

ROUTLEDGE REVIVALS

# Sentence Discounts and the Criminal Process

Ralph J. Henham



# Sentence Discounts And The Criminal Process

**Richard L. Lippke**



## **Sentence Discounts And The Criminal Process:**

**Sentence Discounts and the Criminal Process** Ralph J Henham, 2017-09-20 This title was first published in 2001 This volume presents the results of an empirical investigation into the operation of sentence discounts for guilty pleas in the Crown Court It focuses primarily on the nature of judicial compliance with the S48 Criminal Justice and Public Order Act 1994 and those variables in sentence decision making which impact on this process It also examines the relative use made of sentence discounts and the nature and relevance of court of appeal guidance In doing so it raises important theoretical issues relating to sentencing research and addresses the implications for sentencing policy and practice With empirical research on the operation of the sentencing process being comparatively rare the book should make an important contribution to the existing literature

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**The Criminal Process** Liz Campbell, Andrew Ashworth, Mike Redmayne, 2019 The fifth edition of The Criminal Process continues in the tradition of previous editions in providing an insightful and stimulating analysis of the key issues in criminal processes and procedures The authors draw on arguments from the law research policy and principle to present an authoritative overview of this area of study This edition includes a new chapter on the interface between criminal and civil preventive justice and the addition of questions for discussion and suggested readings at the end of each chapter to facilitate debate and further research

**Defendant Participation in the Criminal Process** Abenaa Owusu-Bempah, 2016-10-04 Requirements for the defendant to actively participate in the English criminal process have been increasing in recent years such that the defendant can now be penalised for their non cooperation This book explores the changes to the defendant's role as a participant in the criminal process and the ramifications of penalising a defendant's non cooperation particularly its effect on the adversarial system The book develops a normative theory which proposes that the criminal process should operate as a mechanism for calling the state to account for its accusations and request for official condemnation and punishment of the accused It goes on to examine the limitations placed on the privilege against self incrimination the curtailment of the right to silence and the defendant's duty to disclose the details of his or her case prior to trial The book shows that by placing participatory requirements on defendants and penalising them for their non cooperation a system of obligatory participation has developed This development is the consequence of pursuing efficient fact finding

with little regard for principles of fairness or the rights of the defendant

**Handbook on Sentencing Policies and Practices in the 21st Century** Cassia Spohn, Pauline Brennan, 2019-06-14 Sentencing Policies and Practices in the 21st Century focuses on the evolution and consequences of sentencing policies and practices with sentencing broadly defined to include plea bargaining judicial and juror decision making and alternatives to incarceration including participation in problem solving courts This collection of essays and reports of original research explores how sentencing policies and practices both in the United States and internationally have evolved explores important issues raised by guideline and non guideline sentencing and provides an overview of recent research on plea bargaining in the United States Australia and the United Kingdom Other topics include the role of criminal history in sentencing the past and future of capital punishment strategies for reducing mass incarceration problem solving courts and restorative justice practices Each chapter summarizes what is known identifies the gaps in the research and discusses the theoretical empirical and policy implications of the research findings The volume is grounded in current knowledge about the specific topics but also presents new material that reflects the thinking of the leading minds in the field and that outlines a research agenda for the future This is Volume 4 of the American Society of Criminology's Division on Corrections and Sentencing handbook series Previous volumes focused on risk assessment disparities in punishment and the consequences of punishment decisions The handbooks provide a comprehensive overview of these topics for scholars students practitioners and policymakers

**Plea Bargaining in National and International Law** Regina Rauxloh, 2012 The book sets out in depth studies of consensual case dispositions in the UK examining how plea bargaining has developed and spread in England and Wales It also goes on to discuss in detail the problems that this practise poses for the rule of law by avoiding procedural safe guards The book draws on empirical research in its examination of the absence of informal settlements in the former GDR offering a unique insight into criminal procedure in a socialist legal system that has been little studied

**Sentencing and Punishment** Susan Easton, Christine Piper, 2022-12-01 Examining the theory behind the headlines and engaging with current debates this new edition provides thoughtful impartial and unbiased coverage of sentencing and punishment in the UK Collectively Susan Easton and Christine Piper are highly experienced teachers and researchers in this field making them perfectly placed to deliver this lively account of a highly dynamic subject area The book takes a thorough and systematic approach to sentencing and punishment examining key topics from legal philosophical and practical perspectives Offering in depth and detailed coverage while remaining clear and succinct the authors deliver a balanced approach to the subject Chapter summaries discussion questions and case studies help students to engage with the subject apply their knowledge and reflect upon debates Fully reworked and restructured this fifth edition has been updated to include developments such as the Sentencing Act 2020 and changes following the 2019 general election This is the essential guide for anyone studying sentencing and punishment as part of a law or criminology course

**Sentencing Policy and Social Justice** Ralph Henham, 2018-02-22 Sentencing Policy and

Social Justice argues that the promotion of social justice should become a key objective of sentencing policy advancing the argument that the legitimacy of sentencing ultimately depends upon the strength of the relationship between social morality and penal ideology It sheds light on how shared moral values can influence sentencing policy at a time when relationships of community appear increasingly fragmented arguing that sentencing will be better placed to make a positive contribution to social justice if it becomes more sensitive to the commonly accepted moral boundaries that underpin adherence to the rule of law The need to reflect public opinion in sentencing has received significant attention more recently with renewed interest in jury sentencing stakeholder sentencing and the involvement of community views when regulating policy The author however advocates a different approach combining a new theoretical focus with practical suggestions for reform and arguing that the contribution sentencing can make to social justice necessitates a fundamental change in the way shared values about the advantages of punishment are reflected in penal ideology and sentencing policy Using examples from international comparative and domestic contexts to advance the moral and ethical case for challenging the existing theories of sentencing the book develops the author's previous theoretical ideas and outlines how these changes could be given practical shape within the context of sentencing in England and Wales It assesses the consequences for penal governance due to increased state regulation of discretionary sentencing power and examines the prospects for achieving the kind of moral transformation regarded as necessary to reverse such a move To illustrate these issues each chapter focuses on a particularly problematic area for contemporary sentencing policy namely the sentencing of women the sentencing of irregular migrants sentencing for offences of serious public disorder and sentencing for financial crime      Decisions to Imprison Rasmus H. Wandall, 2016-05-13 Rasmus Wandall uses quantitative and qualitative methods from studies carried out in Denmark to address the formal and informal norms and ideologies that are used to generate decisions to imprison Focusing on the operations of the courtroom participants his work investigates how court decision making is organized to allow the sentencing procedure to be open to more than its formal legal framework while at the same time keeping the sentencing within the boundaries of law and legal validity The author uses the theory of law's operational closure developed by Niklas Luhmann The theory provides an advantageous point of departure to capture the close and subtle interactions between law's need for validity and for contextual openness in every legal operation including court decision making      *International Bibliography of Political Science* Compiled by the British Library of Political and Economic Science, 2000-02 IBSS is the essential tool for librarians university departments research institutions and any public or private institution whose work requires access to up to date and comprehensive knowledge on the social sciences      *Sentencing the Self-Convicted* Julian V Roberts, Jesper Ryberg, 2023-02-23 This book addresses the fundamental ethical and legal aspects penal consequences and social context arising from a citizen's acceptance of guilt The focus is upon sentencing people who have pleaded guilty in short post adjudication rather than issues arising from discussions in the pretrial phase of the criminal process The vast

majority of defendants across all common law jurisdictions plead guilty and as a result receive a reduced sentence. Concessions by a defendant attract more lenient State punishment in all western legal systems. The concession is significant. At a stroke a guilty plea relieves the State of the burden of proving the defendant's guilt beyond a reasonable doubt and in open court. Plea based sentencing has become even more visible in recent years. The book provides insightful commentary on the following questions: If an individual voluntarily accepts guilt should the State receive this plea without further investigation or any disinterested adjudication? Is it ethically acceptable to allow suspects and defendants to self convict in this manner without independent confirmation and evidence to support a conviction? If it is acceptable what is the appropriate State response to such offenders? If the defendant is detained pretrial the ability to secure release in return for a plea may be particularly enticing. Might it be too enticing resulting in wrongful convictions?

**English Legal System in Context** Fiona Cownie, Anthony Bradney, Mandy Burton, 2007. This title has been written with a very simple aim in mind to provide a text which will enable the English legal system to be taught as an interesting intellectually stimulating course.

**The Timing of Guilty Pleas** Kevin Cheng, 2023-01-05. While guilty pleas are the primary mode of criminal case dispositions across different legal jurisdictions this topic remains an understudied area. The assumption is that defendants are playing the system and that a sliding scale of sentence discounts is necessary to encourage early guilty pleas which offer utilitarian benefits of efficiency. These assumptions lack a solid empirical foundation. This book offers a comprehensive investigation of how the timing of guilty pleas affects various facets of the criminal process from the factors that affect this timing to the effects that the sliding scale of sentence discounts have on sentences and public opinions about them. It also draws comparisons between Western and Asian legal systems specifically those of England and Wales and Hong Kong. This book is addressed to scholars, legal practitioners, policymakers and those interested in criminal justice, socio legal studies and empirical legal research.

**The Ethics of Plea Bargaining** Richard L. Lippke, 2011. The practice of plea bargaining plays a hugely significant role in the adjudication of criminal charges and has provoked intense debate about its legitimacy. This book offers the first full length philosophical analysis of the ethics of plea bargaining. It develops a sustained argument for restrained forms of the practice and against the free wheeling versions that predominate in the United States. In countries that have endorsed plea bargains such as the United States upwards of ninety percent of criminal defendants plead guilty rather than go to trial. Yet trials which grant a presumption of innocence to defendants and place a substantial burden of proof on the state to establish guilt are widely regarded as the most appropriate mechanisms for fairly and accurately assigning criminal sanctions. How is it that many countries have abandoned the formal rules and rigorous standards of public trials in favor of informal and veiled negotiations between state officials and criminal defendants concerning the punishment to which the latter will be subjected? More importantly how persuasive are the myriad justifications that have been provided for plea bargaining? These are the questions addressed in this book. Examining the legal processes by which individuals are moved through the criminal justice

system the fairness of those processes and the ways in which they reproduce social inequality this book offers an ethical argument for restrained forms of plea bargaining It also provides a comparison between the different plea bargaining regimes that exist within the US where it is well established England and Wales where the practice is coming under considerable critique and the European Union where debate continues on whether it coheres with inquisitorial legal regimes It suggests that rewards for admitting guilt are distinguished from penalties for exercising the right to trial and argues for modest fixed sentence reductions for defendants who admit their guilt These suggestions for reform include discouraging the current practice of deliberate over charging by prosecutors and charge bargaining and require judges to scrutinize more closely the evidence against those accused of crimes before any guilty pleas are entered by them Arguing that the negotiation of charges and sentences should remain the exception not the rule it nevertheless puts forward a normative defense for the reform and retention of the plea bargaining system

**Sentencing** Ralph Henham,2013-10-01 Sentencing is the process through which the legitimacy of punishment is declared and justified However it is increasingly portrayed as a social activity which should be more responsive to the pluralistic needs and values of individuals and communities in contemporary society It will therefore have to adapt to an array of different perceptions of what justice is and how it should be delivered as well as different sensitivities and emotional responses to sentencing processes and outcomes At a time when fundamental questions are being asked about the relevance of existing forms of punishment in contemporary society Sentencing argues for a profound normative understanding of the relationship between sentencing and its perception by citizens vital if we are to fully comprehend the nature and significance of punishment and the particular challenges it faces as a force for social cohesion Henham explores this theme by focusing on key areas of debate within the field the treatment of gender and race in sentencing the future role of sentencing in criminal justice governance the development of new criteria for evaluating sentencing within a more socially inclusive framework Henham suggests that a greater focus on the relationship between penal ideology and the impact of sentencing in the wider community is essential for effective future policy making in this area Sentencing will be useful for both undergraduate and postgraduate students of law criminology criminal justice and sociology as well as for academics and criminal justice policymakers

*Sentencing and Society* Cyrus Tata,Neil Hutton,2017-03-02 Combining the latest work of leading sentencing and punishment scholars from twelve different countries this major new international volume answers key questions in the study of sentencing and society It presents not only a rigorous examination of the latest legal and empirical research from around the world but also reveals the workings of sentencing within society and as a social practice Traditionally work in the field of sentencing has been dominated by legal and philosophical approaches Distinctively this volume provides a more sociological approach to sentencing so allowing previously unanswered questions to be addressed and new questions to be opened This extensive collection is drawn from around one third of the papers presented at the First International Conference on Sentencing and Society Almost without

exception the chapters have been revised cross referenced and updated The overall themes and findings of the international volume are set out by the opening Introduction and the closing Reflections chapters Research findings on particular penal policy questions are balanced with an analysis of fundamental conceptual issues making this international volume essential reading for sentencing and punishment scholars criminal justice policy makers and graduate students

**The Myth of Judicial Independence** Mike McConville, Luke Marsh, 2020-06-28 Through an examination of the history of the rules that regulate police interrogation the Judges Rules in conjunction with plea bargaining and the Criminal Procedure Rules this book explores the Westminster Model under which three arms of the State parliament the executive and the judiciary operate independently of one another It reveals how policy was framed in secret meetings with the executive which then actively misled parliament in contradiction to its ostensible formal relationship with the legislature This analysis of Home Office archives shows how the worldwide significance of the Judges Rules was secured not simply by the standing of the English judiciary and the political power of the empire but more significantly by the false representation that the Rules were the handiwork of judges rather than civil servants and politicians The book critically examines the claim repeatedly advanced by judges that judicial independence is justified by principles arising from the rule of law and instead shows that the rule of law depends upon basic principles of the common law including an adversarial process and trial by jury and that the underpinnings of judicial action in criminal justice today may be ideological rather than based on principles

**Introduction to the English Legal System 2012-2013** Martin Partington, 2012-04-26 This text offers a lively analysis of the issues which currently face the English legal system but without getting into the level of detail found in other texts

*Sentencing and the Legitimacy of Trial Justice* Ralph Henham, 2013-03-01 This book discusses the under researched relationship between sentencing and the legitimacy of punishment It argues that there is an increasing gap between what is perceived as legitimate punishment and the sentencing decisions of the criminal courts Drawing on a wide variety of empirical research evidence the book explores how sentencing could be developed within a more socially inclusive framework for the delivery of trial justice In the international context such developments are directly relevant to the future role of the International Criminal Court especially its ability to deliver more coherent and inclusive trial outcomes that contribute to social reconstruction Similarly in the national context these issues have a vital role to play in helping to reposition trial justice as a credible cornerstone of criminal justice governance where social diversity persists In so doing the book should help policy makers in appreciating the likely implications for criminal trials of mainstreaming restorative forms of justice Sentencing and the Legitimacy of Trial Justice firmly ties the issue of legitimacy to the relevant context for delivering justice It suggests a need to develop the tools and methods for achieving this and offers some novel solutions to this complex problem This book will be a valuable resource for graduate students academics practitioners and policy makers in the field of criminal justice as well as scholars interested in socio legal and cross disciplinary approaches to the analysis of



criminal process and sentencing and the development of theory and comparative methodology in this area     The Criminal Process Andrew Ashworth, 1994 In recent years the English criminal justice system has been shaken by certain notorious cases such as the Guildford Four the Birmingham Six and the Cardiff Three The quashing of convictions in these and other cases has brought to public notice the structural deficiencies which exist in the criminal justice system In this book Professor Ashworth addresses one of the most controversial areas of the entire criminal process the pre trial stage Taking as his starting point the detention of suspects in police custody the author examines six key issues in the pre trial process the questioning of suspects cautioning of offenders prosecutorial review remand decisions mode of trial decisions and plea bargaining Drawing upon empirical research substantive law and official guidance the author considers how the rights of victims and defendants are promoted within the system and in particular considers the potential impact of the European Convention of Human Rights on the administration of criminal justice in England and Wales The recommendations of the 1993 Royal Commission on Criminal Justice are critically appraised

## Whispering the Techniques of Language: An Emotional Quest through **Sentence Discounts And The Criminal Process**

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