

The Influence of Criminal Policy on Criminal Law Doctrine

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The relationship between criminal policy and criminal law doctrine ("criminal dogmatics") is considered to be controversial. There are opinions that advocate for strict division of both disciplines, as well as beliefs that criminal law doctrine should be tailored according to the goals of criminal policy (functionalism). The main hypothesis of this paper is that strict division between both disciplines is essentially impossible, which the author demonstrates through case-by-case analysis how supposedly value-free doctrinal discourse often hides assumptions of criminal policy. Since hiding or "dogmatizing" policy assumptions causes several problems (it often appears unconvincing, it may lead to socially unacceptable solutions and it does not aid the legal safety, for example), the author advocates for open dialogue on issues of criminal policy at the stage of attributing criminal responsibility, not only when it comes to sentencing. In conclusion, he addresses limits and traps of criminal policy reasoning within criminal law decision-making.

Key words: criminal policy, criminal law doctrine, ethics, aim of punishment, legal safety, abandonment of the attempt

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