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THE APPLICATION OF ENEMY CRIMINAL LAW AND SOME CONSEQUENCES IN THE LEGAL SYSTEM

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ABSTRACT

The purpose of this article is to demonstrate the possible consequences that may occur in the Brazilian legal system when the application of the criminal law of the enemy is used. The philosopher Günther Jakobs is considered the creator of the Theory of Criminal Law of the Enemy, whose primary objective is to treat criminals within society differently. According to Jakobs, there are 2 (two) types of offenders: common criminals and criminals who are enemies of the State. The first refers to those who commit any type of common crime, unlike the second, in which the crime directly affects the democratic and constitutional order of the State. Therefore, common criminals have the prerogative to use all procedural resources inherent to the process guaranteed to citizens, but the same does not apply to criminals considered enemies of the State, since they have become merely objects deprived of any type of constitutional rights and are no longer considered citizens.

Keywords: Crime Theory, Application in the Legal System, Enemy Criminal Law, Penalty, Federal Constitution of 1988.