

Constitution of The Concept of Obligation in The Criminal Attribution System

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Abstract

The purpose of this paper is to formally introduce the concept of obligation originally from the field of civil law into criminal law and integrate it into a general concept in criminal law liability theory. By discussing the connotation of obligation, this article reviews the criminal law theory that regards the protection of legal interests as the highest purpose and reconstructs the substantive crime theory with the violation of behavioral obligations as the core. Through the analysis of the relationship between obligation and criminal duty, this paper further discusses the normative characteristics shared by the code of conduct and the code of imputation in criminal law. Based on this, the following opinion is justified: the basis of imputation in criminal law is that a free act recognized by norms violates the requirements of the legal order on which the subject of the act depends to realize his freedom.

In the legal community, there are behavior norms with different strengths and different purposes. Violations of these norms will trigger different effects in the legal field. The concept of obligation refers to a broad code of conduct outside the criminal law that the legal community requires its citizens to abide by, and the code of conduct directly stipulated in the criminal law is independent but complementary. Obligation can indeed be integrated into existing criminal law attribution systems. Violation of obligation, from the perspective of criminal law, is still a socially appropriate behavior, so it does not directly trigger criminal effects. However, once the perpetrator subsequently realizes the behavior of the

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formal constituent elements, and there is a subjective and objective continuity between the latter and the former, the previous obligation is transformed into a norm of imputation, making the behavior of the later stage become an imputable object of criminal law again.

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