

## **Reconstructing Self Defense from Individual Protection Principle**

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### **Abstract**

This article aims to analyze the justification of self defense in criminal law as well as its effects. Other than the generally accepted view point that argues: “defender protects himself and legal order at the same time”, the author proposes a new idea: defender merely safeguards himself without protecting the order of law. The offender should waive partial protection of law while he tries to illegally damage the defender. As for the range of waived interests of offender, it is supposed to be in accordance to the severity of illegal offense. This view point can be named as “Partial Waiver of Defender’s Interests Theory.” In this regard, , the author further discusses the legal issues relevant to self defense as follows (1) The defender has no obligation to escape or take milder measure for his protection due to the legal protection of offender’s interests has been waived; (2) However, as the defender intentionally provokes the circumstances of self defense, he shall try to escape. Only if the escape from the spot is no more possible, the defender is entitled to take milder defensive measures to protect himself. (3) The offender has the solidarity obligation to endure the invasion arising from the third party who aims to help the victim protect his interests.

**Keywords: self defense, protection of legal order, protection of individual, coordination relation, social-ethical restrict**

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