

Jurisprudential-Legal Criticism of the Unification Judgment Number (804 of 2020 December 22) Stating that the Criminal is not obliged to Pay Blood Money for Indirect Crimes

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Abstract

Sometimes the physician is forced to perform an action (crime) on the victim in order to cure him/her; for example, he/she is forced to make cuts in the body of the victim with a surgical blade in order to bring out a bullet or to abort the fetus of a pregnant woman whose life is endangered because of the accident. In the past, there were disagreements among the different courts on their proceedings as to whether the criminal who has performed indirect crime should be regarded as the guarantor for paying the blood money, until the issuance of the Unification Judgment number 804 stating that the criminal is not responsible for the crime. Nonetheless, it seems possible to propose jurisprudential and legal principles and reasons that the criminal is responsible for performing indirect crimes, like the reason that the cause (criminal) is stronger than the perpetrator (physician), as well as relying on the rule of law that the defendant is responsible for proceedings' damages. However, the responsibility of the criminal in such cases is faced with some challenges like the need for giving the judgment on retaliation, and performing unnecessary surgeries on the excuse of treatment for which remedies should be sought.

Keywords: Causation; Perpetration; Attribution; Gathering of the Cause and Perpetrator; Causation without Attribution; Indirect Crime; Proceedings' Damages.

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