

Indirect perpetration

Abstract

The thesis undertakes the institute of indirect perpetration, the nature of which is the use of another person whose liability is limited or is not criminally liable for committing an offence. It is an indispensable part of criminal law; many perpetrators of a crime would escape with impunity without its existence. The thesis deals with the Czech regulation of indirect perpetration. It aims to describe this institution's valid and effective legal framework using specialized literature, specialized articles, commentary on the law, judgments, and other sources. The thesis is divided into four chapters (excluding the introduction and conclusion), which are then divided into subchapters and sections. The first chapter depicts the genesis of the institute, from the time when indirect perpetration had no legal basis in criminal codes up until current legislation. The second chapter deals with the issue of direct and indirect perpetration, first defining the conditions for the perpetrator's criminal liability, which are age, sanity, intellectual and moral maturity in the case of juveniles, and special characteristics, capacity, or status in the case of special subjects and specific subjects. The chapter then focuses on the legal regulation of indirect perpetration, the fundamental law concepts such as living instrument, indirect perpetrator, and the principle of accessory on participation, and an analysis of the liability of the indirect perpetrator and the living instrument. The third chapter explains individual cases of indirect perpetration arising from the exhaustive list under § 22(2) of the Criminal Code. Specifically, cases where the person used to carry out the offense is not criminally liable because of age, insanity, or mistake, because of facilities excluding the illegality of the act, or because he did not act or did not act culpably and lastly, he did not act with specific intent or motive provided by the law. In the last fourth chapter, some subtopics related to indirect perpetration are analyzed, in particular, the specifics of the legal person as an indirect perpetrator, as well as the relation of indirect perpetration to participation, murder, or concepts of law such as plurality of subjects or excess of a living instrument. Finally, some *de lege ferenda* thoughts on the current legal definition of indirect perpetration are summarized in the conclusion.

Keywords: indirect perpetration, living instrument, participation