people consider domestic violence as a family matter and are unwilling to intervene. The vast majority of victimized women consider it a "family disgrace" and choose to remain silent, unwilling to confess to the outside world; This phenomenon has also led many people to mistakenly believe that domestic violence in China is not a serious problem. The statistical trend of women's involvement in crime reveals a significant increase in crimes originating from domestic violence, which directly reflects the widespread and severe situation of domestic violence.

Thirdly, domestic violence is covert. Domestic violence is more common among family members and is more prevalent in non-public places. Influenced by the old concept of 'family secrets should not be exposed', victims often choose to swallow their pride, which makes domestic violence less likely to be exposed. Even if the victim seeks help from others, bystanders often tend to view marital disputes as ordinary 'internal affairs', believing that the problem is not significant, and thus unwilling to intervene or provide substantial assistance. The habitual apathy of the general public can make people accustomed to domestic violence in society. At present, although serious domestic violence is decreasing, mental abuse and economic suppression are on the rise, which also leads to a shift in the means of domestic violence from explicit to implicit.

Fourthly, the process of domestic violence is cyclical. Victims of domestic violence do not suffer from one or two acts of violence, but are often subjected to abuse. On the one hand, the fear of victims often stems from concerns about secondary harm to the perpetrator, and may also be limited by traditional beliefs, tending not to seek external assistance. On the other hand, many women who suffer from domestic violence, due to their emphasis on the overall image of the family, often feel that seeking help from others is a behavior that damages the image of the family. They are bound by social norms and a sense of inner responsibility, and would rather endure harm. This kind of patience not only fails to stop the violence, but also exacerbates the abuser's behavior, forming a vicious cycle.

(2) Overview of justifiable defense

Legitimate defense is a system stipulated in the General Principles of Criminal Law in China, which runs through the entire criminal law system. The legitimate defense system stipulated in the Criminal Law refers to the defensive actions taken to prevent illegal infringement on the personal, property, and other rights of oneself or others, in order to safeguard the interests of the state and society, and to prevent such infringement. It belongs to legitimate defense. Legitimate defense is regarded by law as an important system for self-protection, rescuing others, and even protecting national interests when individuals are unable to obtain timely support from public power in urgent situations. Its core goal is to safeguard the public interest and individual rights from illegal activities. The implementation of the legitimate defense system has significant benefits in maintaining national security and social stability and progress, and should be widely advocated.[5]

The determination of justifiable defense shall not exceed the necessary limit and cause undue harm; Secondly, defensive actions must be carried out against the perpetrator of the unlawful infringement, and cannot be carried out by a third party; The final defensive action must be ongoing, and if the defensive action has not yet begun or has already ended, justifiable defense is not established.

Defensive behavior shall not exceed the necessary limit, and the implementation of justifiable defense shall be moderate. According to legal provisions, it shall not exceed the necessary limit and cause significant damage. The necessary limits of justifiable defense refer to the limits necessary to prevent unlawful infringement; It must be carried out against the perpetrator of the illegal infringement, and defensive actions must be carried out against the perpetrator of the illegal infringement. Legitimate defense can only harm the interests of the unlawful infringer, and cannot harm third parties; It is necessary to defend against ongoing illegal infringement, which is not subjectively imagined or speculated, but actually exists. If there is no actual illegal infringement, the so-called "defense" behavior carried out by people based on misunderstandings is essentially a "hypothetical defense", and such behavior should not be recognized as legitimate defense. If a "defensive act" is carried out before or after the illegal infringement has begun, it is considered "untimely defense".

(3) The Reform of the Legitimate Defense System

Legitimate defense has always been a focal point of public concern. The "Dragon Brother Case" that occurred in 2018 has sparked widespread social discussion and legal thinking, promoting further improvement of China's legitimate defense system. The 'Dragon Brother Case' refers to the intentional injury case involving Yu Haitao; This case has triggered a review by the legislative body of the current legitimate defense laws and regulations. In 2019, the Standing Committee of the National People's Congress of China revised the Criminal Law, which made significant changes to the justifiable defense clause to more clearly define the constituent elements and limiting conditions of justifiable defense. The revised Criminal Law clarifies the principle of legitimate defense, emphasizing that when facing ongoing illegal infringement, citizens have the right to take appropriate defensive actions to protect national interests, public interests, or their own or others' personal rights from infringement. At the same time, the new Criminal Law also provides specific provisions for special defense situations, allowing for more severe defense against violent criminal acts that seriously endanger personal safety in specific circumstances, and may even result in injury or death to the unlawful infringer.

At the same time, courts at all levels pay more attention to the accurate understanding and application of the legitimate defense system in the subsequent trial of similar cases. The court tends to make comprehensive judgments from multiple perspectives, such as the subjective mentality of the perpetrator, the necessity and proportionality of defensive behavior, to ensure that the determination of justifiable defense is both in accordance with legal provisions and close to social reality. In addition, the Supreme People's Court has issued a series of judicial interpretations and guiding cases, clarifying how to correctly apply the justifiable defense clause in different situations, providing clearer judgment basis for grassroots courts, helping to unify judicial practice standards, reduce local protectionism and subjective discretion space.

3. Existing problems

Search for cases related to domestic violence on the judicial document website using the keywords of justifiable defense, domestic violence, and excessive defense, and select three representative typical cases from them; They are the intentional homicide cases of Li Juncui, Duan Moyan, and Yan Hongzuo. The backgrounds of the three cases are similar: during the existence of the marital relationship, the abused women were subjected to domestic violence by the victims for a long time, and some victims had extramarital affairs that were not legitimate; Women who have been subjected to violence have carried out counter attacks, resulting in the death of the victims; The final court ruled that the retaliation of the abused women was excessive self-defense.

Through in-depth analysis of the circumstances of the three cases and the reasons and results of the court's judgments, it is found that the specific situations of the three cases are different,

but there are many similarities in the reasons and results of their judgments: firstly, the violent behavior of the perpetrator constitutes a potential significant risk before causing serious consequences, which is specifically reflected in behaviors such as causing trouble after drinking, malicious provocation, and physical violence. This is fundamentally different from relatively mild acts of violence, as the latter often lead to serious injuries and even life-threatening situations for the victims. Secondly, before the outbreak of the conflict between the two parties, the victims often suffer from the violent behavior of the perpetrators for a long time, often being beaten for no reason. Thirdly, the possibility of self-defense being applied in this situation is very small, especially in cases where the perpetrator is injured or killed while drunk or sleeping.^[6]

From the reasons and results of the judgments in the three cases, it can be seen that there are some problems in the application of justifiable defense by judicial organs, and traditional justifiable defense theory is also difficult to apply to domestic violence cases.

(1) The boundary for determining the cause of defense is blurred

The perpetrator's unlawful infringement is the cause of legitimate defense, but unlawful infringement is controversial. There is controversy in the academic community regarding the classification of unlawful infringement, with some views defining it as criminal behavior, while others consider it to encompass both general illegal behavior and criminal behavior. Many scholars in the academic community generally believe that the scope of unlawful infringement not only includes criminal activities, but also extends to the field of general illegal behavior.^[7]

Given the unequal power dynamics between men and women in many domestic violence incidents, victims often lack the ability to effectively defend themselves against the physical and psychological suppression of their abusers, which undoubtedly deprives them of the best opportunity for prevention. In the three retrieved cases of intentional homicide by women who were victims of violence in self-defense, the victims had suffered from domestic violence for a long time and only retaliated when the perpetrator was drunk or asleep, when they could no longer bear it. This makes the cause of defense more complex and increases the difficulty for judicial authorities to determine the cause of defense.^[8] The current judicial authorities have blurred the boundaries for determining the cause of defense. The long-term nature of domestic violence indicates that multiple acts of domestic violence by the perpetrator cannot be recognized as a sustained single act. In the three typical cases mentioned in this article, the judge did not believe that the perpetrator's single act of violence had the intention of depriving the victim of life. Therefore, the defendant's resistance behavior was deemed too extreme and did not meet the criteria for legitimate defense.

(2) The determination of defense time is too limited

The traditional view holds that the time requirement for legitimate defense is that the unlawful infringement is ongoing. Early or post defense is considered inappropriate for defense. However, the perpetrator of violence often holds significant physical and psychological advantages in domestic violence crimes. In the face of domestic violence crimes, although abused women may have the willingness to resist, they also realize the unequal balance of power, and unsystematic resistance may lead to further escalation of violence. Therefore, most victimized women often choose to endure out of helplessness. In the intentional homicide case of Li Juncui, Li Juncui took advantage of her husband Wang's sleeping and reduced danger to carry out self-defense counterattacks, which was a retaliation against the perpetrator's long-term physical abuse and sexual assault. The case of Duan Moyan and Yan Hongzuo's intentional murder of the victimized women is even more so. However, according to the reasons and results of the judgment by the judicial authorities, it can be seen that the retaliation actions of the abused women in these three cases were only deemed to be defensive in nature, but exceeded the necessary limit, and the determination of defense time was vague and limited.^[9]

The author believes that domestic violence is a long-term and cyclical violent behavior, and should be viewed as a whole. It cannot be solely based on the resistance of the victim, and whether it is only aimed at resisting the violent behavior of the perpetrator this time. In the above cases, most judges tend to believe that the defendant's behavior meets the basic elements of intentional homicide, and there is not much explanation or clarification on other details related to the verdict.

(3) Consequentialism only affects the determination of defense limits

In judicial practice, for cases involving self-defense in domestic violence, the trial process often tends to adopt the thinking mode of presumption of guilt, and the judgment basis mainly revolves around the victim's injury or death. In judicial practice, the determination of justifiable defense emphasizes a result oriented approach, and the limit of defense is judged based on the outcome of the counterattack in the case. In the three case series, Li Juncui, Duan Moyan, and Yan Hongzuo all caused the death of the perpetrator, but the judicial authorities did not carefully consider the specific circumstances that led to the perpetrator's death; In the intentional homicide case of Duan Moyan, Man already suffered from coronary heart disease and consumed a large amount of alcohol. In the case of Yan Hongzuo's intentional homicide, Yan Hongzuo chose to report to the police and, under the premise of evading Zhang's violent pursuit, had no choice but to carry out a counterattack. However, the judicial authorities only focus on the outcome of the perpetrator's death to determine whether the defensive behavior exceeds the necessary limit. The judicial authorities in our country face challenges when dealing with cases of self-defense, and tend to judge whether the necessary limit of self-defense behavior has been exceeded based on the significant harm suffered by the perpetrator. This leads to insufficient overall consideration of the boundaries of self-defense and may result in improper conviction of women victims for intentional injury.

4. Theoretical and practical suggestions

On a theoretical level, the determination of justifiable defense in domestic violence crimes is a complex and multidimensional issue that involves multiple aspects such as legal principles, social justice, and individual rights. This article explores the determination of justifiable defense and provides the following theoretical suggestions for the determination of justifiable defense in domestic violence cases:

(1) Defense determination needs to follow the basic principles of law

In domestic violence crimes, the determination of justifiable defense needs to follow the basic principles of the law. Article 19 of the "Opinions on Handling Cases of Domestic Violence Crimes in Accordance with the Law" states that in cases of domestic violence, the act of stopping illegal infringement in accordance with the law to protect the personal safety of oneself or others, and meeting the relevant conditions of the Criminal Law, should be recognized as legitimate defense and not pursued for criminal responsibility.

When determining justifiable defense, we must follow the basic principles of the law. Firstly, it is the principle of legality. Legitimate defense must be carried out within the scope permitted by law and cannot exceed the provisions of the law. This requires us to fully consider factors such as the cause, time, object, subjective conditions, and intensity of the defense when determining whether it is legal. Only when these factors comply with legal provisions can they be recognized as justifiable defense. Secondly, there is the principle of necessity. In domestic violence crimes, the victim's legitimate defense must be carried out when necessary. This requires us to fully consider factors such as the severity of domestic violence, the cruelty of the means used, and the environment in which the victim is located when determining whether defensive behavior is necessary. Defensive actions can only be taken when the victim is facing urgent and unavoidable danger. Finally, there is the principle of reasonableness. The

determination of justifiable defense must be reasonable and cannot be too strict or too lenient. When judging whether a defensive behavior is reasonable, we need to comprehensively consider factors such as the proportional relationship between defensive behavior and illegal infringement behavior, the consequences of defensive behavior, and social impact. Only when the defensive behavior meets the requirements of reasonableness can it be recognized as justifiable defense.

In cases of domestic violence, if excessive defensive measures result in serious injury or death to the perpetrator, the punishment will be reduced or exempted according to the severity of the circumstances. When determining whether a defensive action is appropriate, it is necessary to objectively evaluate multiple factors: the degree of violence involved, the environment and threats faced by the defender, as well as the frequency and severity of domestic violence. The core of judgment is whether the defensive behavior ensures that the defender is free from violence while not significantly exceeding the necessary limits. In the three typical cases mentioned above, all three abused women have suffered from domestic violence for a long time. Although Li Juncui, Duan Moyan, and Yan Hongzuo all caused the death of the victims, their causes of death were different, and the situations they faced were also different; Duan Moyan strangled the victim when she fell to the ground, but the victim's sister had already persuaded her to leave after arriving at the scene. The victim already had coronary heart disease and drank too much alcohol, which ultimately led to her death. Yan Hongzuo carried out a counterattack in a very urgent situation to protect his personal safety and avoid being violently chased by the victim. Therefore, when identifying the retaliation behavior of abused women, attention should be paid to rationality, legality, and necessity, and these three principles should be followed.

In the complex context of domestic violence, emotional entanglements, close family ties, and long-term threats faced by victims make the evaluation of cases even more complicated. Domestic violence is often intertwined with social issues such as abuse of power and gender discrimination. When facing such cases, the adjudicator should not be limited to the text of the book, but should fully empathize with the moral choices and psychological pressures of the victims, and perceive the delicate balance between justice and legal principles. In summary, the determination of justifiable defense in domestic violence should not only follow the guidance of legal provisions, but also accurately grasp the moral considerations and humanistic care in the specific circumstances of the case, in order to achieve both handling cases in accordance with the law and reflecting the purpose of justice for the people.

(2) Pay attention to considerations of social justice and individual rights protection

When exploring the determination of justifiable defense in domestic violence crimes, we must deeply understand and respect the importance of social justice and individual rights protection. These two are not only the core values of the law, but also the bottom line that we must adhere to when dealing with domestic violence cases.

Social justice requires us to ensure the fairness and universality of the law when dealing with domestic violence cases. Domestic violence is not a private matter, but a problem involving the public interest of society. Therefore, when determining justifiable defense, we must ensure that the law can fairly and justly protect the legitimate rights and interests of every individual, without bias or neglect due to the special nature of family relationships. The essence of justifiable defense in domestic violence crimes is that the victim must make necessary and reasonable counterattacks against the ongoing illegal infringement in order to protect their own or others' legitimate rights and interests. In this process, we must fully consider the victim's right to self-defense, as well as factors such as the perpetrator's subjective malice and behavior. At the same time, we should ensure that the law provides timely and effective protection for victims, preventing perpetrators from using the special nature of family relationships to evade legal sanctions.^[10]

The protection of individual rights and interests is one of the fundamental values of the law. In domestic violence crimes, the basic rights and interests of victims, such as the right to life, health, and personal freedom, should be fully protected. As a means for victims to protect their own rights and interests, justifiable defense should fully reflect respect and protection for the individual rights and interests of the victims. When determining justifiable defense, we must fully consider the actual situation of the victim. Due to the particularity of domestic violence, victims may be in a state of fear, helplessness, and other psychological states when subjected to violence, which may lead to their defensive behavior exceeding the expectations of the general public. Therefore, when determining justifiable defense, we should base it on the actual situation of the victim and avoid making overly harsh judgments on them. In addition, we should also pay attention to the psychological health of the victims. Domestic violence not only causes physical harm to victims, but may also have long-term negative psychological effects. Therefore, when determining justifiable defense, we should also consider the psychological health status of the victim and provide them with necessary psychological assistance and support. In this regard, the academic community has also conducted extensive research and exploration. For example, Professor Zhang Mingkai proposed that when determining justifiable defense in domestic violence, the psychological state and behavioral ability of the victim should be fully considered, and overly harsh judgments should be avoided. This viewpoint provides us with useful insights and references.

(3) Flexible application of defense limits

Correctly grasping the application of the principle of justifiable defense in domestic violence cases is a key issue in maintaining justice and protecting the rights and interests of victims in legal practice. As a legal system, the core of justifiable defense is to ensure that defense actions match the unlawful infringement suffered, neither excessive nor too light, in order to achieve a balance between legal justice and humanitarian care. We should consider multiple factors of humanization and rationality when analyzing women's defense behavior in domestic violence scenarios. Defense in the context of domestic violence is often an abnormal response made by female victims under long-term mental and physical pressure. Therefore, when evaluating such defensive behavior, a more flexible scale should be used, taking into account factors such as women's physical conditions, psychological resilience, and the special nature of domestic violence, to conduct in-depth exploration and provide reasonable explanations.^[11]

In the determination of self-defense in domestic violence cases, we should avoid mechanically transplanting general principles of self-defense, and cautiously introduce considerations of gender differences. It is necessary to consider the psychological breakdown of women after continuous sexual violence from their perspective. It is even more necessary to carefully analyze the level of violence, cruel methods, and the possibility of stopping violence of the perpetrator, and evaluate the exact necessity of the defensive measures taken by the victim based on their family environment and the danger of their situation, as well as whether the damage caused is within an acceptable and legal range. The determination of the defense limit for abused women in three typical cases should take into account multiple factors comprehensively; Li Juncui was subjected to physical abuse and sexual assault by the victim for a long time, Duan Moyan was often beaten by the victim after drinking, and Yan Hongzuo was frequently subjected to unjustified violent beatings under the premise that the victim had an illegitimate extramarital affair. Therefore, when determining the defense limit, judicial authorities need to analyze the specific situation and comprehensively consider the degree of domestic violence suffered by the victim, the danger of the environment they are in, and so on. In general, the determination of justifiable defense in domestic violence cases should focus on the organic combination of humanitarian spirit and principles of fairness and justice. Through meticulous situational analysis, providing reasonable legal support for the self-protection of women who have been subjected to domestic violence not only reduces their secondary harm,

but also demonstrates the determination and wisdom of the law in protecting vulnerable groups.

(4) The determination of defense causes should be flexible

A rigorous and in-depth analysis of the application premise of self-defense theory, namely the existence of unlawful infringement behavior. In the three cases described in this article, the domestic violence suffered by the victimized women can be deemed as "unlawful infringement" in essence. The characteristic of domestic violence lies in its persistent nature, which is different from one-time assault. It is like a latent disease that brings continuous mental and physical harm to victims. Therefore, in some cases, the victim takes steps of resistance out of an instinct for self-defense, which is not essentially an impulse, but a necessary response to ongoing unlawful infringement. When vulnerable female victims face violence, due to uneven power balance and the need to prevent the next violent act, they can only choose to retaliate when the perpetrator relaxes their vigilance. In the three typical cases retrieved in this article, both Li Juncui and Duan Moyan carried out counterattacks when the risk of the victim drinking alcohol decreased. When determining the cause of defense, judicial authorities should fully consider specific circumstances and flexibly determine the cause of defense.^[12]

In cases where a victimized woman retaliates against the perpetrator, the judge needs to flexibly determine the elements of defense. When examining domestic violence as a whole, it can be clearly seen that the victim's defensive behavior is a response to ongoing infringement, rather than the so-called "imaginary defense". The victim's behavior is not a confrontation without challenge, but a helpless choice after a long period of accumulated harm. This detailed interpretation of illegal infringement provides a more reasonable way for judicial trials to make rulings.

In short, regarding domestic violence as a continuous state of infringement not only reflects the sympathy and support of the law for the victims' situation, but also demonstrates the continuity of justice. This explanatory framework gives judges greater freedom and deeper insight when dealing with such cases, making the determination of illegal infringement more humane and practical wise. While protecting vulnerable groups, it provides victims with clearer recognition of the legitimacy of self-defense, reflecting the firm stance of the law in safeguarding human rights.

5. Epilogue

Domestic violence is a global social issue that not only violates the basic human rights of family members, but also poses a serious threat to social harmony and stability. In the face of the problems in the recognition of legitimate defense against domestic violence, this article proposes corresponding theoretical and practical suggestions based on three typical cases retrieved. When determining justifiable defense in domestic violence crimes, full consideration should be given to the victim's special situation and psychological state, as well as the perpetrator's behavior patterns and the long-term nature of domestic violence. Finding a balance between seeking protection of victims' rights and preventing abuse of the right to defense is not only a legal challenge, but also a social responsibility. At the same time, it is also realized that there are still many controversies and unresolved issues regarding the determination of justifiable defense in domestic violence crimes. This article focuses on the particularity of domestic violence, proposes the flexible application of defense limits in domestic violence, clears the obstacles for abused women to "pick up" their defense rights, and enables them to find a way out to relieve themselves in dangerous environments.

Reference documentation

- [1] Zhang Mingkai Criminal Law Studies [M]. Law Press, 2021
- [2] Chen Xingliang Research on Criminal Law [M]. Renmin University Press, 2021
- [3] Peng Wenhua On the Special Psychological State of Preventing Criminal Liability [J]. Law, 2022 (08)
- [4] Yu Yue. Empirical Study on the Application of Criminal Penalties for Domestic Violence Crimes—Based on 306 First-instance Criminal Judgment Documents of Intentional Bodily Injury Cases Nationwide [J]. Central South Legal Review, 2024, (00)
- [5] Chen Xingliang Legitimate defense against domestic violence [J]. Political and Legal Forum, 2022.40 (03)
- [6] Zhang Yuqing A Study on the Determination of Legitimate Defense in Domestic Violence: A Perspective from the Yan Hongzuo and Yao Rongxiang Cases [D]. Guizhou Normal University, 2023
- [7] Wang Xiao, Wang Zhangbu The Criminal Path of Non Confrontational Abusive Women's Husband Killing Cases: Theoretical Development of Limited Justifiable Defense [J]. Journal of Zhejiang University of Technology (Social Sciences), 2025, 54 (03)
- [8] Liang Chen Research on the Criteria for Determining Legitimate Defense in Domestic Violence [D]. Shanxi University of Finance and Economics, 2023
- [9] Zhang Hongcheng Empirical Analysis of the Time Limit for Legitimate Defense [J]. Northern Law, 2020, 14 (06)
- [10] Liu Shixin. The Exemption Path of "Homicide Cases by Women Subject to Domestic Abuse" in Anglo-American Criminal Law and Its Implications[J]. Northern Law Studies, 2025, 19(03)
- [11] Ye Xiuxiong On the Legitimate Defense against Domestic Violence [J]. Journal of Political Science and Law, 2022 (06)
- [12] Zhang Mingkai Reasons for the commission of crimes in anti killing cases of victimized women [J]. Law Review, 2022 (02)