

Reflection and Restructuring of Consequence Attribution in Criminal Law

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Abstract

The objective of this article is to deliberate the solution to the attribution of consequence issue. The theory of objective attribution, which is the prevailing opinion, argues that the risk relation that could be conceived by a reasonable and objective observer can establish the attribution of consequences. The author holds that such an argument is groundless, because an action is an outward expression of inner will. In this light, the attribution of consequence means a determination of whether an objective circumstance constitutes an outward expression of subjective will. In this vein, the author on the basis of the legal philosophy of liberty proposes the theory of subjective attribution, which argues the consequence could be attributed to the offender, only if he is aware of the facts establishing the permitted risk and the risk indeed is realized. This theory could handle the cases more properly than objective attribution theory did. Furthermore, the theory could solve a number of issues concerning the errors.

**Keywords: objective attribution, subjective attribution, risk, intent, error,
the wrong**

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