

Criminal Attempt Reviewed: On the Basis of Objective Attempt Theory and Materialization of Punishable Action

Heng-Da Hsu^{*}

Abstract

This article explores the penal reasons of criminal attempts and the criterion to establish criminal attempts after the legislative amendment of Criminal Code in 2005. Other than the common thesis which stands for the theory of impression (Eindruckstheorie), the author adopts the theory of objective endangerment, and distinguishes “danger *ex ante*” from “danger in transition.” The author argues that merely the latter one can justify the punishment of criminal attempt. Lastly, a three-level model is proposed to examine whether a criminal attempt is committed.

Keywords: attempt, dangerous proximity, impression theory, objective danger, indirect principal offender

^{*} Assistant Professor, College of Law, National Chengchi University, Taiwan; Dr. iur., Frankfurt University, Germany. E-mail: hdhsu@nccu.edu.tw