

COVID-19 Control and Criminal Law

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Abstract

The outbreak of the corona-pandemic in the end of 2019 (COVID-19) has almost stopped the world from breathing. The epidemic has brought out many illegal issues, and has also put the laws related to the prevention and control of infectious disease on the stage. In the “Criminal Law”, Article 192 is directly related to the prevention and control of infectious diseases. Infection with diseases also has an adverse effect on physical health. Therefore, spreading diseases to others may also constitute a crime of injury (or even homicide) in the criminal law. However, when the epidemic is out of control, the causality is relatively difficult to prove, which greatly reduces the effectiveness of these consequences. In the “Communicable Disease Control Act” and the “Special Act for Prevention, Relief and Revitalization Measures for Severe Pneumonia with Novel Pathogens”, there are also penalties for the prevention and treatment of viral infections. Most of these regulations on preventing the spread of infectious diseases have adopted a blank legislative model (Blankettstrafgesetzen bzw. -tatbestand) of administrative subordination (Verwaltungsakzessorietät). Therefore, in the interpretation of objective and subjective elements, many related links need to be clarified. Since these norms are formulated separately, there are conflicts in the design of the constituent elements (the choice between behavioral offense and consequence offense, administrative subordination legislation, etc.) and the arrangement of penalties, which require comprehensive inspection. In Taiwan, the law on the prevention of infectious diseases has not received the attention it deserves. Taking advantage of this epidemic, it may be a good time for a comprehensive inspection and revision. In addition to analyzing the constituent elements of each crime, this

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article also introduces relevant norms in Germany, Austria and Switzerland, explores which legislative model is better for the task of preventing and controlling infectious diseases, and finally makes suggestions on amending the law in the future.

Keywords: Coronavirus, COVID-19, infectious disease, Communicable Disease Control Act, Special Act for Prevention, Relief and Revitalization Measures for Severe Pneumonia with Novel Pathogens, blank form statute (Blankettgesetz), serious physical injury, Article 192 of the criminal law