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## **ON HEAVY PENALTY FOR INTERNATIONAL HOMICIDE**

The crime of intentional homicide in criminal law of various countries is the first mission. Domestic scholars focus attention on the crime of intentional homicide at normative level and legal philosophy level. Author conducts inspection of intentional homicide from four aspects: at the normative level, expands the crime ladder of Beccaria, and explains the function of criminal law sentenced to felony for committing homicide; at the crime level, explains the necessity of killing penalties from anthropological and sociological level; at the philosophical level, discusses the philosophical presupposition of punishing on homicide from moral and legal responsibility; at the political level, discusses the inevitability of homicide in elements of nature before the modern society. The author explains in the article the purpose of criminal law on human right's protection. The legal protection of the right to life is bound to be a category of moral rationality. Therefore, the protection of the victim's right of life should belong to the category of criminal law.

**Key words:** intentional homicide, crime, responsibility, protection of victims, national fines.

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### **Халықаралық кісі өлтіргені үшін ауыр жаза туралы**

Әр түрлі елдердің қылмыстық заңдарында қылмыс ретінде қасақана өлтіру басты миссия болып табылады. Отандық ғалымдар қасақана адам өлтіру қылмысына нормативтік деңгейде және құқықтық философия деңгейінде назар аударады. Автор мақалада қасақана кісі өлтіруді төрт тұрғыдан қарастырады: нормативтік деңгейде Беккарияның қылмыстық сатысын ашады және кісі өлтіргені үшін сотталған адамның қылмыстық заңының қызметін түсіндіреді; қылмыс деңгейінде антропологиялық және социологиялық деңгей тұрғысынан кісі өлтіргені үшін жазаның қажеттілігін түсіндіреді; философиялық деңгейде адам өлтіргені үшін жазаның моральдық және заңды жауапкершілік тұрғысынан философиялық негізін талқылайды; қазіргі қоғамның алдында саяси деңгейде қылмыстың сөзсіздігі элементтерін талқылайды. Мақала авторы қылмыстық құқықтың адам құқығын қорғау туралы мақсатын түсіндіреді. Өмірге құқықты құқықтық қорғау моральдық ұтымдылық категориясы болуы керек. Сондықтан жәбірленушінің өмір сүру құқығын қорғау қылмыстық заңның санатына жатады. Гегельдің құқықтық жауапкершілік теориясы жазаның сыртқы белгілерінің айырмашылығын жоққа шығарады және ішкі эквиваленттілікті ұстанады. Адамды өлтіру әрекеті қоғамға үлкен зиянын тигізеді. Сондықтан кісі өлтіргені үшін жаза бірдей болуы керек, яғни оған байланысты жаза қатал болуы керек.

**Түйін сөздер:** қасақана кісі өлтіру, қылмыс, жауапкершілік, құрбандарды қорғау, ұлттық айыппұл.

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### **О тяжести наказания за международное убийство**

В уголовном законодательстве разных стран умышленное убийство как преступление является основной миссией. Отечественные ученые акцентируют внимание на преступлении умышленного убийства на нормативном уровне и уровне правовой философии. Автор рассматривает умышленное убийство с четырех точек зрения: на нормативном уровне раскрывает преступную лестницу Беккариа и объясняет функцию уголовного права осужденного за совершение убийства; на уровне преступления объясняет необходимость наказаний за убийство с точки

зрения антропологического и социологического уровня; на философском уровне обсуждает философскую предпосылку наказания за убийство с точки зрения нравственной и уголовной ответственности; на политическом уровне перед современным обществом обсуждает элементы неизбежности преступления. Автор в статье объясняет цель уголовного закона о защите прав человека. Правовая защита права на жизнь должна быть категорией моральной рациональности. Поэтому защита права жертвы на жизнь должна принадлежать к категории уголовного права. Теория юридической ответственности Гегеля исключает различие внешних черт возмездия и преследует внутреннюю эквивалентность. Убийственное поведение наносит очень сильный социальный вред. Следовательно, наказания за убийство должны быть одинаковыми, а это значит, что наказание должно быть суровым.

**Ключевые слова:** умышленное убийство, преступление, ответственность, защита жертв, национальные штрафы.

### **Introduction: The specification dimension**

Beccaria divides crimes into three categories: The first category is crime that directly damages the representatives of society or society. The crimes are socially harmful and thus being the most serious crimes. The second category is violations of private security. Crimes, in part, involve infringement of the person, part of it is to damage one's reputation, and part of it is a violation of property; the third category is behavior that disrupts public order and citizens' safety.

#### *1. Intentional homicide and purpose of criminal law*

The purpose of the criminal law is the creator of all criminal laws, and each criminal law rule derives from one purpose, namely, an actual motivation. The purposes of the criminal law can be divided into three layers. The first layer is the overall purpose. It can be summarized as the content of Article 2 of the Criminal Law of China, that is, protection of legal interests; the second layer is the purpose prescribed by each chapter. It expresses as the legal interests protected by various types of criminal law. The third layer is specific purpose, that is, the interests that the specific crimes are intended to protect. The legal interest protected by intentional homicide is the interest of human life.

As a biased concept, focus of legal interest is on interest. By abstracting the object, which the criminal law protects and crime infringes, as interest, it can calculate the amount of responsibility that the crime has harmed society. Beccaria genius introduced Newton's mechanics into criminal law and created a crime ladder to achieve a balance of quality and quantity between crime and punishment.

The specific purpose embodied in code 232 of the Criminal Law is to protect the right of life. Marx called the criminal law the Bible of human rights, human rights, which we must not only describe as the protection of the defendant's interests from the perspective of the rule of law, at the same time, the

content of the criminal law itself aims to protect the legitimate rights and interests of the entire population from being illegally violated. The author hereby explains the purpose of criminal law on human right's protection. In our country, mainstream scholars believe that the human right's protection of victims is manifested in the protection of the victim's substantive rights and litigation rights. However, the author believes that, although the crime manifested itself as a violation of the victim's rights, it actually also infringed the Entire society (a kind of safe atmosphere created by the way to punish punishment on criminals and the mainstream values established by the as Chinese scholar Chu Huaizhi said: combating the country.), it is also socially harmful. Crime and punishing criminals are the protection of the interests of the broad masses of the people and the greatest protection of human rights. This is, of course, a fact, but it is mainly the exercise of right national penalty and it is a category of socialty. The protection of human rights in criminal law should essential refer to the protection of the rights of the weak party in the course of criminal procedure. So in the mainstream view, the human rights' protection of victims is included in the sovereignty, human rights are denied.

However, we must have a deep understanding of the ethical foundations contained in the purpose of criminal law. Law and morality are inseparable. Morality has an orderly shaping and maintenance function on a subjective level, and it can fill in gaps left by the actual operation of the law. Human rights and order complement each other, and the maintenance of human rights requires good order, while the fairness and morality of order reflect human rights values. Therefore, the two are the integration of instrumental values and physical values. Therefore, we should understand the purpose of the criminal law from the substantive point of view, not just from the formal way. The understanding of human rights can be divided into proper and real aspects,

and proper aspect should be of guiding and guiding significance. On the proper level, the famous natural jurist in the Netherlands pointed out that: natural rights are the orders of legitimate reason. They determine whether or not an act is in harmony with a reasonable nature and determine that it is morally vile or morally necessary. Grotius explicitly linked natural rights with morality. The legal protection of the right to life is bound to be a category of moral rationality. Therefore, the protection of the victim's right of life should belong to the category of criminal law. Therefore, intentional homicide anticipates criminal law.

## 2. *Intentional Homicide and Criminal Law Value Structure*

The concept of individual person and social person is the source of disputes between the criminal classical school and the criminal positivism school about the value of the criminal law. The relationship between individual and sociality of the person is essentially the relationship between the individual and the society. This is an eternal topic in political philosophy.

Individualism. This concept contains many ideas. It is centered on individuals. As a sociological theory, individualism is also called social atomism. "Individualism tells us that society is only greater than individuals in terms of the fact that society is free. In terms of social control or guidance, society is controlled and directed." Individualism emphasizes the individual's priority to society and the pursuit of personal freedom. Therefore, since the Enlightenment Movement, the principle of the rule of law in the criminal classical school is to maintain individual freedom and to exclude excessive interference from the state's public power. Freedom is bounded by the condition that must not infringe exercise of freedom of others. The act of infringing upon the free exercise of others requires the intervention of public power to impose sanctions. Intentional homicide is second only to destroying social in Beccaria's ladder of crimes, depriving others of their lives, which means depriving freedom of the material carrier, which cannot be tolerated in the individualism.

Holism. It is a theory that is opposed to individualism. It gives society a unique position as an ethical and political doctrine. It places individuals under the collective interest.

With the disclosure of the regularity of social life, the ability of humans to foresee and control will continue to improve. From this it can be concluded that a perfect social system driven by positive science will end the history of human confrontation that produced sensational knowledge.

The same Durkheim also opposed the ethical trends of thought since the Enlightenment:

The word "social" is used only to emphasize that social phenomena are a special phenomenon that is independent of the individual. It is pointed out that the term "society" is used only to denote a comprehensive phenomenon, and a phenomenon that wants to separate from an already formed individual phenomenon which is certain. The difference between social phenomena and individual phenomena is that they are behavioral modes, thinking modes, and sensory modes that exist outside the human body, and they are applied to everyone through a kind of coercive power.

In short, holism emphasizes the decisive role of society over individuals, and pursues the value of social order. Pound pointed out:

"Civilization is the continuous improvement of human power. It is the maximum controlment of human external or material nature and the inherent or human nature that humans can control now. Social control is an important part of this social control. First, social control is mainly achieved through the law. Therefore, the task of the law is to achieve social control."

Social order means using rules to regulate social conflicts. The intentional homicide has strongly affected the stability of the social order. The criminal positivism school corrects the killer from the perspective of criminal anthropology and criminal sociology – Correcting a crime that can be corrected, if it can't be corrected to make it harmless.

## **Discussion: The social and the political dimension**

The criminal positivism school explores the social causes of crime from the perspective of criminal anthropology. Intentional homicide crimes have their profound human basis and social foundation.

### *1. Anthropological origins of intentional homicide crime*

Lombroso made statistics on the physical characteristics of offenders through the anatomy of the corpse of the criminal, and proposed the concept of "returning to ancestors." The phenomenon of returning to the ancestors is an anthropological phenomenon. It reflects a regression of humanity. The characteristics of natural criminals described by Lombroso include the following aspects:

"Physical characteristics: flat forehead, prominent head, brow bulge, eye socket sinking, huge jaw bone, cheekbones towering; missing teeth,

very large or very small ears, uneven skull and face, squinting Fingers are often malformed and lack of body hair.

Mental characteristics: Analgesia, visual acuity; gender is not obvious; extreme laziness, no sense of shame and compassion, sick vanity and irritability; superstition, like a tattoo, used to gesture to express meaning.”

The problem of unconflicted, lobbro’s theory is based on intuitive understanding and lacks an accurate scientific basis, but, his theory on the criminal’s sexual characteristics is still of reference value. The perpetrators of intentional homicide commit murder in violation of social ethics and ignoring the fear of punishment. The offender’s own criminal personality that ignores utilitarianism still has certain reference value in modern science. As a result, there is still a large market in our country that the punishment for intentional homicide is even severe. Not only is the crime of homicide extremely socially harmful, but also because the perpetrator has a very strong danger and the possibility of recidivism. This kind of mental disorder is what Freud called “perverted”. This criminal personality is almost irrecoverable. In Freud’s view, this is the result of the suppression of its “original desire” based on the antagonism of the individual with the mainstream values of the society. Therefore, the criminal law has a profound human basis for the determination of heavy penalties for intentional homicide.

## *2. The criminal sociological origin of intentional homicide*

Enrique Philly pointed out: “Our task is to prove that every theoretical basis for the society to defend criminals must be the result of both personal and social observations of criminal behavior. In a word, our task is to establish criminal sociology.”

Philly’s so-called crime sociology is to find the root cause of crime from the society and emphasize the social decision-making role of individuals. He believes that the natural causes of crime are not only found in the individual organisms, but also in the natural and social environment to a large extent, thus leading to the so-called theory of crime saturation that each society has its due criminality, crimes are caused by natural and social conditions, and their quality and quantity are compatible with the development of each social group. Since the crime was caused by the natural conditions and social conditions of society, Philly reached the conclusion that if we do not work hard to improve the social environment, the correction of criminals alone is not enough to prevent them from committing recidi-

vism. So Liszt stated: “The best criminal policy is social policy.”

Society is coordinating the conflict between common survival and survival competition, and the ultimate goal is the coordination of people and society. Intentional homicide is an extreme measure to disrupt social order. Crimes have not only “evil in themselves” but also “derived evil”, that means the serious social impact of crime itself not only destroys property and interests at the material level, but also causes people’s fear of social security on a subjective level. It will even set a typical sinful example for people. This is incompatible with good social order. Therefore, in the sense of criminal sociology, it is also necessary to remedy murder crimes.

According to Philly’s theory, there will be crimes in different social stages. This is called by Philly law of social saturation. Therefore, the author went to the estate of nature before the human society, and profoundly analyzed the root cause of the existence of the murder.

### *Arrival not reached*

Rousseau stated in “On the Origin and Foundation of Human Inequality”: “The philosophers who have studied the social foundations all feel that it is necessary to go back to the natural state, but no one has yet arrived there.” In Rousseau’s eyes, none of them really reached the state of nature, their common weakness was that all these philosophers constantly talked about needs, greed, oppression, desire, and pride. These were the concepts they brought from society to the natural state. They were talking about barbarians, but they described it as a politician. Philosophers of natural law confuse people in society with people in their natural state, clearly showing that their description of the state of nature does not reach the so-called purely natural state. However, Hobbes’s natural state is based on “human nature” and “experience”. Hobbes’s state of nature is to eliminate the common power created by all people in modern political society – thus excluding the order of thought related to the political body. With lifestyle – the basic condition of natural human nature.

To enter the estate of nature, we need to know what is the estate of state. According to the theory of the estate of nature described by Hobbes, the estate of nature refers to the state of “our nature will place us” or the state of “men considered in mere nature.”

We first clarify the exact meaning of nature in Hobbes’s view. In Hobbes’s view, nature is natural ability and experience. In Hobbes’s view, the nature of man’s single consideration from a natural perspective refers only to the sum of his natural

powers and powers. For these powers, everyone is considered natural and universally accepted as the basic content of the definition of man. The natural ability or power Hobbs first listed seems to largely follow the classical Aristotelian tradition, understanding the basic stipulations of human beings from the natural ability of nutrition, exercise, reproduction, and sense and reason. Hobbes believes that all these physical and mental natural abilities can be categorized into four types: physical strength, experience, reason, and passion. This shows that in Hobbes's the estate of state, experience is not ruled out. Of course, experience is just a course of mind, discourse of mind, and it is a memory of things or thoughts in succession. There is no "screen of ignorance" in Hobbes's the estate of state. When analyzing human nature, Hobbes always regards reason and experience as two ways to understand human nature.

In the past, most people who discussed public affairs either assumed or demanded or established a public establishment: people are animals that are naturally suitable for society. On this basis, they built the building of the political doctrine... This axiom, though accepted by the majority, is false. The mistake is that it comes from an overly shallow understanding of human nature. As long as we look closely at why people come together and why they like to interact with each other, it's easy to conclude that this kind of situation is not due to human nature... we are not seeking for our partners in nature, but we are pursuing honours and benefits from it. Therefore, for anyone who has only a little bit of focus on investigating personnel, experience clearly shows that every time people come together spontaneously, it is not the result of mutual need but the result of pursuing honor.

Therefore, Hobbes's the estate of state is "the status of man outside the political society" (*status hominum extra societatem civilem*). In this state, there is no artificial common power, and there is no common effort to keep them all in awe. Here it shows the fundamental difference between the political society and the estate of state.

Why is the estate of nature conditions of war?

In the natural state, everyone has the will to injure, but they are not for the same reason, nor should they be equally blamed. Some people are based on the equality of nature, and all those it gives to others also allow others to have it. Some people value themselves as surpassing others and always want to put everything into his own request to win more honors from others. For the latter, his will to

injure comes from vanity and wrong valuation of his own strength. For the former, his will to inflict harm stems from his inevitability of opposing the latter and surrounding his property and freedom.

The estate of state of man is a war of all against all others. There is no other error except that it should be said to be a state of war.

Why Hobbes created a state of nature is a state of war, Hobbes provides two paths of understanding. The first is the equal status in the natural state. The equality here refers to "equality of death"--- That is, everyone has the right to kill everyone. Hobbes's revision of Aristotle's humanity rules began with the replacement of the Aristotelian tradition with the definition of the life machine's lifestyle from the level of soul power with "strength, experience, reason, and passion". Hobbes denies Aristotle's proud politics, recognized the equality of natural endowments.

Hobbes's argument on the equality of natural capabilities is only a preparation for his natural state theory. There is no difference in the equality of people in natural endowment. It is precisely because of this equality that we cannot stay ourselves in the estate of security by our own strength or ability.

The second path of understanding is natural passion. Hobbes considered natural equality as the basic starting point to understand human nature. Humanity faces extremely profound conflicts. This inner conflict ultimately causes the natural destruction of human nature itself. This kind of conflict of human nature shows that in the absence of deterrence of common power, with the natural power of the private, it is impossible to live together in common. Hobbes made different answers in different writings:

	1	2	3
«elements of law natural and politic» causes of offensiveness	Vain glory general diffidence in mankind	comparison	appetite
«de cive» causae voluntatis mutual laedendi	Inanis Gloria necessitas defendendi	Certamen/ contention ingeniorum	Multi simul eandem rem appetent frequentissima causa
«leviathan» three principal causes of quarrel	competition	diffidence	glory

Predictive equality faces a fundamental difficulty in that the happiness of people depends on whether they can surpass others. Hobbes is almost entirely about the contrast of subjective or conceptual self-power and the power of others, and gaining superiority to their own strength in this comparison in analysis of Passion.

First of all, in the mechanistic theory of power, because of the lack of a deterrent common power in the natural state, the recognition of power means that one party's strength is over that of the other. Recognition of power means recognition of honor. Hobbes denounces Aristotle's use of the soul as a means of completion and generation of human natural bodies. He believes that maintaining survival is the most important goal. Therefore, in the process of life, the vain glory of others is the only goal pursued. Although the initial reason may be that there are some vanities, a systematic analysis of human power and passion causes Hobbes to conclude that differences in human passions will inevitably lead to a general diffidence in mankind, and mutual fear one of another. Vanity underscores the insurmountable conflict between human nature in terms of natural equality and overcoming others.

There is another intensifying conflict in Hobbes's theory. The desire for the same goal will trigger a struggle in the natural endowment equality population. No matter how much confidence you have in your own strength, you cannot imagine that nature will make you surpass others, for the ability to kill people is equal.

Hobbes explicitly pointed out in the «On Citizens» that natural equality is only a part of the cause of fear among people. It must combine the will of mutual harm to arrive at the conclusion that the natural state is a state of war.

In the «On Citizens» lists three causes of mutual harm – differences in intelligence, vanity, and the desire of many people for the same thing.

From this we come to the conclusion that homicide is inevitable in the estate of nature, the presumption of the estate of nature – equality refers to the equality of killing and death.

*The discovery of natural law, the control of homicide*

In Hobbes's view, the universal existence of private judgment power is always a sign of the natural state. In Hobbes's view, unless there is an arbitrator who has the right to public judgment, eliminate disputes between people, people can avoid being trapped in one another's hostility. The natural law concerning public arbitration is undoubtedly a

key link in the natural law path of exiting the estate of nature into the political society.

The importance of private judgment to the natural state is manifested in the De Cive. After the establishment of Leviathan, Hobbes still allowed subjects to retain their right to self-preservation. For example, when the sovereign ordered their subjects to mutilate and kill themselves. Hobbes does not believe that the self-preservation rights reserved for his subjects in his theoretical construction will form a revolutionary right like Locke.

Because of the artificially established country, its purpose is for the peace and defense of the whole, and either party has the right to the purpose and therefore has the right to the means. All individuals and collectives who have sovereign rights have the right to judge the means to achieve peace and defense, and also have the right to judge what matters are obstacles and disturbances to peace and defense, and therefore have the right to do anything that he thinks must be done.

As Hobbes said, after the establishment of the country, although individuals still have the inalienable natural right to self-preservation, they no longer have the right to everything, and most of the content of the right to use means and private judgment is the freedom that he can give up when joining the founding contract.

In the estate of nature, we traced back to the beginning. In the latter part of the natural state, people discovered the natural law and thus concluding the contract and placed the power of private judgement under the public judgment of the sovereign's necessary means for the determination of all subjects' peace and security, because private judgement is laissez-faire, it will not be seen by any sound person as a full measure of human endurance.

The most common means of Leviathan's will to exercise sovereignty is to enact laws, therefore, self-preservation as the first priority must be the primary purpose. In the estate of nature existed before the modern political society, there are also murders. Therefore, the homicide has its profound historical and political origins.

### **Conclusion: Philosophy dimension**

The author has discussed the social and political roots of intentional homicide from the estate of nature to political society, and the necessity of criminal law to criminalize homicide. In the end, the author will explain why the intentional homicide should be severely punished from the philosophical level.

Criminal responsibility refers to the negative evaluation given by the state to the criminal acts committed by the perpetrators. It is a subjective disapproval given by government to criminal actor.

There are three kinds of logic structures about “crime-penalty” in China: crime-responsibility, crime-responsibility–punishment, responsibility-crime punishment.

In the first logical structure, it must be recognized that crime is the premise of responsibility and responsibility is the consequence of crime. At the same time, it should be also recognized that criminal punishment and non-penalty punishment are content of criminal responsibility. In this theory, theory of crime and criminal responsibility are in the same important position, and penalty is the lower content of criminal responsibility. In this way, it is not the crime adapts to the penalty but the culpability. However, the adaptability of guilt and accusation is the basic content of criminal responsibility, and it is not the basic principle of criminal law. It does not permeate the criminal law all the time.

The logic structure of crime-responsibility-penalty regards responsibility as the intermediary bridge between crime and punishment, and criminal responsibility plays a regulatory role in the relationship crime and punishment. Crime is the basic content of criminal liability, and the establishment of penalty must be judged on the basis of the size of criminal responsibility, there is no penalty without criminal responsibility. However, with the development of the positivism school and the introduction of the concept of “personal danger”, this structure gradually caused a situation that the court conducts different penalties on the same crime.

Responsibility-crime-punishment, this logical structure takes criminal responsibility as the basis of theory of crime and punishment. Criminal responsibility, as a reflection of the ruling class’s concept of crime and punishment, is established by the ruling class. It carries out actions that endanger the society and violates the negative evaluation of criminal law. When an offender commits an act that harms the society, the state agency should not only judge whether the behavior is an offense, but also need to judge the penalty it should impose. As Chinese scholar Zhang Zhihui said: although the theory of criminal responsibility can be compared with the theory of crime and the theory of penalty, but in terms of value function, it has a basic theoretical significance. The basic principles of criminal law revealed by the theory of criminal responsibility is that its specific content should be enriched by the theory of crime and the theory of punishment, Therefore, in terms of legal

system, the theory of responsibility can’t be used as a precursor of criminal consequences and penalties to insert the part between the theory of crime and the theory of punishment, but it should be taken as the basic theory of criminal law before criminal theory and as the basic principle of criminal law.

We have already established the basic position of criminal responsibility, the principle of adaptation of crimes and punishments must not only reflect the purpose of the criminal law of punishment, but also reflect the purpose of prevention. To prevent the separation of crimes and penalties, the criminal responsibility must be in the upper concept and cover all the objective dualism. Therefore, the author will discuss why the responsibility for homicide is so heavy.

#### *Moral retribution*

Morality retribution is advocated by Kant. This doctrine is also called isometric theory. Kant regards punishment as a right of revenge. The exercise of this right should be impartial. This kind of justice is the pursuit of the same external identity between crime and punishment as much as possible. Kant pointed out:

What is the yardstick of public justice as a punishment for its principles and standards? This can only be an equal right. According to this principle, the pointer will not be biased toward the other side in the fair world. In other words, anyone who commits evil on others is committing evil on himself. Therefore, it is also possible to say: If you intend to marry another person, then you also marry yourself; if you steal someone else’s things, then you cast your own things; if you want to fight someone, then you hit yourself; if you kill others, then you kill yourself. This is the right to revenge. It is the sole principle that governs the public court. According to this principle, it can be clearly decided that both the quality and quantity of justice will be fair.

Therefore, on behalf of Kant’s moral retribution theory, intentional homicide will inevitably come to its death, which also explains why intentional homicide will be punished with severe punishment.

#### *Legal retribution*

Legal retribution theory also known as the equivalent, which pays attention to the intrinsic identity between penalty and crime. Hegel believes that, in terms of the nature of punishment, it is a kind of retribution. However, the retribution as punishment and the punishment as retribution are different:

The retribution as punishment is the revenge of the homomorphism of the primitive society. This kind of retribution, from the content, it is just, but formally speaking, it is an act of subjective will. The

subjective will reflects its infinity in every violation. So whether it is in line with justice is, in general, accidental, and for others it is nothing more than a special will. Revenge is a new violation because it is an affirmative act of special will. As this kind of contradiction, it is trapped in an infinite process, passed down from generation to generation, and as a punishment for retribution, it embodies the justice of punishment. This kind of retribution is the equivalence of traits with different phenomena and different external reality, that is, the equivalence of values. Equivalent to this rule, it brings a major problem to the concept of retribution; the rule of punishment in terms of quality and quantity is a

matter of justice, and it is true that it is behind the things that are physical in nature. The concept of retribution given penalty is the inevitable link between the above-mentioned criminal punishment and punishment, that is, crime, as an indifferent will of freedom, of course, contains self-denial in itself, and this kind of negation is manifested as punishment.

Hegel's legal responsibility theory excludes the difference in the external traits of retribution and pursues the inherent equivalence. In the above, we have argued that the murderous behavior has a very strong social harm. Therefore, the penalties for homicide must be the same, which means the punishment must be heavy.

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